

COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

LABOR RELATIONS COMMITTEE

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PUBLIC HEARING IN RE: House Bill 1155 and 1386

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BEFORE: Gene DiGirolamo, Chairman  
Jarrett Gibbons, Gerald Metcalfe, Carl  
Mantz, Tom Blackwell, Sean Ramaley

HEARING: Thursday, August 28, 2008  
Commencing at 10:06 a.m.

LOCATION: Philadelphia Convention Center  
Philadelphia, PA

WITNESSES: Debbie Plotnick, Samuel Denisco, Kevin  
Shivers, Stephen Sweeney, Steffany Stern, Russell  
Keating

Reporter: Daniel Urie

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REPRESENTATIVE GIBBONS:

I'd like to call this meeting of Labor Relations Committee to order. Today we're going to be discussing House Bill 1386, this is a --- the Family Temporary Care Act. We'll start with introductions of the panel, starting, I guess, with my left here with Jamie Geronimo.

MR. GERONIMO:

Jamie Geronimo from Bucks County.

MR. METCALFE:

Good morning, State Representative Gerald Metcalfe from Butler County.

MR. MANTZ:

Good morning, Carl Mantz Representing the 187th Legislative District straddling Burks and Lehigh Counties.

MR. BLACKWELL:

Good morning, Tom Blackwell from the Pennsylvania District of Philadelphia County.

MR. RAMALEY:

Good morning, Sean Ramaley from the 16th District, Beaver and Allegheny County.

REPRESENTATIVE GIBBONS:

1 All right. Thank you and I am  
2 Representative Jarrett Gibbons from the 10th District  
3 Beaver, Lawrence and Butler Counties and the proud  
4 sponsor of House Bill 1386. I just want to make some  
5 brief introductory comments describing the bill. We  
6 did hear a little bit about this in our hearing  
7 yesterday in conjunction with House Bill 1155 unpaid  
8 sick leave. Basically, the premise of this bill is to  
9 provide paid sick leave --- paid leave for Family  
10 Temporary Care. This would, basically, be a wage  
11 replacement under --- for people that are taking leave  
12 under the FMLA, Family Medical Leave Act. This would  
13 provide up to 12 weeks of unpaid leave for anyone who  
14 is --- up to 12 weeks of unpaid leave for anyone who  
15 is taking time off to care for sick family members, it  
16 is limited in scope to either a spouse, parent or  
17 child, so it is fairly limited.

18 There is a one-week waiting period  
19 before it takes effect and there is a requirement that  
20 no other family member be able to provide the care so  
21 it is limited in a sense. They all --- the person  
22 must also not be eligible for unemployment  
23 compensation and it must be taken concurrently with  
24 FMLA leave, if the person is eligible. However, it  
25 does extend beyond persons who are eligible for FMLA

1 so that even outside of people who are FMLA eligible,  
2 which would be employers with --- employees of  
3 employers with more than 50 employees and other  
4 requirements. This would take employees who also may  
5 not be part of the FMLA.

6           And as explained this would provide a  
7 wage replacement because, you know, considering the  
8 fact that someone who has to take leave, say first of  
9 having a child, oftentimes they cannot take the leave  
10 they want because they need the money, especially, our  
11 low wage workers who are out there and need those  
12 wages, can't take two, three, four, up to 12 weeks off  
13 to care for a child and give up those paychecks. So  
14 this is a way for those people to take the time they  
15 need to go and to be with their children, to be with  
16 their loved ones in their times of need and still  
17 continue to meet their needs and pay their bills.  
18 With that said, I'm sure we'll have a lot more  
19 comments throughout this period. I want to get  
20 started with our speakers and call up our first  
21 speaker Debbie Plotnick and Corey Rogers, they're with  
22 the Mental Health Association of Southeastern  
23 Pennsylvania.

24           MS. PLOTNICK:

25           Good morning, good morning members of

1 the panel. Thank you very much for inviting me.  
2 Unfortunately, I have to say that my colleague Corey  
3 Rogers took ill yesterday afternoon, so he will not be  
4 joining us today, but I will also speak to Corey's  
5 remarks, which can be in the record.

6 I'm the Director of Advocacy at the  
7 Mental Health Association of Southeastern Pennsylvania  
8 and in my professional role I'm often called upon to  
9 speak about the needs of people who have mental  
10 illnesses and about those experiences of families of  
11 folks affected by metal illness.

12 And I'm very happy to be here, I thank  
13 you for inviting me today. I'm going to separate my  
14 remarks into two sections regarding the two pieces of  
15 proposed legislation. I'm first going to speak about  
16 House Bill 1155, the Healthy Families, Healthy  
17 Workplace Bill and I really would like to commend the  
18 authors of this legislation. I think that it is  
19 amazingly inclusive and it represents many types of  
20 familial relationships, it is greatly sensitive to  
21 issues that are not ordinarily spoken about, such as  
22 mental health issues and domestic violence when we  
23 talk about benefits for employees and I'm sure, as you  
24 heard in yesterday's testimony, everybody relates to  
25 having the need for sick days when you have the flu or

1 if one of the kids is home sick. But, many, many  
2 Pennsylvanians need to take the day off to attend to  
3 their own mental health needs or to the mental health  
4 needs of their family members, of their spouses, of  
5 their children.

6           The National Institute of Mental Health  
7 estimates that in a given year, one in four adults  
8 suffers from a diagnosable mental illness and I know  
9 from my training and years of working in the mental  
10 health field, that the vast majority of people with  
11 mental health disorders want to work and many, many  
12 people do work and they work successfully. In fact,  
13 employment is a major component of recovery from  
14 mental health issues.

15           And even if we're not aware of it, many  
16 of us have colleagues who periodically need to take a  
17 day and go see their psychiatrist and have their  
18 medications adjusted or to take a day or two to deal  
19 with an --- what could turn into an impending mental  
20 health crisis, but with the proper care, that can be  
21 avoided. That's especially important for folks who  
22 have mental health conditions and most of them can  
23 successfully control these illnesses, which are  
24 episodic and often chronic but, generally, can be  
25 controlled with the proper medication and work, as I

1 said, a very important part of recovery.

2           I also know from personal experience,  
3 how vital the role parents play in the mental health  
4 of their children and getting children who have a  
5 mental illness as well. My now grown daughter,  
6 Ashley, is an amazing and resilient 26-year-old woman,  
7 she's a registered nurse, she has a college degree,  
8 she also happens to have a major mental health  
9 illness, she has bipolar disorder and for four  
10 harrowing years from when she was 14 until she was 18,  
11 more times than I care to remember, my daughter came  
12 close to dying and it took a lot of time and a lot of  
13 attention and a lot of support to help her get her  
14 illness under control.

15           And every day my professional life is  
16 informed by the knowledge of how lucky I was and my  
17 husband, we were fortunate, we had health insurance.  
18 Although it didn't pay for all the mental health  
19 issues, it paid for all the related medical issues.  
20 We had good enough credit to pay for the rest of the  
21 mental health costs that weren't covered. But what we  
22 were really lucky for that a lot of parents don't  
23 have, and speaks directly to this, is the flexibility  
24 in our work schedules to be able to take the time to  
25 attend to our daughter, to go when it was necessary to



1 visit her in the hospital, to get her to appointments,  
2 unfortunately, occasionally, that --- take that time  
3 off for an emergency room visit.

4           Sometimes hospitals and psychiatric  
5 hospitals, in particular for kids, only have visiting  
6 hours during the day, it's very, very important for  
7 parents to be part of the process of getting their  
8 kids well. Parents also have to attend to discharge  
9 planning. Kids don't exist in isolation, they're part  
10 of a family unit. For families struggling with mental  
11 health issues it's imperative that the parents be  
12 available and these kinds of things don't happen  
13 around working hours.

14           We also know in Philadelphia where  
15 there's a shortage of mental health practitioners, and  
16 there is one, it is less severe than other parts of  
17 the state. But still the average wait, even if  
18 there's a crisis, for getting an outpatient  
19 appointment for a youngster is about three weeks and  
20 parents can't afford to say, I can't go because it's  
21 the middle of my workday. They have to be there and  
22 they're torn between their jobs and most of them  
23 choose their kids, but if that risks losing their job,  
24 that's not helping their kids either. And this  
25 legislation would really go a long way to protect

1 families, to protect kids, to help them raise their  
2 kids, to help folks who have mental health issues, be  
3 successful in their recovery and I really urge its  
4 adoption and I thank you for allowing me to speak on  
5 it.

6 I'd also like to, if I may, since I ---  
7 my colleague, Corey Rogers, who is my program manager,  
8 he's my director of Adult Advocacy at the Mental  
9 Health Association and he couldn't be here today, but  
10 he wanted to speak to House Bill 1386, the Family  
11 Temporary Care Act. And I'm going to let Corey's  
12 remarks go into the record and I'll just speak about  
13 --- because I can't speak for Cory, but I'll speak  
14 about what this would have meant for my family had it  
15 been in place and FMLA, which also wasn't in place at  
16 the time that my family was dealing with this issue,  
17 but I will tell you that I deal with folks all the  
18 time and I can tell a little bit about Corey's story.

19 We know from dealing with folks and  
20 helping them in their advocacy issues and Corey gets  
21 calls all the time from families that are struggling  
22 to help their spouses, to help themselves, to help  
23 their kids who are having serious mental health  
24 issues. And very often what happens is extended time  
25 has to be taken from work to care for yourself or for

1 a family member, and that is often necessary for  
2 mental health issues, and I know you've heard about  
3 many other types of issues from the other folks who  
4 have been testifying.

5           But what happens in these situations is  
6 that if there's a mental health crisis and, for  
7 example, if it's a spouse and both members have to be  
8 out of work, people lose their homes, they lose their  
9 apartments or can't make their mortgage payments and  
10 we see a cycle all the time of people losing all the  
11 gains they made in their recovery if they can't take  
12 the time that they need to be at home to get things  
13 under control to get their acute illness back into a  
14 managed phase. And that's the kind of pressure that  
15 really is not only felt by the families, but also by  
16 the Commonwealth in areas such as families needing to  
17 go onto medical assistance if the jobs are lost, folks  
18 needing to go into public housing if the housing is  
19 lost. It puts a greater burden on taxpayers and on  
20 individuals and on families than the small costs of  
21 paying into an insurance system or paid for by  
22 employers to keep folks well, to keep them in their  
23 homes, to keep them having health insurance.

24           It makes a huge difference. These are  
25 both very important pieces of legislation. Again, we

1 very much support them and thank you for the  
2 opportunity to speak about them today, thank you.

3 REPRESENTATIVE GIBBONS:

4 Thank you, Debbie.

5 MS. PLOTNICK:

6 You're welcome.

7 REPRESENTATIVE GIBBONS:

8 Any questions? All right. Well, thank  
9 You, Debbie, for coming to this ---.

10 PANEL MEMBER:

11 Just a comment, Debbie, and, you know,  
12 thank you for being here today and I went through a  
13 similar situation with one of my children also so I  
14 know what you're talking about and went through it for  
15 a number of years and I really appreciate you being  
16 here sharing your story of your daughter, Ashley, with  
17 us today. It takes courage, it really does, so ---

18 MS. PLOTNICK:

19 Well, thank you.

20 PANEL MEMBER:

21 --- thank you for the good work that  
22 you do ---

23 MS. PLOTNICK:

24 Thank you.

25 PANEL MEMBER:

1           --- and thank you for being here today  
2 and sharing that story with us.

3           MS. PLOTNICK:

4           Thank you. It's my pleasure and I can't  
5 stress enough that stories where there's support  
6 really can turn out very, very well. We're very proud  
7 of our daughter, she leads a very successful life and  
8 I appreciate you saying so. Thank you so much, thank  
9 you all.

10          REPRESENTATIVE GIBBONS:

11          Thank you, Debbie.

12          MS. PLOTNICK:

13          You're welcome.

14          REPRESENTATIVE GIBBONS:

15          Next I'd like to call Samuel Denisco,  
16 director, Government Affairs for the Pennsylvania  
17 Chamber of Business Industry.

18          MR. DENISCO:

19          Good morning, Chairman DiGirolamo,  
20 Representative Gibbons, members of the committee,  
21 thank you for having me here today. My name is Sam  
22 Denisco. I am director of Government Affairs for the  
23 Pennsylvania Chamber of Business and Industry.  
24 Pennsylvania Chamber is the largest broad-based  
25 business advocacy association in the Commonwealth,

1 serving 24,000 members and customers. The  
2 Pennsylvania Chamber membership comprises nearly 50  
3 percent of the private workforce and our membership  
4 ranges from Fortune 100 companies to sole proprietors  
5 and crosses all industries sectors.

