

1 JOINT HEARING BEFORE THE NEW YORK STATE
2 SENATE STANDING COMMITTEE ON LABOR
AND
3 SENATE STANDING COMMITTEE ON SOCIAL SERVICES

4 PUBLIC HEARING
5 TO ADDRESS ISSUES AFFECTING FAMILIES IN THE WORKFORCE
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7 Legislative Office Building
8 181 State Street
9 Van Buren Hearing Room A, 2nd Floor
Albany, New York 12247

10 March 24, 2015
11 11:00 a.m. to 2:00 p.m.

12 PRESIDING:

13 Senator Jack M. Martins
14 Chairman
15 NYS Senate Standing Committee on Labor

16 Senator David Carlucci
17 Chairman
18 NYS Senate Standing Committee on Social Services

19 SENATORS PRESENT:

20 Senator Joseph P. Addabbo, Jr.

21 Senator Timothy Kennedy

22 Senator Jeffrey D. Klein

23 Senator Kathleen A. Marchione

24 Senator Gustavo Rivera

25 Senator James Sanders, Jr.

Senator Diane J. Savino

1 SENATORS PRESENT (continued):

2 Senator Daniel L. Squadron

3 Senator Michael Venditto

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10 New York State AFL-CIO

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13 New York State Paid Leave Coalition

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16 and Advocacy
17 Community Service Society

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1 SENATOR MARTINS: Good morning, everyone.

2 Thank you for being here at this joint
3 hearing of the Senate Standing Committee on Labor,
4 and Social Services.

5 To those watching over the Internet, welcome
6 as well.

7 My name is Jack Martins. I'm the Chairman of
8 the Senate's Labor Committee.

9 And let me start by introducing the other
10 members of the Committee who are here.

11 We have Senator Marchione and
12 Senator Gustavo Rivera and Senator Savino.

13 Today's hearing will examine ways to address
14 issues affecting families in the workforce.

15 Balancing the demands of caring for children
16 and loved ones while working full-time is a
17 challenge for all of our families.

18 Certainly, we all have loved ones and friends
19 who are dealing with these challenges. Some of us
20 have experienced them personally as caregivers.

21 Dealing with these challenges requires
22 striking a delicate balance, helping workers, while
23 not burdening employers in a way that will
24 ultimately end up hurting the very people we are
25 trying to help.

1 This hearing will examine meaningful steps we
2 can take to help New York workers and employers
3 achieve that balance.

4 Some of the topics we will be discussing
5 today include legislation dealing with paid family
6 leave, child-care subsidies, facilities enrollment,
7 and dependent-care tax credits.

8 Representatives from business groups, labor
9 and trade unions, not-for-profit organizations, and
10 advocacy groups are here to offer their expertise
11 and input about how they think these issues should
12 be resolved.

13 We thank them for coming and look forward to
14 hearing their testimony.

15 And now I'd like to invite
16 Senator David Carlucci, Chairman of the Senate
17 Social Services Committee, to make his opening
18 remarks.

19 Senator.

20 SENATOR CARLUCCI: Thank you,
21 Senator Martins.

22 And, I want to thank everyone for being here
23 today for this extremely important topic.

24 As you heard, we're going to focus on some --
25 a key few areas that we think will be essential to

1 providing the level of care that's necessary for our
2 children.

3 We know that in the first few years of our
4 children's lives, their brain is growing at a rapid
5 pace, and all of the foundation for life's learning
6 is being built at that time.

7 So we know that if we can appropriate the
8 right resources at the right time, that investment
9 will pay dividends in the long run.

10 So we're here today to take the input, to
11 hear from a diverse cross-section of the community,
12 to hear how we can implement these programs in the
13 most effective manner.

14 So I look forward to hearing the testimony
15 from everyone that's here today, and working with
16 you in the future.

17 With that, I'm going to turn it over to
18 Senator Jeff Klein for some opening remarks.

19 SENATOR KLEIN: Thank you, Senator Carlucci.

20 I, too, want to thank Senator Carlucci of the
21 Social Services Committee, as well as
22 Senator Jack Martins, Chair of the Labor Committee.

23 This I believe is long overdue; really having
24 the stakeholders today sit down and talk about the
25 importance of paid family leave, and, you know,

1 trying to work out a way that we can ensure that
2 New York families have the ability to have paid
3 family leave.

4 I think everyone knows that the federal
5 government guarantees 12 weeks of unpaid family
6 leave.

7 I think everyone here would probably agree
8 that most families can't afford to take 1 week of
9 unpaid family leave, let alone 12 weeks.

10 So I think the time is now to adopt the
11 sensible plan of paid family leave in
12 New York State.

13 I think it's long overdue.

14 Other big states, like California,
15 New Jersey, already have paid-family-leave programs
16 in place, and I think it's important that New York
17 join those other states to give families peace of
18 mind.

19 I think everyone knows how important it is
20 for families to be able to take time from work, to
21 take care of a sick child, an elderly loved one, or
22 bond with a newborn.

23 I think, unfortunately, without the
24 paid-family-leave program in place, we're really
25 forcing families to make some horrible choices.

1 We should never have New Yorkers choose
2 between what their heart is telling them to do and
3 what their bank account allows them to do.

4 The paid-family-leave program we are calling
5 for meets the real needs of New York families by
6 providing them with up to half of their weekly wage
7 for up to six weeks.

8 I think in today's world everyone will agree
9 that that is not really a luxury, but sort of a
10 necessity.

11 So, again I thank the two Chairs, and all the
12 assembled Senators.

13 And, hopefully, we can get some answers, and
14 really move forward with the paid-family-leave
15 program in New York State.

16 Thank you.

17 SENATOR MARTINS: Thank you, Senator Klein.

18 Any comments, Senator Savino?

19 SENATOR SAVINO: I just want to thank both
20 Chairs, of the Social Services, and the Labor,
21 Committee, and, of course, Senator Klein for being
22 here.

23 I've been in the Senate 10 years now, and
24 this is an issue that I have worked on probably my
25 entire time. In fact, before I got elected to the

1 Senate, I was part of the paid-family-leave
2 coalition as a member of the labor movement.

3 It is an issue that is long overdue, as it
4 has been said, and I'm very happy that we are here
5 today to consider some of the many options.

6 Ten years ago I introduced a bill, and, in
7 fact, that bill was passed last week in the Senate.

8 So there are many, many proposals out there.

9 I think we can find the right balance for
10 New York.

11 And, also, I'm glad that we'll be talking
12 about another issue that affects millions of
13 families across this state; and that is access to
14 subsidized, affordable, safe child care.

15 I've said this a million times: Child care
16 should not be part of social services. It should be
17 part of our economic-development programs.

18 It's what keeps women in the workforce, and
19 allows families to thrive.

20 So, thank you, and I look forward to the
21 testimony.

22 SENATOR MARTINS: Thank you, Senator.

23 Our first witness this morning is
24 Mario Cilento, president of the New York State
25 AFL-CIO.

1 We have Senator Sanders who has joined us.

2 Before we start, Senator, would you like to
3 say a few words?

4 SENATOR SANDERS: I will let the first
5 witness speak, and then I'll chime in, and I'll
6 incorporate it, when appropriate.

7 SENATOR MARTINS: I appreciate that.

8 Gentlemen, thank you very much for being
9 here.

10 MARIO CILENTO: Thank you.

11 SENATOR MARTINS: As always, to the extent
12 that we can avoid reading our testimony, that would
13 be great.

14 We have it, we'll have an opportunity to
15 review it.

16 And, you know, just looking forward to your
17 input on this important issue.

18 Thank you.

19 MARIO CILENTO: First of all, thank you,
20 Senator Martins.

21 And, Chairman Martins, Chairman Carlucci,
22 Senator Klein, Senator Savino, Senator Marchione,
23 Senator Rivera, and, of course, Senator Sanders,
24 I want to thank you for allowing me to present
25 testimony today on this important issue; certainly,

1 paid-family-leave insurance.

2 And I am here today on behalf of the
3 2 1/2 million members of the New York State AFL-CIO,
4 as well as all of the hard-working and dedicated men
5 and women who find themselves between a rock and a
6 hard place most of the time when it comes to
7 balancing work and increasing the demands of family
8 life.

9 And, working people, in our opinion,
10 shouldn't have to choose between nurturing a newborn
11 and financial stability; they shouldn't have to
12 choose between staying home to care for a seriously
13 ill relative and being able to provide for their
14 families.

15 For far too many families and individuals,
16 particularly low- and middle-income families, in
17 particular, they're already struggling to make ends
18 meet and they're living paycheck to paycheck, and
19 they simply cannot afford to take unpaid leave time.

20 And, frankly, they shouldn't have to.

21 Congress recognized it, as it's been
22 mentioned, the need for family and medical leave
23 more than 20 years ago, but it left out the most
24 important component: wages.

25 Here in New York State, the

1 disability-benefits programs provided paid leave for
2 non-work-related disabilities since 1950. In 1977,
3 we wisely added the benefit for pregnancy and
4 childbirth.

5 Now here we are in 2015. Families have
6 changed, but the current benefit level has been
7 frozen since 1989, at \$170 per week.

8 Meanwhile, more women have entered the
9 workforce, more single mothers have joined the
10 workforce, and people are living longer; and,
11 therefore, require more care.

12 It's time to modernize, and we have the
13 mechanism in place.

14 It's time for paid family leave through the
15 expansion of the TDI to keep up with these changing
16 times.

17 A-3870, S-3004, would modernize these
18 important benefits.

19 Expanding it would ensure 12 weeks of paid
20 family leave, and it would provide for at least a
21 portion of a worker's salary and provide job
22 security.

23 Specifically, the bill, over time, would
24 raise TDI to two-thirds of the average weekly wage,
25 similar to the workers' compensation benefit, and it

1 would apply to all employers, no matter the number
2 of employees, and require job protections.

3 And it's important to note that the bill
4 protects collective bargaining rights that have
5 different levels of benefits.

6 Funding should remain as it always has
7 been -- and this is important -- with the employer
8 and the employee sharing the cost, and this will
9 ensure that the benefit is sustainable and the
10 funding is predictable and affordable.

11 This bill gives New York the opportunity to
12 set an example for the nation in recognizing the
13 importance of family leave without fear of financial
14 ruin, and the improved benefit proposed are long
15 overdue.

16 Is it bad for business? No.

17 Research has shown, over and over, that
18 allowing workers paid time off during life-changing
19 events makes for better employees. Workers are less
20 stressed and more loyal, employee morale goes up and
21 worker turnover goes down; all positive changes for
22 business.

23 And according to a 2010 evaluation of
24 California's paid-family-leave program, published in
25 the "Harvard Business Review," the program was

1 proven to be very successful, and not a financial
2 burden that some business owners had feared.

3 We have to change the way we think and we
4 have to change the way we balance work and families.

5 The Assembly bill does that.

6 It does the right thing for workers, and it
7 sets the right course for other states to follow.

8 Let me just say this:

9 You know, I recently had my own situation.

10 Two years ago my mother was diagnosed with
11 cancer. She was given six months to live. She had
12 pancreatic cancer.

13 She lasted for a year and a half/18 months.

14 As with any cancer situation, the situation
15 got progressively worse, and it got -- you know,
16 certainly, the difficulty that she had to endure
17 goes without saying, but, our family suffered along
18 the way with her.

19 I'm very fortunate.

20 I'm in a situation where I can take time off
21 and I'm going to get paid for it.

22 That's just the nature of my job. It comes
23 with the territory.

24 And, you know, those last few weeks were very
25 difficult.

1 We tried to be there for her in any emotional
2 way possible.

3 Physically, the doctors were going to do
4 everything that they can do.

5 But, emotionally, my sister, myself, aunts,
6 uncles, brothers, sisters, were there for her.

7 I never had to worry about whether my job was
8 going to be there.

9 I was never going to have to worry if I was
10 going to be able, or how I was going to be able, to
11 pay my mortgage and take care of my own family.

12 It shouldn't just be, you know, the very few,
13 or the chosen few, who have the opportunity to be
14 there.

15 Because, you know, had I been in a situation,
16 where it was either staying there with her the last
17 few weeks of her life or losing my job, I probably
18 would have chosen being there with her, because you
19 only get one chance at that.

20 And on the other end of the spectrum, I am
21 very fortunate to have three very beautiful young
22 daughters. And, I remember each of the times, after
23 they were born, the first time I held them in the
24 hospital. And each those times, again, I never had
25 to worry about having to put any of them down to go

1 back to work the next day.