6 Thank you for giving the Chamber the  
7 opportunity to testify today on House Bills 1155 and  
8 1386. House Bill 1155 would require employers to  
9 provide employees with paid sick leave to be used to  
10 cover their employees on illness or the illness of a  
11 family member. House Bill 1386 would require  
12 employees, employers and employees to pay in a fund in  
13 order for employees to receive wage replacement  
14 benefits so they can care for a spouse, child or a  
15 parent with a serious health condition or to bond with  
16 a newborn or adopted child. While both those are well  
17 intended they are very problematic for employers and  
18 employees alike. First and foremost, these bills  
19 restrict employer flexibility in meeting the needs of  
20 the respective workforces. Most businesses have  
21 structured their workforces in a fashion that  
22 adequately meets the needs of its employees while not  
23 compromising the work product of the employer. If an  
24 employer has to provide paid sick leave for the reason  
25 set forth on House Bill 1155, they may not be able to

1 do so for other valid reasons such as military leave,  
2 bereavement leave and personal days for religious  
3 observations. Additionally, if an employer has to  
4 fund family leave pursuant the House Bill 1386, the  
5 employer may do so by cutting back on other employee  
6 benefit programs, such as short-term and long-term  
7 disability policies in order to fund the family leave.  
8 In the end many employers may look for relief in their  
9 wage structure, their 401(k) contributions, their  
10 health insurance contributions or other employee  
11 benefits.

12           The business community favors legislation  
13 that strikes a balance between the needs of employers  
14 and those they employ. This balance is key in our  
15 economically competitive market. Legislation that  
16 tips the scale one way could result in the loss of a  
17 business or limited growth for the state, both of  
18 which would hurt employers and employees equally.  
19 Paid leave is an example of legislation that tips the  
20 scales in the wrong direction. The business community  
21 believes that government should avoid stepping in  
22 between the employer and the employee from a benefit  
23 perspective. Some employees want a greater 401(k)  
24 contribution, others might want to work a full week in  
25 just four days and still others may seek flex time.

1 These options are accomplished when employers and  
2 employees work together and not when government steps  
3 in and mandates a one-size-fits-all benefit package.

4           Paid sick leave mandates reduce  
5 employers' flexibility to tailor benefit packages to  
6 the workforce's particular needs. For instance, young  
7 single workers may have little interest in paid sick  
8 leave and would prefer higher wages and larger 401(k)  
9 contributions. Similarly, workers in families ---  
10 workers with families may prefer better health  
11 insurance benefits with smaller co-pays and  
12 deductibles.

13           This legislation is especially  
14 burdensome and disruptive for small businesses that  
15 require skilled employees. For instance, if a  
16 business employs five people and one goes out for 12  
17 weeks there's no way to easily replace that person.  
18 The other four team members will have to pick up the  
19 extra work forcing them to work longer hours. This  
20 will not enhance the work environment and certainly  
21 does not do anything to lay a foundation for  
22 supporting healthy families in the workforce. In  
23 fact, those left to maintain productivity will  
24 experience additional stress on themselves and their  
25 families working longer hours to maintain



1 profitability.

2                   Currently, there are a number of  
3 industries where it's difficult to find full time  
4 employees. The challenge will be made all the more  
5 difficult if House Bill 1386 is enacted. For  
6 instance, if the job is offered for only 12 weeks in  
7 duration, this will effectively allow the temporary  
8 employee, if eligible, to opt for a fully paid 12 week  
9 leave immediately upon arrival at his or her new  
10 employment. In addition, a number of industries  
11 require a license for unemployment. It would be very  
12 difficult to find another licensed professional to  
13 work for 12 weeks so the employer would be either  
14 forced to ignore the customer or to add to the  
15 workload of the employees who didn't go out on leave.  
16 Either way someone loses in this scenario.

17                   Additionally, there are other issues in  
18 the bill that are unclear which may lead to an  
19 unintended litigious environment. For instance, House  
20 Bill 1155 defines family member to include spouse,  
21 child, parent, grandparent, extended family member or  
22 any other individual related by blood or affinity  
23 whose relationship with the employee is equivalent to  
24 a family relationship. Based on this definition, it  
25 would be nearly impossible to draw a fine line as to

1 who is covered under this definition. Arguable, it  
2 can be anyone. This broad definition will inevitably  
3 invite abuses of this policy and fraudulent leave  
4 claims. In the end, employers who draw lines as to  
5 who is family may have to defend themselves in court.

6           Finally, these represent a costly  
7 mandate on employers. The bills, if enacted, will  
8 increase costs for employers at a time when many  
9 employers are laying off employees for economic  
10 reasons. Mandatory paid benefits that increase small  
11 business costs would have to be recouped elsewhere,  
12 perhaps through reduced wages or fewer benefits paid  
13 in other areas. In cases where employees take leave  
14 with little or no notice, employers may even face  
15 double payments, pay for both the person taking sick  
16 leave and for the person called in to cover the shift.

17           In conclusion, addressing the needs of  
18 employers and employees is paramount to a successful  
19 workforce. By allowing businesses to meet the diverse  
20 needs of its workforce without government mandates,  
21 employers will be able to effectively operate in  
22 competitive markets and maintain the flexibility to  
23 support healthy families and a healthy workforce.  
24 This concludes my testimony, again, thank you Chairman  
25 DiGirolamo, Representative Gibbons, members of the

1 committee for allowing me to appear before you today  
2 and I will be happy to answer any question that you  
3 may have.

4 REPRESENTATIVE METCALF:

5 Thank you, Sam for your testimony today,  
6 we appreciate it. I think when we've heard testimony  
7 yesterday and I believe, you heard most of my  
8 testimony yesterday also and testimony again this  
9 morning and there's a lot of heartfelt testimony about  
10 a lot of tragic situations and dire situations people  
11 find themselves in. Unfortunately, I think when we  
12 see some of this legislation drafted, some of my  
13 colleagues draft this as if they're living in a vacuum  
14 and it's not going to impact anybody with any negative  
15 consequences and I think they think they're drafting  
16 it if they're on Treasure Island and they found some  
17 chest of gold that is going to be able to pay for all  
18 of this. Whereas, I appreciate the points that you  
19 made in your testimony because if we advance policies  
20 that the government interjects themselves in between  
21 employees and employers in this fashion, ultimately,  
22 we're going to see some employers not be employers  
23 anymore. They'll be employees themselves looking for  
24 jobs elsewhere because they won't be able to maintain  
25 a business or create the jobs that we need to sustain

1 our families here in Pennsylvania. So I appreciate  
2 the points that you've made, there's a lot of coined  
3 arguments that are made of why an employer should  
4 provide this type of leave and I think that employers  
5 that are able to, try to do so because they know that  
6 it helps them to bring in better employees and keep  
7 the employees.

8 I think the many options that you  
9 mentioned was a great plan with the flextime and all  
10 the many variables that somebody can eject into their  
11 benefit system as an employer and they're going to pay  
12 the cost somewhere else if we start having government  
13 mandate, a one-size-fits-all policy, so, thank you.

14 REPRESENTATIVE GIBBONS:

15 Representative Blackwell.

16 REPRESENTATIVE BLACKWELL:

17 Thank you Mr. Chairman. Well, I  
18 appreciate your testimony. I'm a follow a ring leader  
19 who's negotiating contracts with many employers who  
20 are good, many who are fair and many who just didn't  
21 care as long as they get a profit. I believe that the  
22 need for this legislation arises out of complaints  
23 that some employees had along with some employers  
24 because the uncompetitiveness with other employers who  
25 do offer benefits such as these.

1 I might also add that there was  
2 testimony that how unproductive a worker can be when  
3 their mind is not on their work. And in spite of  
4 that, we continue to employ people which can in turn  
5 cause them to get sick. So that adds to the cost of  
6 also replacing that employee because through no fault  
7 of the employer and no fault of the employee,  
8 circumstances happen. These are human events of human  
9 nature that occur.

10 So while I do agree that you do have  
11 some employers that are responsible and try to operate  
12 in a responsible manner and do care about their  
13 employees, I won't go as far as saying that the  
14 employers don't care. I would say that some employers  
15 just don't understand the importance of having a happy  
16 worker, which in turn makes a productive worker. So  
17 while we don't want to actually intrude on businesses  
18 and business policy, sometimes the government has to  
19 look at what's fair because it all in turn, affects  
20 the economy. We try to understand. Not only am I a  
21 former labor leader but I also happened to have  
22 grandparents who owned a store in a community for over  
23 35 years. So I understand the bottom line. I  
24 understand the cost value. But meanwhile we have to  
25 do something to help employers to understand that

1 sometimes, you know, we need a little motivation to  
2 help the employer to understand that there are human  
3 needs and trying to help him to better his business  
4 we're also looking at a human element.

5           Sometimes, when you look at sometimes  
6 too much at your profit margin, you forget the human,  
7 some employers do and I know that through experience.

8           I've seen employers make record profits,  
9 record profits, while they're steadily laying off  
10 people when they don't have to. I've seen it happen,  
11 I've seen employers have flexible hours when they did  
12 not have to have flexible hours. We do have some  
13 responsible employers who won't, but like I said,  
14 sometimes you do have to look at what can be done and  
15 offer also --- sometimes it takes incentives to  
16 business to offer these types of programs, so I'm not  
17 --- my mind is not closed to that.

18           But we have to look at a fair way of  
19 doing business, because it's not fair just to say ---  
20 you know, I once heard --- I won't mention the name of  
21 the colleague that said it, he told his employees, you  
22 know, we're going to cut 20 percent and tell him you  
23 can't, you get fired. Well, the incentive is I'm going  
24 to do it because if I don't do it I'm going to get  
25 fired. Well, guess what, when you run your own

1 business sometimes you have these opportunities to do  
2 that, being fair or not, but meanwhile that's why I  
3 got elected, to help people who do not have a voice,  
4 you know, Charles said, you know, maybe it could be  
5 part of a collective bargaining. Well, some people  
6 don't have that privilege because they're not part of  
7 a collective bargaining union. Well, meanwhile for  
8 those people that don't have that that's, I believe,  
9 what we're for. I believe electing officials that are  
10 there to help improve the quality of life for people  
11 that includes people with mental disorders, that  
12 includes people who have problems, because I also  
13 happen to have the experience with mental people who  
14 have mental disabilities, adults with mental  
15 disabilities.

16 I used to work for a beautiful, wonderful  
17 place called Community Interactions of Delaware County  
18 who happen to care about their people, you know, but,  
19 meanwhile, they needed help too in a financial way  
20 because of the high turn-over rate of employees  
21 because they weren't allowed --- they weren't able to  
22 offer a higher wage, so, guess what?

23 Either the person got --- the employee  
24 got an opportunity to go to a place with a higher  
25 wage, they left, now you know what, that employer has

1 to now spend money training the new employee before he  
2 can get the employee into the regular line of work,  
3 line of time --- also while he's doing that, you have  
4 people working overtime another cost to the employer.  
5 So what we're trying to do is not have that situation  
6 occur. So it's going to take the management and the  
7 employee, employer and employee working together to  
8 try to come up with a solution. Do I like mandates?  
9 Of course not, but sometimes in this business you'll  
10 find that they are needed. Thank you.

11 REPRESENTATIVE GIBBONS:

12 All right. I'd just like to ask a  
13 couple of things and point out a couple concepts.  
14 Number one, just as it relates to the paid sick leave,  
15 you point out about young workers having little  
16 interest in paid sick leave, but, I guess, the fact I  
17 look at with young workers who --- you're like, you're  
18 right are less likely to maybe get illnesses  
19 depending, but if they're not taking the sick leave  
20 then it's not costing the employer anything to offer  
21 it. And so, realistically, if these people aren't  
22 taking it, there's no cost to it. Now that the cost  
23 is only if you take it and if they're taking it ---  
24 while we had some comments yesterday, questions as to,  
25 you know, abuse and questions of that nature, if they



1 are sick we did hear some things about productivity  
2 and how it increased productivity to have these people  
3 take off when they need to.

4           And I also want to point out you  
5 mentioned about a person taking 12 --- you know, and  
6 this in relation of House Bill 1386 on the Temporary  
7 Care Insurance. Person who is offered a job for 12  
8 weeks coming in, taking leave immediately, but my  
9 understanding, and I'm not an expert on FMLA, but you  
10 have to be an employee with the company for one year  
11 prior to being eligible for FMLA. This is a wage  
12 replacement for people who are taking FMLA leave. So  
13 unless you're with the company that employs more than  
14 50 people or --- now, that's not to say that people  
15 who are employees of companies with less than 50  
16 people would not be eligible, but their jobs would not  
17 be protected under FMLA. Now, again, it is my  
18 understanding, but, you know, --- my understanding in  
19 my background with FMLA is that you have to be there  
20 at least one year prior. So the circumstance that  
21 you're pointing would be impossible. If they came in  
22 they might be able to seek wage replacement, but you  
23 wouldn't have to protect their job because they  
24 wouldn't be FMLA eligible and this --- my  
25 understanding of House Bill 1386 as I drafted it,

1 isn't providing additional protection for the job,  
2 it's providing wage replacement for people taking FMLA  
3 leave. So, I mean, I don't know if you have a comment  
4 on that, but, at least, my understanding is that  
5 situation that you point out wouldn't be created under  
6 this bill.

7 MR. DENISCO:

8 Representative Gibbons, very good  
9 question. My read of the bill is, there is no  
10 eligibility requirements for this wage replacement, it  
11 doesn't say that an individual must work X amount of  
12 hours nor is it contingent on meeting eligibility  
13 requirements of the federal law. So, for instance, if  
14 a individual was offered a job that was going to start  
15 in two months and the individual shows up at the  
16 workplace and within a week they have an unexpected  
17 family emergency or an emergency for an individual  
18 that they have a quote unquote affinity with, they  
19 would essentially be eligible to opt for the wage  
20 replacements aside from federal law. So to tighten it  
21 up a little maybe draw a fine line as to the 1,250  
22 hours work --- work in first, much like the sick leave  
23 bill too if it hit the 90 days out.