2 I had that opportunity, again, through the
3 nature of the job that I do.

4 And I can't tell you how much that meant to
5 me, and how much it meant to my wife, that I was
6 able to be there for those occasions, and in the
7 week or so that I was able to take off to be with
8 them.

9 Every parent, every son or daughter, should
10 have the opportunity that few of us have.

11 And, you know, on behalf of working men and
12 women in this state, it's something that we have
13 felt for a long time.

14 And we've appreciated all the work that
15 Senator Savino has put into this over the years; and
16 all of you.

17 So, we do feel the time is now. We feel that
18 the funding mechanism is there for it.

19 And I thank you for this opportunity to
20 address all of you today.

21 Thank you very much.

22 SENATOR MARTINS: Mr. Cilento, thank you very
23 much.

24 That was -- I think you've spoken for the
25 vast majority of workers in New York State, and, you

1 know, people who don't know.

2 Maybe everyone is healthy today, but you just
3 don't know what's going to happen tomorrow.

4 You don't know what's going to happen with a
5 child.

6 You don't know what's going to happen with a
7 parent or a loved one.

8 And, certainly, the ability and flexibility
9 that this provides is something that we should look
10 into.

11 And we have examples around the country where
12 other states have done this, and appear to have done
13 it successfully; and so there is a roadmap out there
14 that we can follow, certainly.

15 You know, how we apply it here in New York,
16 and what variables exist here in New York, are worth
17 reviewing as well.

18 And that's why I want to thank my colleagues
19 for having joined us with and on this issue, because
20 it is -- it's time.

21 It's time.

22 Anyone like to ask any questions?

23 Senator Sanders.

24 SENATOR SANDERS: Thank you, Mr. President
25 for your very --

1 Well, thank you, Mr. -- Chairs.

2 And thank you, Mr. President, for your very
3 moving testimony.

4 It's -- I also lost a mother and went through
5 similar to what you're describing, so I can
6 appreciate more than I want to, what you're speaking
7 about, and the toll that it took; this toll that is
8 made all the more terrible by people understanding
9 that if they don't go back to work, they will be
10 out, and not just them, their families will suffer.

11 I am glad that New York State has reached to
12 a point where we're saying that not another day
13 needs to go on. We need to do something now.

14 What we do remains to be seen, but that we
15 do, is a good thing for all of us.

16 My poor sister, who was the prime caregiver,
17 she bore the brunt of everything. And I'm very
18 grateful she had a good system too.

19 So, I had a hand in shaping the New York City
20 Council bill on paid sick leave. And it was -- we
21 had to balance, of course, the needs of the
22 employers and the needs of the employees.

23 We believe that we met a very worthy balance.

24 And I think that we are -- you have some of
25 the best people in New York State in front of you

1 who will be grappling with this issue.

2 So thank you very much for you and the
3 organization, an incredibly worthy organization that
4 you represent.

5 MARIO CILENTO: Thank you, Senator.

6 SENATOR SANDERS: Thank you, Mr. Chair.

7 SENATOR MARTINS: Thank you, Senator.

8 Senator Carlucci.

9 SENATOR CARLUCCI: Thank you.

10 And we've been joined by
11 Senator Daniel Squadron of the Social Services
12 Committee.

13 Thanks for joining us.

14 Mr. Cilento, thank you for your testimony,
15 and some of your personal issues that you shared
16 with us. We really appreciate that.

17 One of the issues I just wanted to talk a
18 little bit more about, you had mentioned the share
19 that you think would be an appropriate way forward:
20 to have the employee and the employer contribute
21 towards the program.

22 The legislation that we've been working
23 towards really just has the employee making the
24 contribution.

25 Could you talk about what you envision as an

1 ideal plan, what that share would be?

2 Maybe give us a little more information about
3 that.

4 MARIO CILENTO: Right.

5 Well, look, you know, TDI, specifically, has
6 always been paid for by the employers and the
7 employees, so I think we have a mechanism there,
8 something we can look at now, to say, This works.
9 This has been there for a while.

10 See, for us, the most important thing,
11 Senator, is that we can work on the details, and
12 everyone here is open to it, and that's what's so
13 fantastic about what you're doing today.

14 What we need to keep in mind is that we need
15 to have, you know, a dedicated funding stream, so
16 that we know, when the next economic downturn
17 arises, and it will come, that we are ready for it,
18 so that, at some point, if this is in place, we
19 don't have to diminish the program or eliminate it.

20 So the details of how we get there, we are
21 open as a labor movement at the AFL-CIO to discuss
22 this with all of you and figure out the right way to
23 go.

24 But, you know, again, that mechanism is there
25 already as a model, to say, employers and employees

1 are ready to do that.

2 And coming from the labor-movement side of it
3 and the labor side of it to say that, in fact, the
4 employees are willing to continue to be part of this
5 and pay it with the employer, I think is something
6 substantial to discuss, as a starting point.

7 SENATOR CARLUCCI: Okay, thank you.

8 SENATOR MARTINS: Senator Savino.

9 SENATOR SAVINO: Thank you.

10 Thank you for your testimony, Mario.

11 I just have a question -- a couple of points.

12 How many members doe the AFL-CIO have -- or,
13 how many union members are there in the state of
14 New York right now?

15 MARIO CILENTO: 2 1/2 million -- a little
16 over 2 million.

17 SENATOR SAVINO: And the vast majority them
18 are covered by collective bargaining agreements that
19 allow them to negotiate around paid family leave?

20 MARIO CILENTO: Correct.

21 SENATOR SAVINO: So the 2 1/2 million union
22 workers, would you say the majority of them have a
23 paid-family-leave provision?

24 MARIO CILENTO: Some -- yes, to some extent.

25 SENATOR SAVINO: And none of their employers

1 have gone out of business, have they?

2 MARIO CILENTO: Correct.

3 SENATOR SAVINO: Thank you.

4 MARIO CILENTO: Thank you, Senator.

5 SENATOR MARTINS: Thank you, Mr. President.

6 I appreciate it.

7 Thank you, also, Mr. Neidl. Good to see you
8 as well.

9 Thank you.

10 MARIO CILENTO: Thank you.

11 SENATOR MARTINS: Our next speaker is

12 Donna Dolan, the executive director of the
13 New York State Paid Leave Coalition.

14 Good morning.

15 DONNA DOLAN: Good morning.

16 Thank you very much, Senators Martins,
17 Carlucci, and Klein, and Committee members, for
18 holding this hearing today.