24 REPRESENTATIVE GIBBONS:

25 Well, for one, they had --- I think we

1 do have to differentiate between the two bills and  
2 their definitions of family. The affinity think is  
3 not in this bill, this bill is very strictly limited  
4 as to either the birth of a child or a spouse or  
5 parent. So this isn't defined as broadly as the sick  
6 leave bill where, as you pointed out, it is much more  
7 extensive as to reasons you can take sick leave.

8           But, again, as I said, perhaps we do  
9 have to look at the clarities, but, as I read the  
10 bill, it does not create a job protection. FMLA  
11 created a job protection so that a person wanting to  
12 take leave, their job would be protected when they  
13 return from that leave.

14           This bill creates no protection for that  
15 job. So you're right in that sense, someone could  
16 come in a week later, apply for this, because you're  
17 right, there is no time restriction and I agree with  
18 you that maybe there's something we should look into,  
19 making sure that they are, you know, maybe putting  
20 some of those requirements in. But even as drafted  
21 now, that job would not be protected under FMLA. So  
22 they would --- it would be the possibility that job,  
23 you know, could be replaced during that period of  
24 time, not that I'm advocating that, that should  
25 happen, but, that is a --- that does seem to me to be

1 a possibility under this.

2           So, I mean, we have to look at what  
3 we're providing here, it's not --- the job protection  
4 is provided under the FMLA, under the federal law,  
5 which FMLA must be --- as the bill's written, must be  
6 taken concurrently with this, if you're eligible. So,  
7 you know, we are not looking to protect the job in  
8 this bill, that's been done under the FMLA and its  
9 rules.

10           This is specifically just replacing the  
11 lost wages that a person was eligible for FMLA would  
12 be taking or as I said, if they weren't eligible they  
13 could receive the benefit. But then it would be up to  
14 the employer whether or not they would be decided to  
15 hold the job for them. So I think that that situation  
16 just does not seem to be to me --- again like I said,  
17 maybe there is some clarity, but, does not seem to me  
18 to be covered as creating a problem under this. And  
19 kind of the same, you know, I guess I'd make this  
20 other comment about the small team. The fact is if  
21 its factor isn't workforce, again, not FMLA eligible,  
22 not more than 50 people. So again, I think, you know,  
23 really this bill has to be looked at in conjunction  
24 with the FMLA because that is the primary source of  
25 what we're trying to do is replace those people who

1 were out for those reasons. So any other questions?

2 All right. Well, thank you very much.

3 MR. DENISCO:

4 Thank you very much.

5 REPRESENTATIVE GIBBONS:

6 Next I'd like to call up Kevin Shivers  
7 from the National Federation of Independent  
8 Businesses.

9 MR. SHIVERS:

10 Good morning. On behalf of the small  
11 business members of the National Federation of  
12 Independent Business, I'd like to tell you how much I  
13 appreciate you inviting me before the committee today.

14 Just to give you a little explanation of  
15 who small business is, the members that we represent.  
16 NFIB represents the mom and pop businesses that are on  
17 Main Street in every township, borough and city  
18 everywhere in Pennsylvania. Our typical member  
19 employs five or fewer workers. Our members generate  
20 gross sales of about \$400,000 to \$500,000 a year and  
21 their take home pay for those business owners are  
22 about \$50,000 a year. So, you know, contrary to the  
23 consensus, you know, our members are not rich, they're  
24 rich in pride, they're rich in love for their country,  
25 they're rich in love for the business owners or the

1 employees and their families that they're supporting,  
2 but, they're not doing this by in large, to get rich  
3 quick, they're working hard at what they do.

4                   And the small business members of NFIB  
5 urge you to oppose the paid leave mandates that are  
6 proposed in House Bill 1155 and 1386. These mandates  
7 would force small business owners to implement  
8 policies that may not be in the best interest of their  
9 workers and bury them under an avalanche of new  
10 paperwork, red tape and headaches.

11                   NFIB believes small business owners  
12 should be free to do what is best for their workers  
13 and their companies. One-size-fits-all employment  
14 policies like those proposed in House Bill 1155 and  
15 House Bill 1386 do not work well for small businesses  
16 that need flexible workplace rules and policies to  
17 juggle the needs of their workers and run their  
18 business.

19                   What may work for Wal-Mart always  
20 doesn't work for Main Street. I think that's a  
21 critical point. You know, often times when we come  
22 before the committee, when you're talking about  
23 employer mandates, you know, I'm regularly, you know,  
24 hit with questions from panelists and even my  
25 colleagues at the AFL-CIO, they'll be signing the big

1 box stores that are also signing some kind of an  
2 egregious action in the big corporation, well,  
3 remember they operate very differently than small  
4 employers do. You know, my members will tell you, you  
5 know, nine times out of ten, they're the ones that are  
6 doing the hiring and the firing, they're the ones that  
7 are taking out the trash, they're the ones that are  
8 filling in when their employees aren't there in the  
9 job place. An interesting point is dealing with the  
10 FMLA bill, if you think about it, I mean, it's  
11 creating two classes of individuals here because an  
12 employee is entitled to FMLA under this, but, you  
13 know, small business owners they adopt kids too, their  
14 family members get sick, they need to take time off  
15 and they're not recognized under this legislation,  
16 something to think about.

17           Employer mandates like those proposed in  
18 House Bill 1155 and House Bill 1386 hurt the very  
19 workers they're intended to help and take away small  
20 employers' and workers' freedoms to negotiate benefit  
21 packages that meet the needs of their workers and the  
22 business. In addition, they invite excessive and  
23 unnecessary litigation, as well as impose significant  
24 legal and administrative costs on the small business.

25           A similar leave mandate proposal was

1 defeated earlier this month in California. A study  
2 released in June by the NFIB Research Foundation  
3 showed the loss of approximately 370,000 jobs within  
4 five years in California had AB 2716 become law.

5 In addition to the significant job  
6 losses, the bill would have imposed a direct cost,  
7 just like a tax, of \$4.6 billion on California  
8 employers that would've disproportionately affected  
9 the small business community.

10 The NFIB Research Foundation also  
11 examined a paid sick leave proposal in Ohio. Even  
12 with an exemption for employers with fewer than 25  
13 workers, the Ohio paid leave mandate is expected to  
14 cost business almost \$1.2 billion annually and result  
15 in about 75,000 lost jobs over five years, 41 percent  
16 of those losses would come from small businesses.

17 Now again, I think it's important to  
18 point out, we're not necessarily talking about people  
19 that are going to be fired; we're talking about jobs  
20 that are not going to be created. That small employer  
21 with five employees or in this case, in Ohio, that  
22 small employer with 24 employees, what we've heard  
23 anecdotally is, they just won't hire that 25th one or  
24 that 26th employee because they know that if they do  
25 they'd be subject then to this mandate, so again, it's



1 going to stimey job growth, it's going to stimey  
2 economic development.

3           Small business owners also value their  
4 employees and understand that everyone can be subject  
5 to illness, emergency or family obligations. You  
6 know, our members treat their employees like family  
7 and in a small business you need flexibility. That's  
8 the thing that keeps the company coming together  
9 unlike in a large company, where you may just be a  
10 number, you know, in small businesses they treat each  
11 other very differently. Most small business owners,  
12 in fact, provide flexible leave for illness and family  
13 situations and do so in a way that meets the needs of  
14 both their workers and the business. Recent NFIB  
15 small business polls report, 96 percent of small  
16 business owners offer flexible work hours when  
17 personal situations arise. About 75 percent of small  
18 business owners already provide their workers with  
19 some type of paid sick leave and over 2/3 recently  
20 granted family leave as a paid leave.

21           Small business workers and employers  
22 know the best way to shape a benefit package that  
23 meets the needs of a particular workplace. If these  
24 new mandates are enacted, employers tell us, that they  
25 likely would be forced to eliminate personal time,

1 vacation pay or limit future pay increases.

2           In fact, we've been told that some  
3 employers, who may offer more than the required, the  
4 mandated amount of leave, might actually scale those  
5 back because they know that all of their competitors  
6 are only going to offer the same amount as well. In a  
7 small business, co-workers also are often forced to be  
8 the ones to pick up the slack for the absent workers.

9           Small businesses have a particularly  
10 difficult time in filling the gaps when employees can  
11 not work. A small business owner with five employees  
12 loses 20 percent of his work force, if his workforce  
13 with just one employee who doesn't report for work.

14           More than 90 percent of businesses cope  
15 with employee absences by reassigning work to other  
16 employees. According to a National Small Business  
17 poll the most frequent ways to compensate for an  
18 employees absence are assigning other workers to  
19 cover, 71 percent report they do that, the owner or  
20 the owners family cover, 63 percent know that and I've  
21 had a situation where I've had some work done on my  
22 house, fortunately, the business owner actually came  
23 out to do the work and postponing the employees work,  
24 you know, eliminating that particular type of  
25 assignment, 21 percent.

1           Many small employers simply can't afford  
2 to absorb the cost of paying and training replacement  
3 workers for an employee on leave or to pay co-workers  
4 overtime to share the expanded work, again, we make  
5 due with what we have and this is all we can afford.

6           NFIB members certainly did not advocate  
7 employees coming to work if they're sick or otherwise,  
8 unable to work, however, a mandate to require paid  
9 leave assumes small business owners don't currently  
10 offer flexible leave policies and this simply isn't  
11 true. Additionally, employment market pressures  
12 assure that leave will continue to be commonly given  
13 regardless of legislative action and should act in  
14 offering flexible benefit packages, I mean, we've come  
15 before this committee before and one of things we've  
16 talked about is many times our members are losing the  
17 competition for good quality workers because they  
18 can't offer high quality health benefit packages like  
19 their big business colleagues can, with bigger  
20 benefits and bigger health insurance products or  
21 better health insurance products.

22           One of the ways that they're able to  
23 fill the gap and meet those needs is by offering  
24 flexible work schedules and other types of  
25 flexibility, you know, to encourage those employees to

1 come to those businesses.

2           Given Pennsylvania's current economic  
3 challenges, a looming budget deficit, rising  
4 unemployment, soaring energy prices and sky high  
5 health insurance premiums, Pennsylvania's small  
6 business owners can ill afford another costly new  
7 mandate or in this instance two mandates and I should  
8 point out that we, you know, one of the things that we  
9 sometimes fail to remember --- remind ourselves is  
10 that, you know, in state government it's an  
11 accumulative process, you know, this committee already  
12 has before it bills to mandate paid coffee breaks, to  
13 mandate lunch periods, now we're talking about  
14 providing mandated paid sick leave, we're talking  
15 about mandated, you know, FMLA and then a couple of  
16 years ago we mandated an increase in the minimum wage.  
17 When small employers are spending monthly mortgage  
18 payments to pay for their employees' health care and  
19 now the legislature is looking at imposing new  
20 mandates on them, what are they to do?

21           I mean, the legislature is basically,  
22 telling these small employers that paid sick leave is  
23 more important than health care. So what is an  
24 employer going to do, are they going to continue to  
25 provide those health benefits or are they going to

1 continue to provide paid coffee breaks, paid sick  
2 leave time or other types of mandated costs of doing  
3 business. So with that we stand ready work with the  
4 general assemble to insure that additional economic  
5 burdens are not placed on small business and we urge  
6 the members of the committee to oppose these two  
7 legislative proposals and with that, I would be happy  
8 to answer any questions.

9 REPRESENTATIVE GIBBONS:

10 Representative Gergely.

11 REPRESENTATIVE GERGELY:

12 Good morning, Kevin.

13 MR. SHIVERS:

14 Good morning, Representative.

15 REPRESENTATIVE GERGELY:

16 How are you doing today?

17 MR. SHIVERS:

18 Good, thank you.

19 REPRESENTATIVE GERGELY:

20 All right. With the small businesses,  
21 if you look at 1155, please. You do realize that it  
22 would only have asked ten or under to only have three  
23 paid sick days and then I looked at page one last  
24 paragraph. Small business owners with five employees  
25 lose 20 percent of his workforce if one employee does

1 not report for work. I would assume there has to be  
2 some flexibility with this owner. Are they not paying  
3 these employees when they don't come to work now when  
4 they're sick?

5 MR. SHIVERS:

6 Well, I mean, according to my testimony,  
7 I mean, virtually all employers are offering some type  
8 of a flexible leave package and 75 percent of them are  
9 providing some type of a paid leave component for  
10 their employees. In the instance where you have that  
11 one person who leaves chances are who's going to fill  
12 the time, it's going to be the owner.