19 I'd like to begin by saying I think I might
20 be the only one testifying that was here at the last
21 time the Senate had a hearing on paid family leave.

22 And, if we check the history books, it was
23 either 2007 or 2008.

24 You think it was '8, Diane?

25 Okay.

1 So, I'm delighted to be here today.

2 And, I would just like to say that we all
3 know the facts. We've been over many of them.

4 Today's working families are so different
5 than they were.

6 We stand, virtually, alone as a nation in the
7 world because we do not provide a policy of paid
8 family leave for workers in this country.

9 I was telling Senator Carlucci before the
10 hearing that we're aware of workers, men and women
11 working in New York State, that when they have found
12 out that there is no paid family leave, that they
13 have looked across the border and they are moving to
14 Canada, where Canada does have paid family leave.

15 In fact, they have 50 weeks of paid family
16 leave in Canada. A very generous policy.

17 So we should be concerned about that.

18 We're only aware of a few cases.

19 And then there all of the cases that we are
20 not aware of.

21 But I'd like to say, personally, a good
22 friend of mine's daughter graduated from Tufts in
23 Boston. Went to graduate school at Oxford in
24 England. Started working -- she's a water engineer.
25 She started working for a company there. Met

1 someone, fell in love, they got married.

2 And they wanted to come back because both of
3 their companies have offices in New York City.

4 And when they looked and they saw that
5 New York State doesn't have paid family leave,
6 whereas the UK does, and they said, We are going to
7 have two children, and we are going to stay in the
8 United Kingdom and make use of their generous
9 paid-family-leave policies, because New York State
10 doesn't have these.

11 You know, we're hearing this anecdotally.
12 We're hearing it when we go out and we talk to
13 people.

14 So the time has come, that New York needs to
15 follow the example of California, New Jersey, and
16 Rhode Island, and pass paid family leave.

17 This hearing had been scheduled for a week
18 ago Friday in New York City.

19 One of the people that was testifying was --
20 intended to testify was CUNY Professor Ruth Milkman,
21 that many of you know.

22 And, so, Ruth has asked me to share with you
23 parts of her testimony as it relates to the work
24 that she and her fellow researcher and author,
25 Eileen Applebaum, did in the state of California

1 five years after California's law went into effect.

2 California's law went into effect in 2004,
3 5 years later they went out there and they
4 interviewed a representative sample of employers.

5 And, they found that paid family leave not
6 only makes it easier for workers to care for a new
7 child or a seriously ill family member, but it
8 promotes breastfeeding, it makes it easier to
9 arrange for child care when you're home and you have
10 a period of time to do so, and it positively affects
11 the health of family members receiving care that are
12 ill.

13 Low-wage workers with access to paid family
14 leave during a covered event experienced higher wage
15 replacement while on leave, ensuring financial
16 stability for these workers.

17 When California was considering
18 paid-family-leave legislation, the business
19 community had many concerns.

20 The state's Chamber of Commerce and other
21 business lobbyists vociferously opposed paid family
22 leave.

23 They argued it would be a job-killer, and
24 that small businesses, in particular, would be
25 greatly overburdened.

1 They were very concerned about how the work
2 of employees on leave could possibly be covered, and
3 they also expressed concern about the potential
4 abuse of the program.

5 So, the businesses that they surveyed, after
6 five years, reported that paid family leave had no
7 effect or a positive effect on the vast majority of
8 businesses in regard to profitability and
9 performance, employee turnover, and employee morale.

10 91 percent of respondents reported that they
11 had not experienced any cases of abuse on paid
12 family leave. And among the 9 percent that did
13 report abuse, it was typically only a single
14 instance of abuse.

15 Most employers, 87 percent, reported no
16 increased cost, as they were able to reassign the
17 work of the absent employee.

18 And this is what we find, time and again, in
19 these three states that have already passed this
20 law: they reassigned the work.

21 But, if you use the TDI system, which we
22 propose, to pay this benefit, then, you do not --
23 you have money available if you want somebody to
24 work overtime, or, if you want to hire a temporary
25 employee.

1 The money is there because you're not paying
2 the wages of the absent employee on paid family
3 leave.

4 So, they also found that paid family leave
5 started to be used more by fathers. A great thing.

6 Paid family leave, then, is a social leveler
7 for income inequality, as well as gender inequality.

8 Now, last June several us attended the --
9 President Obama's White House Summit for Working
10 Families, and, there, he invited high-road
11 businesses.

12 Many of the businesses from New York were
13 there that already provide family leave.

14 The advocates were invited, high-profile
15 women, and workers from across the country.

16 And the President called on every governor
17 that day to pass paid family leave in their state.

18 Then we heard, again, in the State of the
19 Union speech two months ago, the President once
20 again renewed his call for passage of paid family
21 leave at the state level.

22 Working families desperately need this
23 benefit, and they should not have to suffer
24 financial hardship any longer.

25 There is a national movement that has swept

1 this country for paid family leave.

2 The robust campaign underway for
3 paid-family-leave insurance here in New York State
4 were part of that movement.

5 There's growing momentum for New York to be
6 the next, and the fourth, state.

7 Since last March, the fundraising in my
8 organization has allowed us to hire a legislative
9 director here in Albany.

10 We have put two organizers on the ground: one
11 in Long Island and one in Upstate New York.

12 And, most recently, we were able to hire a
13 campaign director.

14 New groups are signing on to our campaign
15 weekly.

16 We're being invited to give presentations to
17 organizations across the state.

18 We have over 100 groups signed on. Almost
19 50 really highly engaged.

20 And every group we speak to, whether it's
21 children's advocates, labor unions, women's groups,
22 parents' groups, senior groups, caregivers, LGBT,
23 public health, lawyers, or nurses, we hear stories
24 of how New York State's families are suffering
25 financially since there is no partial-pay available

1 when they need a block of time off to care for their
2 families.

3 Thank you very much, and we hope that
4 Senate Bill 3004 will get passed this session.

5 SENATOR CARLUCCI: Great, thank you.

6 We've been joined by Senator Venditto and
7 Senator Kennedy.

8 Thank you for joining us.

9 Just a quick question, Ms. Dolan.

10 You had talked about the other states,
11 California.

12 One of the things maybe we can talk a little
13 bit about is, when California first adopted this
14 legislation in 2004, originally, they had 12 weeks
15 of paid leave. That was later modified to 6 weeks.

16 And I know you've cited some of the studies
17 that have been done over the time period that
18 California's model has been in effect.

19 Could you talk maybe a little bit about what
20 happened there; why that change happened?

21 DONNA DOLAN: Well, actually,
22 Senator Carlucci, it was 12 weeks, until the very
23 last second before the bill was passed, when it got
24 reduced to 6 weeks.

25 SENATOR CARLUCCI: Okay.

1 DONNA DOLAN: So we know Senator Gillibrand's
2 federal bill calls for 12 weeks.

3 The unpaid FMLA is 12 weeks.

4 If you talk to any medical people, the
5 minimum time a woman should be home, and parents
6 caring for their child, is approximately 6 months.

7 So we certainly think 12 weeks/3 months is
8 more than reasonable.

9 SENATOR CARLUCCI: Great. Thank you.

10 Senator Savino.

11 SENATOR SAVINO: Thank you.

12 Thank you, Donna.

13 I'm going to go back to California, because
14 as you pointed out, I think it was -- it may have
15 been 2007, I'm not sure, because I remember when
16 Governor Spitzer was first elected, he decided to
17 make paid family leave a priority. And at the time,
18 Senator Tom Morahan, the late-Senator Morahan, he
19 carried the bill with myself.

20 The -- California was a new experience then.
21 It was 2004.

22 New Jersey had not quite adopted their plan.

23 DONNA DOLAN: Right, theirs was 2009 that it
24 went into effect.

25 SENATOR SAVINO: So at the time, there was a

1 discussion about the size of the workforce that this
2 should apply to.

3 As you know, FMLA applies to employers of
4 50 or more --

5 DONNA DOLAN: Right.

6 SENATOR SAVINO: -- so as not to have an
7 effect on small businesses.

8 In California, what is the size of the
9 employer -- what's the size of the workforce that's
10 qualifying for the paid-family-leave benefit?

11 DONNA DOLAN: Well, because it's paid through
12 a TDI program, all employees are eligible; as in
13 New Jersey, all employees are eligible.

14 It's just the job-protection piece is for
15 employers of 50 or above.

16 SENATOR SAVINO: So an employee in California
17 or New Jersey could take the full 12 weeks, but, it
18 would trigger 6 weeks as FMLA under the federal
19 program, with no -- no, with job protection, and
20 6 weeks of paid?

21 DONNA DOLAN: Well, no.

22 It would be -- you take paid -- family leave,
23 whether it's unpaid or paid, it has to be taken
24 consecutively in one year.

25 You don't take six weeks under FMLA, and then

1 take six weeks paid.

2 SENATOR SAVINO: But you could take 12 weeks
3 consecutively: 6 paid, 6 non?

4 DONNA DOLAN: In New Jersey and California,
5 if you are -- if it's for childbirth reasons, so,
6 there's already six weeks maternity leave,
7 approximately.

8 So, then, the case of a newborn, you would
9 add the 6 weeks of paid family leave on top of that,
10 for a total of 12 weeks, but only in the case of
11 newborn, newly adopted, foster-care placement of a
12 child.

13 When it comes to a sick family member, in
14 California or New Jersey, there is only six weeks
15 available of leave.

16 SENATOR SAVINO: And if you have a
17 "leave" policy that your employer provides, with
18 paid sick time, or annual time, are you required to
19 exhaust those leave balances before you apply for
20 paid family leave?

21 DONNA DOLAN: Well, I think it depends.

22 It depends on what your specific employer's
23 policies are with regard to that.

24 SENATOR SAVINO: But they could establish
25 those policies; that you use one set of leave

1 balances prior to applying for this benefit?

2 DONNA DOLAN: I am going to ask my colleagues
3 back here.

4 SENATOR SAVINO: If you don't know the
5 answer, you can get back to me later, that's fine.
6 I'm just curious.

7 DONNA DOLAN: I will get you the answer.
8 My colleague Sherry Leiwant has been involved
9 in writing bills around the country, so she would be
10 the better person to ask if that could possibly
11 happen.

12 SHERRY LEIWANT: [Not at the microphone.]
13 Yeah, I mean -- but I can talk [inaudible].

14 DONNA DOLAN: She can talk more about that.

15 SENATOR SAVINO: Thank you, Donna.

16 SENATOR CARLUCCI: Thanks, Senator Savino.
17 Senator Martins.

18 SENATOR MARTINS: Thank you.

19 And thanks for being here today.

20 I appreciate it.

21 You know, I think we all agree, and we
22 understand, that New York has a structure that
23 allows to us consider it.

24 Those states that don't, we know what
25 happened in Washington State when they passed a

1 paid-family-leave law and they didn't have a
2 structure to finance it, and they've been struggling
3 with it ever since.

4 But now that we're 10 years post California,
5 and we've seen the studies that are associated with
6 it, how would you -- I mean, we have a series of
7 bills that are here in the Legislature -- how would
8 you structure a bill that allowed for paid family
9 leave through a TDI structure such that we have in
10 New York?

11 What would you like to see as part of that?

12 DONNA DOLAN: What I'd like to see, I'd like
13 to see 12 weeks of leave, and I would like to see
14 our current TDI program in New York State modernized
15 and expanded.

16 I can't tell you the number of comments we
17 hear from people that are really struggling
18 financially, because that cap has been frozen at
19 \$170 a week for the last, now it's 26 years.

20 SENATOR MARTINS: Since 1989, yes.

21 DONNA DOLAN: Since 1989.

22 It is time that that be dealt with.

23 And, certainly, Senate Bill 3004, that's the
24 other half of it.

25 The first half is establishing the

1 paid-family-leave benefit that is totally employee
2 paid through small employee payroll deductions
3 establishing the benefit.

4 Then the other part of it is modernizing the
5 temporary disability insurance system.

6 So all it's asking is that -- and that's a
7 shared cost, as Mario Cilento said.

8 And what employers would be asked to do, is
9 to pay a little bit, in a very small increase in
10 insurance premiums, in order to bring the temporary
11 disability insurance cap up.

12 Our bill calls to do it gradually, so that
13 it's approximately \$606 a week, the cap, after
14 4 years.

15 SENATOR MARTINS: So we have a -- we have
16 two elements, just simply because of TDI and the
17 cap, again, since 1989.

18 We have an effort to increase TDI benefit to
19 bring it current; and then, also, obviously, this
20 paid-family-leave component.

21 How would you see -- given the models that
22 are out there, whether it's California, New Jersey,
23 or Rhode Island, how would you see funding it?