13 REPRESENTATIVE GERGELY:

14 I think what all of the committee's  
15 struggling with is testimony like yourself --- like  
16 yourself and others and testimony from the other side,  
17 to find the middle on this, it's so far apart and, you  
18 know, of course this committee has to find a middle  
19 where these numbers mesh together and you could  
20 present your information and I could present ACORN's  
21 information and yet these are miles apart from each  
22 other. So that's troubling to me that the information  
23 --- sometimes with issues information presented is  
24 much --- there's much more clarity than on this and we  
25 say that many will say that offering paid sick leave,

1 especially like for domestic violence is health --- is  
2 a healthy family's act related issue and you know,  
3 can't figure out if that's the commitment too because  
4 if five or six percent of your small businesses don't  
5 do that you are going to be --- we heard a number of  
6 testimonies yesterday, I know you weren't here, about  
7 --- they were bringing it up, that at some point the  
8 Foundation was probably were opposing child labor laws  
9 saying small businesses need child labor.

10 We wonder, you know, where's the  
11 necessity stop, that's all and I just wanted to assure  
12 you that if you had any more information about the  
13 loss of the cost, et cetera, please share it with us.

14 MR. SHIVERS:

15 Absolutely, I mean, once I got ---  
16 actually, groups like ACORN who come here to advocate  
17 on these mandates are also advocating that they be  
18 exempted from them.

19 There was a fascinating court case in  
20 California, for example, with the minimum wage mandate  
21 where they actually sought to be relieved from the  
22 minimum wage mandate because they felt that it was  
23 going to be an undo financial burden on them.

24 So, you know, I kind of take --- sometimes I  
25 take their comments with a grain of salt, but, you

1 know, you're absolutely right, I mean, you know, there  
2 really is a question of how do we meet the needs and  
3 what are those needs of employees and you know, your  
4 --- I certainly can't criticize you for entertaining  
5 these issues, the question is where are those  
6 priorities? Because in another committee in another  
7 side of the building we're talking about mandating  
8 health care, you know. And now, you know, in this  
9 committee you have three or four different mandates  
10 that we're dealing with, mandated paid coffee breaks.  
11 So the question is, what do you --- where do you ---  
12 you know, these employers, small employers I'm  
13 speaking of now, they value their employees and you're  
14 right, you know, there may be a few that don't treat  
15 their employees the way they should and quite frankly,  
16 you know, they're probably going to be out of business  
17 because most workers I know they'll hit the streets  
18 after they've been treated roughly a few times.

19           Of course, there's a few people that they  
20 need the job. Well, those are hard workers and  
21 certainly, those types of people, I think, are going  
22 to survive in the workplace, they're going to be  
23 attracted to employers or employers that do care are  
24 going to find those people.

25           There needs to be a happy medium. I



1 mean, I absolutely think we need to figure out what  
2 that middle ground is. My job today is just to remind  
3 you that a one-size-fits-all mandate doesn't  
4 particularly work within the business community.

5 REPRESENTATIVE GIBBONS:

6 Representative Metcalfe.

7 REPRESENTATIVE METCALFE:

8 Thank you. And thank you, Kevin, for  
9 your testimony today and the point that you made about  
10 the average salary that many of your members are  
11 pulling down is, I think you said, around \$50,000.

12 I was out talking with a small business  
13 owner the other day in the district and he was telling  
14 me how the effect of the high fuel prices is really  
15 impacting his business and he has several truck  
16 drivers that work for him and he said him and his wife  
17 who, you know, are owners of the business, that they  
18 were actually looking at laying off many of their  
19 truck drivers because it was going to be cheaper to  
20 let the trucks sit idle and make the payments on them  
21 rather than run them, paying the salaries and the high  
22 fuel costs and as much as, the fuel had impacted their  
23 business. So that very small profit margin there on  
24 that part of their small business that was potentially  
25 leading to some lay offs. I think they tried to ride

1 the wave out, fuel prices have dipped a little bit.  
2 So I they're still able to keep those folks employed.

3           But, I think the greater point that you  
4 have made in your testimony with Representative  
5 Gergely is a question about, you know, if you have  
6 some six or seven percent, five percent of businesses  
7 that aren't providing these types of benefits and  
8 they're hurting people. I would say it was going to  
9 hurt people more if those employers aren't able to  
10 provide jobs because of the accumulative effect of all  
11 of the regulations, burden, mandates that the  
12 legislature is looking to put on businesses whether  
13 it's payment of health care or it's payment for coffee  
14 breaks or it's payment for lunch breaks or it's  
15 payment for sick days, they're not being really paid  
16 or a payment for some leave time that might take a  
17 five person shop down to four people and reduce  
18 productivity by 20 percent that the owner has to try  
19 to make up in some way for several up to months.

20           MR. SHIVERS:

21           Yeah, Representative, I couldn't agree  
22 with you more and I think a critical point you just  
23 made is you're absolutely right about the economy and  
24 I failed to mention that in my testimony. You know  
25 I've been in the workforce now for a little under 20

1 years and, you know, we --- NFIB has been doing a  
2 small business optimism index where we measure what  
3 small employer's attitudes nationally are about the  
4 economy, prospectively. And apparently, you know,  
5 according to the folks that have been tracking this  
6 since 1974, I mean, this is probably one of the most  
7 pessimistic times in our period --- our recent memory,  
8 I mean, beyond since I've been in the workplace and  
9 certainly, since you know, some of the major  
10 recessions in the 1980s.

11           And right now employers are doing their  
12 level best just to be able to keep work going for  
13 these people because they recognize, I mean, in a  
14 small business, you know, the people that work for  
15 you. I mean, they're extended family, you know,  
16 you're talking about that employee and their family,  
17 you know, and they feel a real obligation to them and  
18 to making sure that they still have available hours so  
19 that they can put food on the table. And you know,  
20 now is probably the worst time to be talking about  
21 imposing new administrative costs and new burdens on  
22 these people because they are doing their level best  
23 with gas prices the way they are, with the price of  
24 food, with the price of health care, other, you know,  
25 costs of doing business, they are doing their level

1 best to keep these people on.

2 I think that should be our goal for this  
3 committee, if I can offer a recommendation, what can  
4 we do to encourage full employment, you know, those  
5 are the kinds of things that this committee could be  
6 very helpful in working with small job creators is  
7 what can we do to make sure that small business people  
8 can hire as many people as they possible can.

9 REPRESENTATIVE METCALFE:

10 I would like to thank you for putting a  
11 face on the individuals that are being talked about,  
12 as far as, the individuals who are going to have to  
13 foot the bill for what's being proposed here.

14 I think the way to get a theory, if  
15 you're talking about unlimited resources we all would  
16 like to make sure that everybody has, you know,  
17 unlimited health care options, unlimited days off for  
18 when there are bereavement situations or tragic  
19 situations in their family's lives or an illness.  
20 But, at the end of the day somebody has to pay for it  
21 and many times those in government continue to lift  
22 burdens upon the back of those individuals who are job  
23 creators thinking that we'll just put one more burden  
24 on their back here, they'll take care of it.

25 And when government needs to have some

1 additional resources then they just go back to the  
2 same individuals they've lifted that burden on the  
3 back and say we'll we got another burden for you  
4 because we need more from you also, which, I think is  
5 a crying shame and it's going to ultimately kill our  
6 economy if we don't understand what's really made  
7 America great and let government do what it's supposed  
8 to do, which is very limited and let the market place  
9 do the rest, so, thank you.

10 MR. SHIVERS:

11 Absolutely.

12 REPRESENTATIVE GIBBONS:

13 Representative Blackwell.

14 REPRESENTATIVE BLACKWELL.

15 Thank you, Mr. Chairman. This particular  
16 testimony, I appreciate --- what you said. I'm  
17 reminded of the \$1,300 a month electricity bill my  
18 uncle used to have to pay just to run his  
19 refrigeration end of the business. This is a cost he  
20 cannot recoup. So while I understand that and I  
21 appreciate that, what amazes me is that, and I said  
22 this yesterday, whenever government talk about trying  
23 to improve the quality of life of ordinary people, we  
24 sometimes hear opposition to that, but, some of those  
25 same voices will support a policy that allows our

1 government to spend \$10 billion a month to support a  
2 war. Where we supported that infrastructural bid that  
3 had a \$75 billion surplus. And selling us their oil  
4 at record prices, that --- that just boggles my mind.

5           Like I said, I don't like mandates and  
6 you know, a lot of time, you know, even congress will  
7 offer mandates and except themselves, you know, and  
8 leave it up to the states to fund it. So, you know, I  
9 do appreciate your testimony, but the one thing that  
10 I'm hearing from you that I really appreciate is that  
11 you want to work with us to find as Representative  
12 Gergely said, middle ground, you know, because I  
13 believe it's there. But, while we have to continually  
14 try to work together we also have to recognize  
15 policies that do not sometimes allow us to do that ---  
16 that do not allow you and when funding is cut from the  
17 federal government to the states that in turn makes us  
18 have less money to do things and you know, it seems  
19 that every branch even down to the citizens looks for  
20 --- look for the other person to fund it, yet, when we  
21 see what the taxpayers are paying they're making a  
22 return on the investment --- on their investment. So  
23 even while I appreciate your testimony and your  
24 eagerness to try to reach a middle ground here and I  
25 believe you're sincere because you come across that

1 way, you also have to look at policies that don't  
2 allow us sometimes to do that.

3           When we get support, our own government  
4 can continue to throw money at a situation that seems  
5 to be out of hand and yet we hear nothing from the  
6 people who support or who do not support bills such as  
7 these or even the intent of a bill such as this, you  
8 know, I see some things here that can be approved, you  
9 know, you keep on mentioning a mandated payment for a  
10 coffee break, that's crazy, that's nonsense. But you  
11 mean well because I understand, you know,  
12 productivity. I'm one that --- and a lot of laborers  
13 would not do this, back in the mid '90s I had a  
14 contract that paid \$22 an hour, but, --- on paper they  
15 had this out, I --- mid '80s, but were they really  
16 making any money, no, because nobody brought them any  
17 of their money, the employers couldn't bring any work  
18 in. So we convinced our membership to take a \$5 an  
19 hour reduction in their pay rate and we guaranteed  
20 them that in a few years they would be right back  
21 where they were, that's because we started working as  
22 a partnership, management and labor as a partnership  
23 rather than as adversaries and I believe in a  
24 partnership. And I know they can work I'm an example  
25 of it, I've seen it, I have experience in it, so it's

1 nothing that someone told me, it's something that I  
2 lived. But we have to have a trust between the two  
3 groups in order to work together and your testimony I  
4 feel your sincerity, I really do and don't get me ---  
5 there are responsible employees --- employers, but, we  
6 have to do something with irresponsible employers too.  
7 And I'm not saying punish them the responsible ones  
8 for the irresponsible ones but, working together we  
9 just do it, thank you.

10 MR. SHIVERS:

11 Yes, sir.

12 REPRESENTATIVE GIBBONS:

13 Thanks, can I --- I just have a couple  
14 of things real quick. And one thing I just want to  
15 ask, now you're NFIB small business poll with 96  
16 percent. That poll, is that conducted --- like what's  
17 the science on it, like who do you poll, is it your  
18 members, is it a general blanket, now what is the size  
19 of the businesses were polled on?

20 MR. SHIVERS:

21 Yeah.

22 REPRESENTATIVE GIBBONS:

23 Small business is kind of a largely  
24 defined term and you know, so ---.

25 MR. SHIVERS:



1                   Actually, I mean, I'll give you guys a  
2 good lean today, I mean, in terms of information. We  
3 have been running small business polls, I think, for  
4 like over ten years now and I'm not sure the  
5 methodology, but if you go to 411sbfax.com, we have  
6 been able to categorize every small business poll that  
7 we've done for the last 10, 12 years. And in fact,  
8 it's actually a very useful tool because it indexes it  
9 by issues and we've been talking about all kinds of  
10 things. They're national polls, this isn't just  
11 Pennsylvania's specific data. But we do --- I  
12 believe, we do member and nonmembers, don't hold me to  
13 that because I do think there's some that we open up  
14 beyond our membership.

15                   But there's also some really good facts  
16 and figures in there just generally, about what it  
17 takes to run a small business in Pennsylvania. So you  
18 have actually added an action item for me, when I get  
19 back to Harrisburg I'm going to send that link out to  
20 all of the generally assembly so that they have that  
21 information as well.

22                   REPRESENTATIVE GIBBONS:

23                   Well, that'll be --- that certainly  
24 would be very beneficial. Just the thing that I'm  
25 looking at is, I mean, when you say 96 percent provide

1 this yet we heard several stories yesterday of people  
2 who didn't have leave.

3           One woman told her story about how her  
4 and her daughter both didn't have --- I know you  
5 weren't here with us yesterday, but, neither of them  
6 had leave and you know, one or the other had to take a  
7 day off without pay to, you know, of anytime their ---  
8 that the granddaughter would --- her grandson, I  
9 believe, was ill and we had another story of someone  
10 who had, I guess, occurrences against them. Now out  
11 of those six occurrences, anytime they took time off  
12 was an occurrence, they would lose their job. So it's  
13 --- you know, if it's 96 percent --- that number just  
14 seems so large considering the number of stories we  
15 hear. And I don't know maybe those are all large  
16 employers maybe those aren't small businesses, we  
17 didn't ask them who they were working for at the time.