24 DONNA DOLAN: Well, I would see funding it
25 through the small employee payroll deduction.

1 Our bill calls for 45 cents a week in
2 year one. And then, beginning in year two, the
3 superintendent of financial services would make the
4 determination of what the cost would be.

5 But, the Fiscal Policy Institute estimated
6 that, by year four, that cost would only go, from
7 45 cents, to, probably, approximately 88 cents,
8 definitely under a dollar a week, for the employee
9 to pay for the paid-family-leave benefit.

10 SENATOR MARTINS: Do you have a sense of what
11 the employee contribution as versus employer
12 contribution is in California, New Jersey, and
13 Rhode Island?

14 Because they appear -- certainly, California
15 appears to have found a contribution rate that has
16 made their system stable.

17 DONNA DOLAN: Yes.

18 SENATOR MARTINS: I think it's early yet to
19 determine whether or not Rhode Island's there. And
20 New Jersey appears to be hitting their mark.

21 What is their contribution rate?

22 And what would that contribution rate have to
23 be in New York to have that same level of stability?

24 DONNA DOLAN: Well, the difference between
25 the California TDI programs and the New Jersey

1 programs, California is graduated. It's based on a
2 percentage of your salary, which is really a fairer
3 system.

4 However, the system that was developed here
5 in New York, it's the flat rate.

6 The employer cap right now, currently, is
7 60 cents a week, and it has been since 1950.

8 SENATOR MARTINS: Well, Ms. Dolan, I'm
9 suggesting that we have a blank canvas; and if we
10 have a blank canvas, which ones of those models that
11 are out there would you advocate for?

12 Which one makes sense and provides the level
13 stability that you think would be necessary to
14 sustain, not only a viable TDI program, but also one
15 that includes paid family leave?

16 DONNA DOLAN: Well, I think I'd look to,
17 obviously, the cap -- I don't know if I mentioned
18 this -- a cap on California's benefit in 2015 is
19 \$1,104 a week; so it's 55 percent of an employee's
20 salary, up to the cap of \$1,104 a week.

21 Rhode Island's cap is, I think, 776, off the
22 top of my head, dollars a week.

23 New Jersey's cap is, I think, just a little
24 over \$600 a week currently.

25 I think if you look at New Jersey's, the

1 employee, I think the average employees paid
2 annually through their TDI system last year was
3 approximately \$23 per employee out of the employee's
4 pocket.

5 It comes out of their paychecks, but that
6 would be the grand total for the year.

7 I think, you know, something where the cost,
8 you get the biggest bang for your buck, and,
9 certainly, we don't want to burden employees, so
10 I think something similar to that.

11 California, in order to do a California
12 system, you would have to redo the TDI system.

13 SENATOR MARTINS: No, I understand that.

14 If I understand California's contribution,
15 and that's really where I was going, their
16 contribution to TDI and paid family leave is
17 1 percent of salary --

18 DONNA DOLAN: Right.

19 SENATOR MARTINS: -- up to \$104,000.

20 So, you know, obviously, the more money
21 somebody makes, the more they contribute into the
22 system, but there's also a greater return for them
23 when they do opt to take the benefit.

24 DONNA DOLAN: Exactly.

25 SENATOR MARTINS: So, if they're paying

1 1 percent of \$104,000, it's \$1,000 or so a year,
2 which translates into, you know, significantly more
3 than the 28 or 38 dollars that we're talking about
4 in New Jersey.

5 So, you know, again, I'm looking for
6 sustainability, and I'm looking for an opportunity
7 for us to look at something that isn't going to
8 require us going into the, you know, general fund,
9 and having the general fund subsidizing it; while at
10 the same time, ensuring that it's going to be stable
11 and be there and available for people when they need
12 to use it.

13 So I appreciate --

14 DONNA DOLAN: I think the model would be the
15 New Jersey model --

16 SENATOR MARTINS: Thank you.

17 DONNA DOLAN: -- that I would look at.

18 Thank you.

19 SENATOR CARLUCCI: Thanks, Senator Martins.

20 Senator Squadron.

21 SENATOR SQUADRON: Thank you very much.

22 So what has been the negative impact on
23 employment in states that have paid family leave?

24 Has it been dramatic?

25 DONNA DOLAN: There's been no negative impact

1 on employment in California.

2 With regard to --

3 SENATOR SQUADRON: No negative impact at all?

4 DONNA DOLAN: No negative impact.

5 Just like -- the same thing, you know, if
6 you're talking about paid family leave, if you're
7 talking about paid sick six days, it's the same
8 thing.

9 There is not a negative -- the last time we
10 looked, California was alive and well and thriving.
11 It hadn't fallen into the Pacific, hadn't broken
12 off.

13 And, you know, we don't have -- employers
14 have not left the state. You haven't been reading
15 about the exodus of employers from the state of
16 California either because of their paid-family-leave
17 law or their paid-sick-time laws.

18 SENATOR SQUADRON: So, in other words, new
19 families, new moms, have the ability to take care of
20 their children without needing to make the choice
21 between doing that and going into debt or with an
22 easier choice; a sick spouse, an ailing spouse, or
23 parent, have the ability to take care of, and that
24 vastly changes people's lives.

25 DONNA DOLAN: Vastly.

1 SENATOR SQUADRON: And it has no impact on
2 employment, that's now been measured for 10 years in
3 California.

4 We have in it a neighboring state, a state
5 that -- I think there was no competition, but a
6 state that we sometimes compete with, in New Jersey.

7 So, I mean -- and, forgive me for this,
8 because you may flip the answer right back at me:

9 What's the problem?

10 Why is this so hard to do?

11 DONNA DOLAN: Why I think it's been so hard
12 to do, is because the temporary disability insurance
13 program has been frozen for 26 years, and needs to
14 be modernized and made relevant to today's
15 workforce.

16 And that's what's been holding up getting
17 paid family leave passed in New York State.

18 So the time now is to grapple with it.

19 And it's, you know, very small increases to
20 the insurance premiums for employers, and this is a
21 shared benefit in terms of upgrading the TDI system.

22 SENATOR SQUADRON: And let me just ask:

23 When TDI was last increased in...

24 DONNA DOLAN: 1989.

25 SENATOR SQUADRON: ...in 1989, in the

1 two years after that increase, did we see a big hit
2 on employment in New York State because, suddenly,
3 employers were having an increase, employers and
4 employees had an increased TDI contribution?

5 DONNA DOLAN: Senator Squadron, I don't know
6 the answer to that question in terms of, from '89 to
7 '91, and what the effect was for the TDI increase.

8 SENATOR SQUADRON: You certainly haven't
9 heard of that?

10 DONNA DOLAN: Absolutely not.

11 SENATOR SQUADRON: So let me ask that
12 question: Why -- how could we possibly have a
13 benefit that was appropriate in 1989, and is, at the
14 same level, appropriate in 2015?

15 DONNA DOLAN: Because there hasn't been the
16 political will to change this.

17 SENATOR SQUADRON: Right, I guess what I'm
18 asking is: Is there sort of a consensus -- you seem
19 to work on these issues a lot, you seem to know a
20 great deal about them.

21 Is there a consensus that it was a bloated
22 benefit in 1989 and 1990?

23 DONNA DOLAN: I don't think, at all.

24 SENATOR SQUADRON: Interesting.

25 Or 1950, you said, that was when the

1 contribution level was the same?

2 DONNA DOLAN: 1950, that's when the TDI
3 program started.

4 SENATOR SQUADRON: And that's when the
5 employer contribution was defined?

6 DONNA DOLAN: Yes.

7 SENATOR SQUADRON: Was it considered bloated?
8 Are there text books about the TDI benefit
9 just running rampant through employment in
10 New York State in the 1950s?

11 I have not read them.

12 DONNA DOLAN: We'd have to go back and check.

13 SENATOR SQUADRON: Okay.

14 So, what's the reason that it's so hard to
15 raise the TDI benefit?

16 DONNA DOLAN: I think the fact that employers
17 are going to have very small increases to their
18 TDI insurance premiums.

19 We're talking about insurance premiums, and
20 small increases to those, to modernize this program.

21 SENATOR SQUADRON: And just take me through
22 again what that increase would be, dollar amount?

23 DONNA DOLAN: The dollar amount --

24 SENATOR SQUADRON: I'm sorry, cent amount?

25 DONNA DOLAN: The amount in year one, in

1 terms of the increase to the insurance premiums, is
2 \$1.22 a week.

3 And by year four, this would rise to \$2.10 a
4 week.

5 So we're talking, by year four, you know, a
6 little over 100 bucks per employee per year.

7 SENATOR SQUADRON: Total contribution?

8 DONNA DOLAN: Total, yes.

9 Total increase in the insurance premiums.

10 SENATOR SQUADRON: Total, \$100 per employee
11 per year.

12 And if we get that, what we would get is --

13 DONNA DOLAN: What we would get would be a
14 cap of -- now, we're using the latest numbers
15 available -- a cap of \$606 a week on TDI in
16 year four.

17 SENATOR SQUADRON: And, an ability to
18 actually have paid family leave --

19 DONNA DOLAN: Correct.

20 SENATOR SQUADRON: -- so that new moms, or
21 dads, for that matter, are actually able to take
22 care of their kids, when they have them, without
23 going into debt or losing their employment --

24 DONNA DOLAN: That's correct.

25 SENATOR SQUADRON: -- I guess not losing

1 employment because of the federal rules.

2 But without losing significant income, take
3 care of an ailing, God forbid, dying parent, spouse,
4 who needs it?

5 DONNA DOLAN: That's correct.

6 SENATOR SQUADRON: And let me just ask:
7 A hundred bucks a year, that -- is that a large
8 percentage of sort of the average employee costs in
9 the state of New York?

10 DONNA DOLAN: That would be in year four,
11 to --

12 SENATOR SQUADRON: We're looking at \$100 a
13 year.

14 So, you know, what does an employee cost an
15 employer, on average, in New York State?

16 DONNA DOLAN: A lot of money.

17 [Laughter.]

18 SENATOR SQUADRON: More than \$10,000 a year,
19 on average?

20 DONNA DOLAN: Well --

21 SENATOR SQUADRON: Minimum wage would get
22 them up to, like --

23 DONNA DOLAN: -- you know, we're talking
24 about wages --

25 SENATOR SQUADRON: Minimum wage gets them up

1 to near \$18,000, so, that's at a minimum.

2 DONNA DOLAN: Right.

3 SENATOR SQUADRON: Right?

4 Average is, something up to about \$63,000,
5 I think.

6 So, \$100 a year, total --

7 DONNA DOLAN: Right.

8 SENATOR SQUADRON: -- with a slow phase-in.

9 Let me ask one other question: Why not just
10 have all taxpayers pay for it and pay for it out of
11 the general fund?

12 I know that's one of the options before us.

13 DONNA DOLAN: Well, I think there's a
14 concern, as was mentioned earlier, in terms of -- by
15 Mario Cilento, in terms of an economic downturn.

16 This would -- there would be concern that
17 this benefit would disappear, and would be -- need
18 to be used to pay for other -- take care of other
19 matters.

20 So that's why we feel that it needs to have
21 stability.

22 The three states that have already done it
23 use the stability of their temporary disability
24 insurance program.

25 We are one of five states that has temporary

1 disability insurance, and of those states, it's only
2 New York and Hawaii that haven't instituted paid
3 family leave yet.

4 And, you know, we have this proposal,
5 Senate Bill 3004.

6 And I see Senator Addabbo has joined us.

7 And that would provide paid family leave
8 through expansion and modernization of the temporary
9 disability insurance system.

10 SENATOR SQUADRON: Great.

11 So is it fair to say -- and, thank you.

12 Is it fair to say that the more fiscally
13 responsible way to increase the temporary disability
14 insurance benefit and create paid family leave in
15 New York State would be through employer and
16 employee contributions?

17 DONNA DOLAN: I believe, yes.

18 SENATOR SQUADRON: So that we don't end up
19 with an obligation for taxpayers that requires broad
20 tax support over time, it's an insurance program, in
21 both instances, that should be funded by the
22 beneficiaries of that insurance program --

23 DONNA DOLAN: That's correct.

24 SENATOR SQUADRON: -- both the employer and
25 the employee?

1 And then the second question is -- just, math
2 is not always my thing -- \$100 a year is --

3 DONNA DOLAN: In year four.

4 SENATOR SQUADRON: -- \$100 a year, 4 years
5 from now --

6 DONNA DOLAN: Right.

7 SENATOR SQUADRON: -- is about 30 cents a
8 day?

9 DONNA DOLAN: Do the math.

10 Yeah, a day.

11 SENATOR SQUADRON: So for 30 cents a day, we
12 could have a temporary disability insurance program
13 that does what it's supposed to, and what it's
14 supposed to have done in this state since 1950,
15 increase a benefit that has been stagnant since
16 1989; and, yet, we somehow still think has relevance
17 today, and, create a system, where new parents have
18 a chance to take care of their kids without going
19 into debt, people whose family members, spouses,
20 parents themselves are aging or dying, have some
21 ability to actually spend some time with them and
22 create some comfort, and still have some income, for
23 30 cents a day, roughly?