18           MR. SHIVERS:

19           Yeah.

20           REPRESENTATIVE GIBBONS:

21           So maybe this is more of a large  
22 business than a small business problem, I don't know.  
23 I do want to move on into talking about the FMLA and  
24 the temporary care insurance. You as well said, you  
25 know, we don't want to mandate FMLA. FMLA's been

1 mandated since the '90s, now small businesses ---

2 MR. SHIVERS:

3 If employing 50 or more.

4 REPRESENTATIVE GIBBONS:

5 Yeah, now small businesses are not and  
6 this bill is not creating requirement for small  
7 businesses to provide FMLA to hold those jobs, we're  
8 not creating protection with House Bill 1386. This is  
9 an insurance fund so that, should your employer ---  
10 should one of your small business employers offer  
11 employee leave this --- it could be paid out of there  
12 but, there's no requirement in here saying that all  
13 employers have to offer FMLA. If you're not already  
14 under the federal bill, there's a federal law, then  
15 this is not going to be an issue.

16 Now, is there going to be a cost to it,  
17 yes, you know, it is an insurance program, there is  
18 going to --- the fees are coming out of a payroll tax,  
19 employer and employee contributions. So, yes there --  
20 - is there a cost, yes, but, is this going to be a new  
21 mandate on small business beyond the cost, no, there's  
22 no new mandate on small businesses that they offer any  
23 type of leave that is not already a requirement under  
24 FMLA.

25 I do have interest in question, I guess,

1 you mentioned something about business owners not  
2 getting leave. Now, I know in here we define employer  
3 --- employee as --- in the same way as defined under  
4 the Unemployment Compensation law, I don't have a copy  
5 of the UC law in front of me, is a small business ---  
6 a business owner who does work for the company, are  
7 they considered an employee under the Unemployment  
8 Comp, I don't know if you would know the answer to  
9 that?

10 MR. SHIVERS:

11 No, I mean, you know, employers are  
12 expressly --- you as an employer cannot collect  
13 unemployment if something happens and your business  
14 goes, you know, goes under.

15 I mean, there are certain, you know,  
16 situations where you can but by in large, no. And the  
17 reason, you know --- one of the reasons we're told is  
18 went out and look this guy is in control of their own  
19 destiny, they know what they're --- well, we're  
20 talking about a benefit here, I mean, your goal, where  
21 somebody may adopt a child and want to take that time  
22 to bond with that child, you know what, small  
23 employers do that all the time, small employers have  
24 families too. I mean, we're --- you know, small  
25 employers are not the 800 pound gorilla, you know,

1 they're the people that are sponsoring the little  
2 league, they're the ones that are sponsoring the  
3 pancake breakfast in our communities, you know,  
4 they're the ones that live within --- within our  
5 neighborhoods, you know, they have families too and  
6 they have loved ones, why can't they take advantage  
7 of, you know, of this benefit. And I guess the other  
8 question I have is --- I mean, if it were up to you  
9 what should an employer provide, should an employer  
10 provide health care or should an employer provide  
11 family leave because right now you have 60 percent of  
12 employers --- small employers are providing health  
13 care and now you're telling them, oh wait a minute we  
14 want to mandate family leave. So which is more  
15 important?

16 REPRESENTATIVE GIBBONS:

17 Like I said, we're not mandating family  
18 leave, there's nothing in here mandating family  
19 leave ---.

20 MR. SHIVERS:

21 But, you're getting paid time off.

22 REPRESENTATIVE GIBBONS:

23 We're not --- well, that's a separate  
24 bill, is the paid sick leave, this is not --- the  
25 employers you're talking about, small business 50 and

1 under, we're not mandating anything, if they want to  
2 offer it they can offer it, but, if they're not  
3 covered under FMLA we're not telling them they have to  
4 give anything up.

5 MR. SHIVERS:

6 But they're still subject to the taxes  
7 and the ---.

8 REPRESENTATIVE GIBBONS:

9 They're subject to pay the fees and to  
10 surly offer any time --- you know, if business over 50  
11 employees, yes, they're already required under FMLA  
12 and we're offering wage replacement for those  
13 employees taking FMLA. For the small employers  
14 though, you know, if --- it would still be option like  
15 it is now, to whether or not they want to do it, but  
16 if they choose to there would be a method for those  
17 people to recoup their wages, that's all this is.  
18 This is an insurance program, you know, similar to  
19 unemployment compensation, this is insurance that it  
20 replaced wages for a person who is away from work  
21 because of a family medical emergency --- you know  
22 issue. So it ---.

23 MR. SHIVERS:

24 Is there any mention in --- just, I  
25 mean, in terms of --- you know, what about you --- if

1 somebody does have vacation time or sick time accrued  
2 and ---?

3 REPRESENTATIVE GIBBONS:

4 You can require, I believe, in section  
5 --- what, section four, subsection E, if employer ---  
6 that they can require them to take vacation, I  
7 believe, is up to one week of vacation can be required  
8 prior to offering it, if they do offer vacation time.  
9 There's also a one week waiting period prior to  
10 becoming eligible for benefits, so that in the week  
11 you're not eligible to collect until the second week  
12 of leave. So yes there are requirements that you can  
13 --- for the --- require someone to take vacation or  
14 sick leave if it is offered by the employer prior to  
15 recouping this and, you know, so, yeah, there are  
16 requirements in there for that.

17 MR. SHIVERS:

18 And just remember, I mean, they're going  
19 to be administrative costs to doing this as well,  
20 because certainly the employer, you know, on a five  
21 person business you're going to be needing to keep  
22 track of employee records and when they're taking off  
23 and I mean, there's --- you know, if you look at the  
24 bureaucracy that is involved with the FMLA, I mean,  
25 we're basically taking that infrastructure --- well,

1 we're not calling it that we're taking that whole  
2 infrastructure and we're going to be thrusting that  
3 upon the small employer and saying good luck in  
4 managing this.

5 REPRESENTATIVE GIBBONS:

6 Well, yeah, if the small employer chooses  
7 to do so. It's not a requirement for them, again,  
8 it's still a choice for them, but, if they do offer it  
9 already, then yes, then they would be able, you know,  
10 they would pay on this and they would --- the person  
11 would be able to recoup. But, you know, I mean, small  
12 businesses, you know, there is no requirement, no new  
13 mandate really on this short of the employer-employee  
14 contributions, you know as I said, this is paying for  
15 wage replacement for a law that already exists on a  
16 federal level, so, I guess that's all my questions if  
17 there's no one else? All right. Well, thank you,  
18 Kevin.

19 MR. SHIVERS:

20 Hey, thank you.

21 REPRESENTATIVE GIBBONS:

22 All right, next I'd like to the  
23 microphone Senator Stephen Sweeney of the --- a Senate  
24 Majority Leader from the New Jersey State Legislature  
25 and I believe, the proud sponsor of the New Jersey



1 Family Temporary Care Act. So Senator Sweeney thank  
2 you for coming over and I'm looking forward to hearing  
3 about you're experiences with the New Jersey bill.

4 SENATOR SWEENEY:

5 Well, first I want to congratulate the  
6 House in Pennsylvania for taking up the issue, it's a  
7 very important issue. It was very difficult, in New  
8 Jersey it was around for 12 years. For 12 years they  
9 argued over it, I took the bill as a priority two  
10 years ago and it took me two years and a whole lot of  
11 negotiations to pass a bill.

12 You're going to hear from the business  
13 community that the world's going to come to an end,  
14 you know what I mean, it's they're not going to be  
15 able to function, they're not going to be able to, you  
16 know, administer or run their programs or their jobs,  
17 you know, you're going to hear all that. But there is  
18 a model in California and there's statistics in  
19 California that you can base on.

20 There hasn't been any abuse. California  
21 hasn't fallen into the, you know, the Pacific Ocean,  
22 they've actually, managed their program very well and  
23 we did a lot of things on our end to base the bill to  
24 correct the bill after California. Now, in New Jersey  
25 since the employers didn't want to contribute anything

1 to this bill, we made it 100 percent employee pay, 100  
2 percent, but, with that then you can't exempt small  
3 businesses. The --- and I mean down to two workers  
4 businesses, because if I'm an employee and I am paying  
5 a tax, you can call it a fee, you can call it whatever  
6 you'd like to call it, but, if I'm paying into, just  
7 like unemployment, I am eligible to collect, you know  
8 what I mean.

9                   And administratively it would be a  
10 nightmare to try to segregate because if I'm working  
11 for a large employer and then I go to work for a small  
12 employer, I qualified working for a large employer,  
13 then I got to a small employer and they don't have it.  
14 So it --- we --- the frustrating thing, I think you'll  
15 find this out is that, the business community will not  
16 work with you on this bill or any of these bills,  
17 they're just going to tell you all the things that are  
18 wrong with them, now, I haven't heard anything but, my  
19 experience in New Jersey. I'm prime sponsor of the  
20 Minimum Wage Law in New Jersey.

21                   The world was going to come to an end  
22 then, all the businesses was going to run to  
23 Pennsylvania because Pennsylvania would never do  
24 minimum wage and Pennsylvania turned around and did  
25 minimum wage. You know, these are issues that need to

1 be taken up on state level because the federal  
2 government's basically given up their responsibility  
3 to deal with real issues like health care, paid family  
4 leave, you know, important, important issues.

5           In New Jersey it's six weeks, you get up  
6 to \$524 a week, you don't get 12 weeks of the unpaid  
7 leave and then six weeks of paid leave, they run it  
8 together, so, that they're with, you know, the federal  
9 law. And like I said, if this was --- this was  
10 probably one of the biggest battles that we had faced  
11 in several years, Governor Corzine was very supportive  
12 of the bill which was helpful in getting its passage,  
13 even with that all said, with the Democrats in control  
14 in New Jersey, in the senate, with 23 votes, we had a  
15 23/17 advantage, we passed it 21 to 17, the 21 I think  
16 17 would, one Republican voting for the bill. So it  
17 was a very difficult bill to pass, it is 100 percent  
18 employee paid.

19           And like I said, as far as, you know,  
20 when I hear about and I did hear about how a lot of  
21 businesses do provide leave and honestly, a lot of  
22 businesses don't. And there's a lot of business  
23 owners that are very good with their employees,  
24 they're not --- they're not the enemy, that are  
25 willing to, you know, a lot of times you'll run into

1 certain circumstances where the business owner will  
2 adapt, you know, maybe they'll put a computer in your  
3 house if you're a bookkeeper to adjust or let you work  
4 on the weekends or different hours because listen,  
5 this is up to 2/3 of your pay in New Jersey, it's not  
6 100 percent, it's not, you know, the end all to be all  
7 this is what kept surprising us. If you maxed out the  
8 benefit with --- it was \$3,000. So, you know what I  
9 mean, it's not like this was --- is the savior, this  
10 was just to get you through. So I'm more than happy  
11 to answer any of the questions or anything you want to  
12 talk about with us. I could talk for quite some time  
13 because as legislators, you understand when you tackle  
14 tough issues as this there's very strong feelings on  
15 both sides. So I'd be happy to answer any questions  
16 at all.

17 REPRESENTATIVE GIBBONS:

18 I'll let the panel start, does anyone  
19 have questions for the Senator? Representative  
20 Gergely.

21 REPRESENTATIVE GERGELY:

22 Thank you. We welcome Senator Sweeney.

23 SENATOR SWEENEY:

24 Thank you.

25 REPRESENTATIVE GERGELY:

1           When you say employees had a 100 percent  
2 contribution to this program it's not started yet;  
3 correct, it starts this ---?

4           SENATOR SWEENEY:

5           January 1st, 2009.

6           REPRESENTATIVE GERGELY:

7           So you're building up a --- and they  
8 already started a contribution?

9           SENATOR SWEENEY:

10           No, they won't start contributing until  
11 January 1st, 2009 and it won't be implemented, there's  
12 a --- there's a, you know, a build up period. But the  
13 plan will not start until July, 1st. So we're going  
14 to --- everyone's going to contribute, so you're going  
15 to build up that contribution, you have enough money  
16 to start paying out.

17           REPRESENTATIVE GERGELY:

18           Right, that's one of the questions that  
19 --- and what is the rate of contribution?

20           SENATOR SWEENEY:

21           It's --- I think it's like 63 cents a  
22 week.

23           REPRESENTATIVE GERGELY:

24           Sixty-three (63) cents a week and it's  
25 voluntary signup then; correct?

1                   SENATOR SWEENEY:

2                   No, no this is mandatory.

3                   REPRESENTATIVE GERGELY:

4                   Every employee ---.

5                   SENATOR SWEENEY:

6                   Every employee in the state of New  
7 Jersey will participate. Again, we want to --- the  
8 business community, I heard your bill where there's a  
9 --- there's a --- you know the business community is  
10 going to participate. In New Jersey they didn't want  
11 to. They said, you know, we don't want to pay for it.  
12 So we made it employee paid.

13                   And also, I want to point one other thing  
14 out for small businesses. Unlike the paid federal  
15 leave --- Unpaid Federal Leave Act where they have to  
16 hold your job, we actually put a provision in our bill  
17 for small employers that there --- from 1 to 49 that  
18 they did not have to guarantee that job. So when you  
19 went to your employer and said I have to do this I  
20 have no choice the employer could say you might not  
21 have a job when you come back, if I find someone that  
22 can do the job. That was a very distasteful thing for  
23 me to do as a Democrat as a --- you know, just as  
24 someone that really believes in worker issues. But we  
25 had to recognize that small businesses do have certain

1 challenges and if they have to go out, then there  
2 should be some, you know, leeway for them because this  
3 is a serious decision being made.

4           But again, you know, I always argued  
5 with the small business owners when they were telling  
6 me this is what happens if your bookkeeper has a  
7 massive heart attack and is out for three months, do  
8 you close up? No, they're very creative smart people,  
9 they find ways to get the job done.

10           It might be them doing the work, it  
11 might be them working extra or working overtime what  
12 ever and what we told people in the small business  
13 community is by workers taking this paid leave you're  
14 not paying them, you have that salary freed up if you  
15 need to work overtime with workers or whatever, you  
16 know, you're not paying that worker, the employee is  
17 paying for the benefit himself.

18           REPRESENTATIVE GERGELY:

19           And once, I guess, this became part of  
20 the compromise over the two year period that you had,  
21 you know, taken on the bill yourself and started the  
22 negotiations. I assume it wasn't originally all 100  
23 percent employee contribution; correct?

24           SENATOR SWEENEY:

25           For me it was, yes.

1                   REPRESENTATIVE GERGELY:

2                   It was, okay.

3                   SENATOR SWEENEY:

4                   It was 12 weeks when I started.

5                   REPRESENTATIVE GERGELY:

6                   Okay.

7                   SENATOR SWEENEY:

8                   Before --- when I started really working  
9 on this bill I had spoken to the business community  
10 and --- you know and no matter how much there's a  
11 negotiation or process, at the end of the day this is  
12 a national issue for them. They are opposed to this.  
13 You know, when New Jersey did paid family leave it  
14 made new around the nation, you know, we're actually  
15 the third state to pass it but we're the second state  
16 to implement it because Washington State hasn't  
17 figured out the mechanism yet on how to pull the  
18 trigger. So, you know, the more states start to do  
19 this, like minimum wage, the grounds will force the  
20 federal government to deal with the issue.

21                   REPRESENTATIVE GERGELY:

22                   So this is a \$32.76?

23                   SENATOR SWEENEY:

24                   It's nothing.

25                   REPRESENTATIVE GERGELY:



1           And once --- you know, we're hearing  
2 a lot of feedback was contribution rate from employers  
3 et cetera, once you knew you were 100 percent employee  
4 contribution; what were their opposition at that  
5 point?

6                           REPRESENTATIVE SWEENEY:

7           They couldn't function, it's a horrible  
8 thing to do, they provide their own leave and I said  
9 honestly, that's a great thing if you do.

10                          In New Jersey, again, a worker has to  
11 use two weeks of personal time, if they have time,  
12 you'll find out 40 to 50 percent of the business don't  
13 provide workers with vacation or sick time, you know,  
14 they don't. It's a reality. But for companies that  
15 do, you have to use two weeks of your own time first  
16 before you can get to this.

17                          So it's actually a four week paid  
18 program because you're off for two weeks and you're  
19 only eligible to be off six being paid. So again,  
20 it's --- you're going to hear, it's going to devastate  
21 business, but my argument has always been, the  
22 business community is very creative. Again, you have  
23 someone who passes away happens everyday in business,  
24 you have someone that gets sick everyday, you have  
25 people that quit everyday and the businesses don't

1 close up shop. They continue to go forward.

2 REPRESENTATIVE GERGELY:

3 That's all I have, thank you, Senator.

4 SENATOR SWEENEY:

5 Thank you.

6 REPRESENTATIVE GIBBONS:

7 Representative Mantz.

8 REPRESENTATIVE MANTZ:

9 Senator, one quick question, your  
10 definition of the word sick in your legislation in New  
11 Jersey, are you talking basically about an individual  
12 or an employee who may have a contagious disease or is  
13 incapacitated, mentally or physically where the  
14 performance to be --- the duties of this  
15 employment ---.

16 SENATOR SWEENEY:

17 Well, in my bill there has to ---  
18 there's a component where there has to be a doctor  
19 certification, like if say, and again, you have to ---  
20 we were actually talking about limit it to only New  
21 Jersey's doctors to get a certification from. But, if  
22 my mother's sick in Michigan and say she's dying in  
23 Michigan and a Michigan doctor says someone needs to  
24 be here to care for her. Well, you can't exclude  
25 other doctors, but there's a component where a doctor

1 has to certify and in New Jersey under our TDI,  
2 Temporary Disability Insurance, we have very stiff  
3 penalties for fraud and we are very aggressive and we  
4 actually --- we criminalized, you know, the act of  
5 fraud on Temporary Disability Insurance and we've  
6 filed those same penalties that we have for Temporary  
7 Disability Insurance and extended them to this paid  
8 family leave to protect it.

9           So what it basically comes down to is  
10 that a licensed physician has to issue a letter saying  
11 that this leave is required or necessary.

12                   REPRESENTATIVE MANTZ:

13           To find out the choice of a licensed  
14 physician, be for the employers or the employees or  
15 normally a matter of collective bargaining with that  
16 stuff.

17                   SENATOR SWEENEY:

18           The employer has a right to challenge,  
19 you know what I mean, the employer has that right,  
20 listen, we don't view employers as bad people this is  
21 just something this distasteful they don't believe in  
22 it.

23           They don't believe in a 40 hour work  
24 week, you know what I mean, they, you know, you know,  
25 there's reasons why we have child labor laws, you

1 know. But the employer has that right to challenge  
2 the employee's doctor, to send to another doctor, you  
3 know, they have those rights --- we built a lot of  
4 protections in the bill on our own because the  
5 business community in New Jersey refused to even  
6 negotiate, discuss the bill with me, you know.

7           This entire process was me  
8 negotiating against myself and I got to a point where  
9 I got tired of guessing and saying, well, instead 12  
10 weeks we'll do ten, instead of ten we'll do six, we'll  
11 do this, we'll do that, you know, at the end of the  
12 day, it was like look I'm giving you every possible  
13 protection.

14           And for the small employers and this was  
15 really tough and we had our Attorney General review  
16 it, that they didn't have to guarantee, it is legal  
17 and the AFL-CIO and the workers groups were very upset  
18 with me for putting that in there, but there's no  
19 guarantee for a small, you know, for a small employer  
20 to hold a job for an employee.

21           REPRESENTATIVE MANTZ:

22           Thank you very much.

23           REPRESENTATIVE GIBBONS:

24           Anyone else, Gene.

25           CHAIRMAN DIGIROLAMO:

1 Hi Senator, how you doing?

2 SENATOR SWEENEY:

3 How are you, sir?

4 CHAIRMAN DIGIROLAMO:

5 Welcome and I just was curious about  
6 maybe a little bit of a political aspect, did you ever  
7 feel on one level that you were working on a bill that  
8 you had kind of like both sides angry at you at the  
9 same time, and you were wondering what you were really  
10 trying to do?

11 SENATOR SWEENEY:

12 Yeah, Gene. I'm sorry, I said Gene.  
13 Yes, absolutely, we had a --- on numerous occasions.  
14 You know, I'm a labor leader in New Jersey to start  
15 with. I'm head of the Iron Workers Union, actually,  
16 now in Southeastern Pennsylvania and New Jersey and  
17 the AFL-CIO was very upset with me because I kept that  
18 clause, in fact, I'm the one that put the clause in  
19 that there was no guarantee of employment for small  
20 employers. So I was fighting with my friends and I  
21 was fighting with the business community and it was  
22 --- we weren't trying to --- sometimes you can  
23 negotiate and find a happy medium, as you know,  
24 sometimes you can't. There's never going to be a  
25 happy medium on this bill.

1 Right now, I just read where New Jersey  
2 Business and Industry Association is actually holding  
3 seminars to teach their businesses to deal with paid  
4 family leave, you know what I mean? And they will and  
5 they'll deal with it and it's going to work fine, as  
6 it has in California and I would advise anyone if ---  
7 New Jersey's hasn't started yet, but look at  
8 California's numbers. There's real statistics. It's  
9 not like, you know, we said to the Business and  
10 Industry community, as we were arguing this, show me  
11 the fraud in California, show me the business groups  
12 that could --- you know, show me facts, don't give us  
13 words, give me proof and I'll change the bill.

14 They could never give me any proof, it  
15 didn't happen. If there wasn't a state that didn't  
16 have this law in place, that would be one thing, but  
17 we actually had something to draw from, you know what  
18 I mean, to measure against. So you're --- this is not  
19 a win. It's a win for workers, but, it's not a win if  
20 you're trying to satisfy one group or another.

21 CHAIRMAN DIGIROLAMO:

22 Was the vote in the assembly is as close  
23 as in the senate?

24 SENATOR SWEENEY:

25 Yes. And you know, we had, honestly, we

1 had two republicans in the assembly vote for the bill  
2 after it had passed. You know, it's like anything and  
3 as legislators you understand this, there's sometimes  
4 when people will vote, you know, to make some people  
5 happy, but it's after the hard work was done and the  
6 41 votes were cast. Listen, there was democrats who  
7 didn't vote for this bill, you know what I mean, this  
8 is a very emotional bill. I had three democrat  
9 senators wouldn't vote for the bill. I had one  
10 republican senator in the senate vote for the bill and  
11 I mean, he showed real courage, his name's Bill  
12 Baroni, he showed real courage in voting for this  
13 bill. And they ran radio ads and conservative groups  
14 really beat him up pretty good and he voted for it.

15                   We had to vote for it twice in the  
16 senate because of procedural issues, we had an  
17 amendment in one house and it came --- so this  
18 gentleman, this senator had to vote twice against his  
19 poor constituency.

20                   CHAIRMAN DIGIROLAMO:

21                   There were attempts to put amendments on  
22 it to try to weaken, I guess, I would assume ---.

23                   SENATOR SWEENEY:

24                   Very much so and none of those were  
25 successful and again, it passed 21 votes in the senate

1 and it passed the assembly with 43 votes but, I don't  
2 count the last two votes because that basically, they  
3 were thrown up there after the bill had passed, you  
4 know.

5 CHAIRMAN DIGIROLAMO:

6 Okay. Again, Senator, thank you for  
7 being here today.

8 SENATOR SWEENEY:

9 No, thank you for having me.

10 REPRESENTATIVE GIBBONS:

11 Yeah, and I just --- I'm just ask a  
12 couple of questions. I appreciate some of your  
13 insight, you know, as the proud sponsor of the bill  
14 here in Pennsylvania I certainly, I think you're  
15 experience is definitely very telling of some things  
16 that we can look at for our legislation and I think we  
17 started off from a strong, you know, similar to what  
18 you did a very --- much stronger perspective expecting  
19 that if it goes forward it will probably get weakened  
20 in some ways through the negotiation process. And we  
21 do have a lot of similar components that you talked  
22 about, things like the requirement of using vacation  
23 and sick days prior to being able to claim. We are  
24 starting off with the 12 week, as you did. So there  
25 are --- do you have some of the other requirements



1 such as, if they're eligible for unemployment  
2 compensation this would not apply if they are --- if  
3 there are other families members who are able to take  
4 care of them, then they would not be eligible to take  
5 care of the ill person and, you know, I know those are  
6 a couple of other things that we have included in  
7 ours.

8 SENATOR SWEENEY:

9 No, we don't have that, if ---  
10 unemployment's a different fund, you know, we --- see  
11 we have temporary disability in New Jersey too, I  
12 don't know if Pennsylvania has that.

13 REPRESENTATIVE GIBBONS:

14 No, I just asked if you could explain  
15 that a little bit.

16 SENATOR SWEENEY:

17 Temporary Disability is a program that  
18 if you get sick, have a heart attack, you know,  
19 something happens that's not work related, well,  
20 there's a fund that we pay tax into, the employer and  
21 the employee pays into it and it provides, you know,  
22 like 2/3 of your income up to it's \$800 I think now,  
23 that you would get while you're on temporary  
24 disability.

25 In fact, I had a friend of mine that

1 lives in New Jersey, but always works in Pennsylvania  
2 and his employer is a Pennsylvania employer and had a  
3 massive heart attack and he was telling me that he was  
4 getting ready to lose his house and I said why aren't  
5 you on temporary disability, he said Pennsylvania  
6 doesn't have that. New Jersey's one of, I think, a  
7 half a dozen states that has temporary disability and  
8 they've had it since the '40s. So they've had it  
9 since the 1940s, it's a wonderful program.

10           So unemployment now, we don't --- and  
11 as far as --- since I'm paying, since I, the employee,  
12 am paying 100 percent, you know, it's not up to ---  
13 say I have three siblings, we might be 24/7, you know  
14 what I mean, we're rotating, we're all taking it for  
15 that reason. We also have it where it's six weeks or  
16 42 individual days. So that you could schedule ---  
17 but they have to be scheduled with the employer also,  
18 you know what I mean, it's not something you just come  
19 in and say, I'm going to take off tomorrow. You know,  
20 it's for someone who's dealing with chemotherapy or  
21 long range healthcare.

22                           REPRESENTATIVE GIBBONS:

23           Yeah, and I can also see what you're  
24 understanding of it, you're saying is, because it is  
25 entirely employee funded that --- how you had to take

1 that down to include the small business workers that  
2 they break down to two employees because if you're  
3 paying for it, you should receive the benefit of it,  
4 certainly and I guess, the other --- the lack of  
5 protection for those jobs and you know, is --- you  
6 know, at least my understanding, currently the way it  
7 would be FMLA at the federal level would --- where  
8 their jobs would be protected, you know, even if there  
9 was a private --- there is an employer option to give,  
10 you know, to allow me to take it, there's no  
11 requirement though that job is waiting for someone  
12 with a small business anyhow. So really it wasn't  
13 that you took away protection, you didn't add that  
14 additional protection if the FMLA does it already.

15 SENATOR SWEENEY:

16 Exactly.

17 REPRESENTATIVE GIBBONS:

18 So, well, certainly you --- it's very  
19 interesting to hear your input and as I move forward  
20 with pushing this session and most likely in the  
21 future sessions, I think we can learn a lot from your  
22 experiences.

23 SENATOR SWEENEY:

24 I would be happy to share any  
25 information --- the volumes of information that we've

1 gone through and so you can see how the bill actually  
2 evolved and you know, honestly, it's a good bill and  
3 it's a fair bill and even though the business  
4 community wouldn't work with us on the bill we  
5 listened to them in advance and included all their  
6 concerns and after we did all the things that they  
7 wanted us to do, really at the end of the day, the  
8 answer was going to be no, there was no satisfying.  
9 You know what I mean, there's never --- and if you  
10 think that there's any chance of satisfying them,  
11 well, you might as well stop now, you know what I  
12 mean, because it's not going to happen and when you  
13 take some things away that the working side wants  
14 you're not going to make them happy either and that's  
15 why --- Actually, I knew I had a good bill because  
16 everybody was mad at me at the end, you know, when you  
17 do that then you know you've done a lot, as I think  
18 as, John went up here and announced. You know when  
19 all is mad, you know you did well.

20 REPRESENTATIVE GIBBONS:

21 That's very true, but as you said this is  
22 a great bill for employees. This is definitely  
23 important because, you know, people need to take this  
24 leave, you know, whether it's for a new child or a  
25 sick family member. To be without those wages is, you

1 know, often times prohibitive for the workers.

2 SENATOR SWEENEY:

3 Well, how many times can someone just  
4 take off? How many times can someone just take off  
5 for weeks at a time without any money coming in,  
6 without your credit card bill and your gas bills, with  
7 the economy as it is, you know, it really is a ---  
8 this is a fairness thing and the fact that the workers  
9 are willing. And we polled it in New Jersey and I  
10 didn't do the bill because of that, but 78 percent of  
11 the workers, knowing they were going to pay for this,  
12 supported it.

13 REPRESENTATIVE GIBBONS:

14 Senator, it's great to see the  
15 legislation was so well supported and I appreciate  
16 your advice about the business community and I think  
17 we still have some of that today that, you know,  
18 certainly there's going to be some push back to it,  
19 but, people can somewhat settle with what you did to  
20 New Jersey, I think it could at least make it a little  
21 bit more palatable and a little, you know, ease that  
22 fight a little bit.

23 Though I'm sure like you said we're not  
24 going to ever get their overwhelming approval. I  
25 think Representative Gergely had one more question.

1                   REPRESENTATIVE GERGELY:

2                   Yep and this is ---. Senator, I'm kind  
3 of shifting gears from 1386. The other bill we're  
4 having this hearing on is 1155 which is a Healthy  
5 Family's Act, paid sick days and I don't know if your  
6 guys have embraced that in the State of New Jersey  
7 yet.

8                   SENATOR SWEENEY:

9                   Not yet, but you've given me an idea.

10                  REPRESENTATIVE GERGELY:

11                  They're sitting right back there,  
12 they'll talk to you. One of the questions that I had,  
13 it will impact the workers in Pennsylvania in terms of  
14 unions and bargaining units. Well, we had a  
15 discussion with the laborers saying that they don't  
16 actually negotiate paid sick days because they don't  
17 take them into their contract. So I was looking to  
18 you to be aware of that as a business ---.

19                  SENATOR SWEENEY:

20                  Well, honestly, that's something I would  
21 love to have as a business representative of a union,  
22 we don't get sick days.

23                  REPRESENTATIVE GERGELY:

24                  Right.

25                  SENATOR SWEENEY:

1                   You know, my guys, when it rains they  
2 don't get paid, if they're sick and they don't go into  
3 work, they don't get paid, so, if there's a benefit  
4 like that would be a wonderful opportunity for ---  
5 because we can't negotiate those things, you know,  
6 we're temporary workers that's what we employ, we're  
7 temporary workers when you need us we're there, when  
8 we're gone --- when you don't we're gone. So to have  
9 a benefit like that it would be a wonderful thing for  
10 our workers.

11                   REPRESENTATIVE GERGELY:

12                   I'm glad you gave your insight on that.

13                   SENATOR SWEENEY:

14                   Thank you.

15                   REPRESENTATIVE GIBBONS:

16                   Thank you, Senator, I really appreciate  
17 you coming and joining us.

18                   SENATOR SWEENEY:

19                   Thank you, good luck.

20                   REPRESENTATIVE GIBBONS:

21                   Thank you. I guess, we'll move forward  
22 with our next speaker Steffany Stern from the National  
23 Partnership for Women and Family.

24                   MS. STERN:

25                   Hello, I'm Steffany Stern. I'm a Work

1 and Family Policy Analyst at the National Partnership  
2 for Woman and Families. The National Partnership is a  
3 non-profit and non-partisan advocacy group dedicated  
4 to promoting fairness in the workplace, access to  
5 quality healthcare and policies that help workers in  
6 the U.S. meet the dual responsibilities of work and  
7 family.

8           One of our proudest accomplishments is  
9 leading a nationwide movement to ensure that all  
10 workers have access to paid sick days to use when they  
11 are ill or they need to care for a sick family member.  
12 We lead a broad, diverse coalition of close to 150  
13 groups dedicated to advocating for paid sick days at  
14 the federal level and we also support advocates  
15 working at the state and city levels to advance paid  
16 sick days through their legislative bodies or through  
17 the ballot.

18           Just to give you some background, we're  
19 also the organization that helped address the Family  
20 and Medical Leave Act and led the coalition that  
21 lobbied for its passage for over, I believe, eight  
22 years. I'm here to speak on House Bill 1155, but I  
23 also am able to answer some questions generally on  
24 House Bill 1386. We keep track of what's going on in  
25 all of the states related to both paid sick days and



1 paid family and medical leave.

2           It's an honor to be here today to  
3 testify in support of House Bill 1155 which is  
4 groundbreaking and yet very modest legislation to  
5 allow Pennsylvania workers at larger businesses to  
6 earn up to 6 and 1/2 paid sick days per year and then  
7 smaller business employees to earn up to 3 and 1/4  
8 days. This bill is an excellent step towards updating  
9 our labor standards to better reflect the reality of  
10 today's working families and would allow Pennsylvania  
11 to strengthen its reputation as a leader and  
12 addressing the needs of working families and promoting  
13 economic security.

14           Chances are each of us are going to get  
15 sick or need to take care of a sick family member this  
16 year, but not all of us will have the option of taking  
17 time off work to get better. You heard yesterday  
18 through many of the witnesses that in the U.S. today  
19 nearly half of private sector workers don't have a  
20 single paid sick day to use for themselves or to care  
21 for a sick family member and in Pennsylvania, 2.2  
22 million people which is 46 percent of your workforce,  
23 are not able to take paid sick days when they're ill.  
24 And the situation is even worse for low income  
25 workers, more than three in four have no paid sick

1 days at all.

2 I'd like to share with you a quick story  
3 shared on our online rally for healthy families. We  
4 constructed a website which allowed people to visit  
5 and learn more about paid sick days policies and share  
6 their stories about why they need paid sick days or  
7 how they think it's important. We got one from  
8 Natalie in Philadelphia, Pennsylvania, who said: Paid  
9 sick days are a huge blessing I can't afford to get  
10 sick from my co-workers who do not have paid sick  
11 days. I have a son and I am a single mom, so when I  
12 get sick everything is affected. We all get sick.  
13 Having to work when you're sick isn't good for  
14 individuals their families, their co-workers or the  
15 public.

16 Currently, no state or federal law  
17 insures that workers have paid sick days when they  
18 need them. In 2006 San Francisco became the first  
19 locality in the country to guarantee paid sick days  
20 for all of its workers and since then a national paid  
21 sick days movement has grown.

22 Washington D.C. became the second  
23 jurisdiction to pass the Paid Sick Days Bill just in  
24 March of 2008 and this was the first bill that was  
25 passed to guarantee paid safe days for people to use

1 when they are victims of domestic violence or they  
2 need to recover from sexual assaults or stalking and  
3 need to seek services related to those problems.

4           Legislators in more than a dozen states  
5 and on Capitol Hill this year are advocating for paid  
6 sick days initiatives and we're predicting several ---  
7 we're hearing from several advocates in several  
8 newspapers that they're going to launch campaigns in  
9 2009.

10           The National Partnership is leading a  
11 coalition in support of the federal Paid Sick Days  
12 Bill, the Healthy Families Act. Our diverse coalition  
13 includes children's civil rights, women's disability  
14 faith based community and antipoverty groups as well  
15 as labor unions, health agencies and leading  
16 researchers at top economic institutions. We work  
17 with 9to5, ACORN, the Leadership Conference on Civil  
18 Rights, the AFL-CIO, the National Organization for  
19 Women and many, many other large well respected  
20 organizations.

21           We've all come together in support of  
22 this bill because millions of working people are being  
23 forced to choose between taking care of a sick child  
24 or family member and losing a day's pay or even a job.  
25 In a nation that values families, no worker should

1 have to make this impossible choice.

2           Americans want to be both responsible  
3 workers and care for their family members. In 78  
4 percent of today's families, both parents work for  
5 pay. The typical couple in America now works close to  
6 90 hours per week, but our policies lag desperately  
7 behind and families are struggling as a result. We can  
8 and must do better and we will if we truly value  
9 families.

10           You heard a great deal yesterday and  
11 today already about how paid sick days are good for  
12 women, children, seniors, and our public health. My  
13 testimony contains a lot of these points, but I'm  
14 going to skip ahead to one of my favorite things to  
15 emphasize that the public overwhelmingly supports paid  
16 sick days.

17           The likelihood of being sick or having a  
18 child who is going to be sick does not depend on  
19 whether you live in a red or blue or purple state. So  
20 establishing a minimum standard of paid sick days  
21 deserves bipartisan support and it has it. Poll after  
22 poll has found tremendous support for paid sick days  
23 and proposals like House Bill 1155. A 2007 nationwide  
24 poll found that 89 percent of voters favor a basic  
25 labor standard of paid sick days and support is very

1 strong across party lines: 94 percent of democrats, 90  
2 percent of independents and 83 percent of republicans  
3 support paid sick days. And there's going to be  
4 another nationwide poll released, I believe, tomorrow  
5 or next week that demonstrates, again, resounding  
6 support across the board. We also have regional  
7 support, support from both men and women and support  
8 from people across income levels.

9           In concluding I'll just say that this  
10 debate is really about what we value in this nation.  
11 If we want healthy families and a strong economy, if  
12 we care about the well-being and economic security of  
13 our families we will establish a minimum standard of  
14 paid sick days. In Pennsylvania you can do that by  
15 passing House Bill 1155.

16           Guaranteeing access to paid sick days is  
17 the next step in bringing our outdated workplace  
18 policies back in sync with the realities of today's  
19 working families. Paid sick days are the next minimum  
20 labor standard the nation needs.

21           Momentum is building. At the federal  
22 level the senate has held a hearing on the Healthy  
23 Families Act in the help committee and is headed for a  
24 hearing in the House of Representatives. We have 24  
25 senate co-sponsors on the Healthy Families Act and 103

1 House co-sponsors. And thus far in 2008, Paid Sick  
2 Days Bill has been considered in legislatures in  
3 Alaska, California, Connecticut, The District of  
4 Columbia, Illinois, Maine, Massachusetts, Minnesota,  
5 North Carolina, Ohio, Pennsylvania, Vermont, West  
6 Virginia, Milwaukee and Philadelphia. Many of these  
7 initiatives have progressed through the legislatures  
8 and two of them Ohio and Milwaukee, will be put before  
9 the voters on the ballot on Election Day.

10 But we urgently need a state to step  
11 forward and enact the first statewide standard  
12 guaranteeing all its workers paid sick days.  
13 Pennsylvanians need you to make passage of House Bill  
14 1155, a priority in this legislative session. Members  
15 of the Committee, I thank you for the opportunity to  
16 participate in this important discussion and I will  
17 take any questions you have.

18 REPRESENTATIVE GIBBONS:

19 Just a quick question and I don't know  
20 if I remember it statistically what you had, but we  
21 heard earlier, an earlier testifier that in  
22 Pennsylvania now there's 75 percent of small business  
23 owners already provide their workers with some type of  
24 paid sick leave. The statistics or the percentages  
25 that you used, I think, were much lower on a national

1 level?

2 MS. STERN:

3 Well, there's a difference between the  
4 stats on the proportion of businesses that provide it  
5 and the proportion of employees that are getting it  
6 are different because, obviously, the larger  
7 businesses are employing a larger percentage of the  
8 workers, but I would have to look at, --- you said 75  
9 percent?

10 REPRESENTATIVE GIBBONS:

11 Seventy-five (75) percent.

12 MS. STERN:

13 And then there's a 96 percent from the  
14 NFIB study.

15 REPRESENTATIVE GIBBONS:

16 There was a 96 percent of small business  
17 will offer flexible working hours for their employees.

18 MS. STERN:

19 Oh.

20 REPRESENTATIVE GIBBONS:

21 Seventy-five (75) percent of small  
22 business owners provide their workers with some type  
23 of paid sick leave here in Pennsylvania.

24 MS. STERN:

25 I would love to take a look at that

1 study and to check out how they --- how they define  
2 paid sick leave and take a look at the methodology  
3 because what we're hearing more --- you know national  
4 statistics provided by the government, the U.S. Bureau  
5 of Labor Statistics say that the --- that only half of  
6 the work force in the private sector, has paid sick  
7 days and that it is less likely for smaller business  
8 employees to have them, part time employees to have  
9 them, lower income --- lower wage workers to have them  
10 and --- so that's sort of the demographics?

11 REPRESENTATIVE GIBBONS:

12 Yes.

13 MS. STERN:

14 So it does sort of go against what the  
15 Bureau of Labor Statistics is saying.

16 REPRESENTATIVE GIBBONS:

17 Who is the prime sponsor of the Healthy  
18 Family Act in Washington; do you know?

19 MS. STERN:

20 It is Senator Edward Kennedy from  
21 Massachusetts on the senate side. On the House side  
22 it's Representative Rosa Delora from Connecticut.

23 REPRESENTATIVE GIBBONS:

24 And is that bill --- you said that's  
25 just had, basically, had the --- in process of the



1 County Committees in the House on the Senate?

2 MS. STERN:

3 Right, we had a hearing last year in the  
4 senate and we are looking forward to a hearing being  
5 scheduled at some point soon in the House. We've been  
6 working on the a lot of different issues, so, we  
7 haven't been able to schedule that yet. And it has  
8 been addressed by the --- by Representative Woolsey's  
9 committee on the House side.

10 REPRESENTATIVE GIBBONS:

11 Okay. Thank you, Steffany.

12 REPRESENTATIVE METCALFE:

13 Thank you, Steffany, again, it brings up  
14 the statistics that I brought about to Kevin from the  
15 National Federation of Independent Business, how far  
16 apart they are, your statistics versus their level and  
17 at the same paragraph, you --- that labor relations, I  
18 think has to be brought forth, but, you said the  
19 statistics nationally --- so that we can have a better  
20 grasp for this bill.

21 Initially, --- the question I have is,  
22 of all the states, cities and federally that have  
23 proposed this, how different are the proposals that  
24 you've seen, are they pretty much all similar, like,  
25 our Pennsylvania Bill is similar to the Ohio Bill to

1 the California Bill; can you go a little bit about  
2 that?

3 MS. STERN:

4 Sure. Many of the bills do have a very  
5 similar method of accrual and I offer a similar number  
6 of days. So, you know, like in Pennsylvania, workers  
7 earn one hour of paid time per 40 hours worked and  
8 that's sort of across the board how these models have  
9 been set up, because then workers are sort of earning  
10 it and they very much deserve that paid time off for  
11 all those hours that they've put in and then the cap  
12 just sort of differs around the nation.

13 The federal bill the Healthy Families  
14 Act offers seven paid sick days a year and several of  
15 the bills that have been introduced around the country  
16 offer seven paid sick days. Some of them are a little  
17 more generous. In San Francisco all the workers get  
18 nine days and some of the other bills that are moving  
19 right now are more generous and offer nine, but many  
20 of them closer around seven, I think, just because  
21 it's sort of a catchy number.

22 REPRESENTATIVE METCALFE:

23 Ohio's a referendum?

24 MS. STERN:

25 It's yes on the ballot.

1                   REPRESENTATIVE METCALFE:

2                   And that's just a yes we want it, no we  
3 don't or assignment of days?

4                   MS. STERN:

5                   It is --- the model is seven days per  
6 year and that one does not include the domestic  
7 violence but it's the same --- it's to care for a sick  
8 family member or to recover from treatment or to seek  
9 diagnosis and treatment and that's --- yeah, it's just  
10 yes or no.

11                   REPRESENTATIVE METCALFE:

12                   I was reading your testimony, you  
13 skipped a lot, it was safe days in D.C.; correct?

14                   MS. STERN:

15                   Right.

16                   REPRESENTATIVE METCALFE:

17                   How many of the legislatures have a  
18 domestic violence bill and a --- just a paid sick day  
19 bill? I know we don't have it. Is there many of the  
20 states that have two categories, two bills?

21                   MS. STERN:

22                   That have two bills before them right  
23 now?

24                   REPRESENTATIVE METCALFE:

25                   Yeah.

1                   MS. STERN:

2                   Well, some of the Paid Sick Days Bills  
3 that have been introduced just sort of added that as  
4 an extra piece of coverage and I have to do a count to  
5 see how many of the ones that are currently being  
6 considered, have that definition in there. A fair  
7 amount of them do. Some states already have those  
8 laws I don't know if you do in Pennsylvania, that  
9 allow people to take job protective time off to seek  
10 services related to domestic violence? No, you don't  
11 have that. And this would also offer wage replacement  
12 when you need to do that. But that's another popular  
13 bill that's coming up because we do hear businesses  
14 saying that it does cost them a lot of money, domestic  
15 violence related incidents in the work place.

16                   REPRESENTATIVE METCALFE:

17                   Thank you.

18                   REPRESENTATIVE GIBBONS:

19                   All right. We'll move to our final  
20 speakers of the day which would be versus Pennsylvania  
21 AFL-CIO.

22                   MR. KEATING:

23                   Good morning my name is Russell Keating  
24 and with me is Michael Steffen and we are staff  
25 representatives for the Pennsylvania AFL-CIO.

1 I extend the greetings of President Bill  
2 George and Secretary Treasurer Rich Bloomingdale to  
3 all of you and on their behalf, thank you for this  
4 opportunity to address House Bill 1155, which we're  
5 prepared to address.

6 I would like to thank Chairman Belfanti  
7 Chairman DiGirolamo, Committee Members and Committee  
8 Staff for having this hearing and looking at such an  
9 important matter that improves the quality of life for  
10 so many people.

11 I'm here today on behalf of the  
12 affiliated Labor Organizations of the Pennsylvania  
13 AFL-CIO, which represent over 900,000 workers in  
14 diverse occupations, who together with their families,  
15 contribute to the vitality of Pennsylvania.

16 The Pennsylvania AFL-CIO commends State  
17 Representative Marc Gergely for promoting paid sick  
18 leave and for introducing House Bill 1155 that we  
19 think is a bill that benefits employees and employers.

20 House Bill 1155 shares many similarities  
21 to paid leave statutes adopted by the District of  
22 Columbia and San Francisco. Likewise, House Bill 1155  
23 reflects the intent of legislation that United States  
24 Senator Ted Kennedy of Massachusetts, has introduced  
25 in the United States Senate.

1           Paid sick leave has a significant impact  
2 on the relationship between workers' morale,  
3 productivity and profits. Paid sick leave fosters  
4 profitability by raising the employee morale and thus  
5 their productivity and lowering production costs.

6           Sick and injured employees without paid  
7 sick leave are left with the choice of working while  
8 they are sick and injured or not working and risking  
9 the loss of their jobs. Likewise, sick and injured  
10 employees without paid sick leave are left with the  
11 choice of nursing their sick and injured family  
12 members or again, risking the loss of their jobs.

13           Such desperate choices do not boost  
14 employees' morale. And such desperate choices stifle  
15 productivity and profits in other ways. Employees who  
16 work while they are sick risk the health of other  
17 workers. Also, workers who work while sick and  
18 injured typically perform noticeably below their  
19 maximum proficiencies, and consequently productivity  
20 lags and profitability languishes.

21           Workers who lose their jobs because they  
22 are too sick and injured to work suffer the many  
23 setbacks of unemployment, and their former employers  
24 suffer the cycle of high employee turnover and rising  
25 costs of constantly hiring and training new employees.

1           Other states' studies show paid sick  
2 leave, reduces workplace illnesses, reduces production  
3 costs, increases worker retention, increases  
4 productivity and, ultimately, increases profitability.

5           A recent institute for Women's Policy  
6 Research study found that providing paid sick leave in  
7 Ohio would yield a net savings of more than \$1 per  
8 worker per week. Consequently, Ohio is another state  
9 considering paid sick leave legislation.

10           Bureau of Labor Statistic data shows as  
11 of 2005, almost half or approximately 42 percent of  
12 private sector workers are not eligible for paid sick  
13 leave. These and most other workers who are not  
14 eligible for paid sick leave typically are lower paid  
15 workers. Ironically, it is more costly for employers  
16 to provide paid sick leave to higher paid employees.  
17 According to the United States Department of Labor, on  
18 average it cost about double the amount of money per  
19 man hour to provide paid sick leave for management and  
20 upper pay scale employees than to provide paid sick  
21 leave to employees on the lower end of the pay  
22 spectrum.

23           Other studies have also shown that people  
24 who work in low paid positions in general have more  
25 medical issues. This may become a spiral down effect

1 for employees, and many times it does. Waiters,  
2 waitresses, hotel and resort staff, and other service  
3 industry employees are the most prevalent group of  
4 employees who are not eligible for paid sick leave.  
5 So this is a vested interest for yourself and your  
6 family. A hypothetical question, would you like  
7 yourself and your family to receive services from  
8 persons who are working while they are sick because  
9 they must either do so or risk losing their jobs or  
10 would it be better for your customers and ultimately  
11 your business for you, as a restaurant owner, to be  
12 the cause of your sick employees coming to work and  
13 possible infecting your customers, or let your  
14 employees take sick leave to enable them to convalesce  
15 which in turn enables you to prevent possible  
16 contagion for your customers?

17                   Workers recognize without business, there  
18 are no jobs. We actually believe the more profitable  
19 the business the more jobs to be created.  
20 Naturally, we believe profitability significantly  
21 depends on workers' morale and health. Businesses  
22 that properly care for their employees improve the  
23 morale of their employees, contribute to public health  
24 and safety, and provide help and hope to those who  
25 most need support.



1           Finally, the issue of paid sick leave  
2 affects the issue of the workers' rights. Too often  
3 employees are faced with losing their jobs so they can  
4 take care of themselves and their family members. I'm  
5 not implying every business does this, and we commend  
6 and respect those businesses that do provide for their  
7 employees, but there must be an overall standard that  
8 says, we care about the workers of this Commonwealth.

9           I leave you with one last thought, this  
10 Commonwealth has several times been the leading state  
11 on an array of issues such as the Pennsylvania Health  
12 Care Cost Containment Council, which has been called  
13 an example for all to follow. You have a choice here  
14 to be the first state to act the issue of paid sick  
15 leave, act on the issue of paid sick leave. You can  
16 show this country that when it comes to all workers'  
17 rights, Pennsylvania cares about our workers and  
18 recognizes their needs. Thank you.

19                   REPRESENTATIVE GIBBONS:

20                   Thank you, Russell, any questions?

21                   REPRESENTATIVE:

22                   With the many relations you have, as we  
23 move this forward I'm hoping we can continue to gain  
24 momentum working with yourselves on how we can achieve  
25 this. Are you finding success working with other

1 states with the coalition from AFL-CIO is going to be  
2 building --- to make this happen, you know, in  
3 interdiction, continued discussion even on the federal  
4 level with Senator Kennedy's bill?

5 MR. KEATING:

6 Yes, we --- our information --- we share  
7 with other state federations and also, naturally, AFL-  
8 CIO, on an issue like this we do try to coalesce and  
9 bring together all of the support groups, not just  
10 within the labor movement, but all other organizations  
11 that exist to, you know, improve the quality of life  
12 for workers and their families. So we will, in  
13 Pennsylvania, continue to pursue this and offer all  
14 the support that we can on behalf of your bill and we  
15 will be doing that.

16 REPRESENTATIVE:

17 I think this is similar to momentum when  
18 we started the discussion about minimum wage and as we  
19 continue to build that momentum with the add ons and  
20 the coalitions and many, many groups had their voice  
21 and say so and it's always a pleasure to have you be  
22 in the forefront of advocating these issues on behalf  
23 of working families in Pennsylvania and thank you.

24 MR. KEATING:

25 Thank you. Look forward to working with

1 you.

2 REPRESENTATIVE GIBBONS:

3 All right. Well, I thank you, Russ, and,  
4 Mike, for coming out and I guess that can double  
5 conclude our --- I just want to thank everyone for  
6 coming out and participating and all of our testifiers  
7 and I think we've learned a lot of good information  
8 about both these bills and we'll continue to work on  
9 and improve them and make them even stronger to help  
10 all of our workers here in Pennsylvania and with that  
11 said, this meeting is adjourned.

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14 HEARING CONCLUDED AT 11:54 A.M.

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