24 DONNA DOLAN: Yes.

25 SENATOR SQUADRON: Thank you very much.

1 I appreciate it.

2 DONNA DOLAN: A real bargain.

3 SENATOR SQUADRON: Heavy lift, I guess.

4 DONNA DOLAN: Thank you.

5 SENATOR CARLUCCI: Thank you,

6 Senator Squadron.

7 We've been joined by Senator Addabbo.

8 And, Senator Savino for a question.

9 SENATOR SAVINO: I'm getting old now, so I'm
10 starting to get flashbacks from previous --

11 DONNA DOLAN: What do you say we work on this
12 together, Diane?

13 SENATOR SAVINO: It's been a long time.

14 On the California model, that's a mandatory
15 program; correct?

16 DONNA DOLAN: Because it's through the TDI --

17 SENATOR SAVINO: Because it's through the
18 TDI.

19 DONNA DOLAN: -- and every employer is
20 mandated to have TDI.

21 SENATOR SAVINO: And -- because I remember in
22 many of the iterations of this bill, there was
23 discussions about whether we should make it
24 voluntary, so that employees who did not want to pay
25 the extra 45 cents a paycheck would not have to do

1 so.

2 But, in order to make the TDI work, and we
3 all agree, I think, that that's something that's
4 long overdue, that it would require a mandatory
5 model in New York State as well.

6 Would you say that's fair?

7 DONNA DOLAN: That's fair.

8 SENATOR SAVINO: In California, are employers
9 allowed to pass through the increased costs?

10 Because when we put our original bill
11 together, it allowed for 45 cents per paycheck by
12 the employee, and I think there was just like a
13 50 cents more for employer contribution, but, the
14 State of New York actually allows employers to pass
15 it through, so the entire 95 cents, at the time,
16 I think it was, could have been passed through to
17 the employee.

18 Is that still -- is that the way they do it
19 in California as well, or do employers have to make
20 the contribution?

21 DONNA DOLAN: I would defer to my colleague,
22 Sherry, or Nancy, to answer that question.

23 UNKNOWN SPEAKER: [Not at a microphone.]

24 [Inaudible] there is no employer
25 contribution.

1 DONNA DOLAN: It's all employee paid.

2 SENATOR SAVINO: Right, it's all employee in
3 California?

4 UNKNOWN SPEAKER: [Not at a microphone.]
5 In California.

6 DONNA DOLAN: TDI is totally paid for by
7 employees.

8 SENATOR SAVINO: Right.

9 And in New York, you can -- employers can
10 pass the increased costs, the weekly costs, through
11 to employees, so the employee could, potentially,
12 pay the entire cost?

13 DONNA DOLAN: Well, I think what typically
14 happens is, because it's less than a dollar a week,
15 it's 60 cents, that most people aren't even aware
16 it's deducted from their paycheck because it's less
17 than a dollar, and the employer picks it up.

18 SENATOR SAVINO: All right, so two more
19 questions, I just want to clarify.

20 The qualifying life events that are covered
21 by the federal FMLA, are they identical to the
22 qualifying life events in the California,
23 Rhode Island, New Jersey, paid-family-leave program?

24 DONNA DOLAN: Yes.

25 We're talking about the birth of a child, we

1 are talking about a sick family member. Correct.

2 SENATOR SAVINO: And then the states that
3 don't have paid family leave, those qualifying life
4 events occur all the time, don't they?

5 DONNA DOLAN: The states that don't have paid
6 family leave?

7 SENATOR SAVINO: And in the states that do
8 have.

9 So the point I'm trying to make is, those
10 qualifying life events are going to happen anyway --

11 DONNA DOLAN: Absolutely.

12 SENATOR SAVINO: -- whether or not we create
13 a wage-replacement mechanism.

14 DONNA DOLAN: That's correct.

15 SENATOR SAVINO: Okay.

16 And in the states that have it, are there
17 protections from -- are there worker protections?

18 Because that was one of the many discussions
19 that we had back in the early part of this
20 legislation, and New York being an at-will-employee
21 state in many ways, you know, would employers be
22 required to keep an employee who chose to use it?

23 So the smaller business who couldn't afford
24 to go 12 weeks without their employee, I think the
25 original bill allowed an employer to separate them

1 from service, but they would at least have a wage
2 replacement for that period of time that they were
3 dealing with that qualifying life event.

4 In California, in New Jersey, and
5 Rhode Island, is there, in fact, worker protection
6 so that you cannot separate that person while
7 they're having that qualifying life event?

8 DONNA DOLAN: The Rhode Island program has
9 total employee job protection.

10 SENATOR SAVINO: California doesn't, though?

11 DONNA DOLAN: California and New Jersey
12 follow the FMLA, which is, you know, less than 50,
13 has no job protection.

14 SENATOR SAVINO: Okay.

15 And the last point, the question has come up
16 more than once about why we haven't done -- or why
17 we didn't do the TDI, why we couldn't get it done,
18 why we didn't get this done originally.

19 And that's when I had my flashback.

20 One of the overarching issues, as we began
21 the public discussion about paid family leave and
22 raising the TDI, was also bringing another
23 antiquated system into the twentieth century; and
24 that was our unemployment insurance benefit.

25 And at the time, the decision was, shore up

1 UI and bring the weekly benefit up.

2 And there was no political appetite to do
3 both.

4 So that's the answer to that question.

5 Thank you.

6 SENATOR CARLUCCI: Thank you, Senator Savino.

7 And thank you, Donna Dolan, for your work.

8 There's no further questions.

9 Thank you.

10 DONNA DOLAN: Thank you very much.

11 SENATOR MARTINS: Our next witness is
12 Nancy Rankin, who is the vice president for policy,
13 research, and advocacy at Community Service Society.

14 Good morning.

15 NANCY RANKIN: Good morning.

16 Thank you very much for holding this hearing
17 today.

18 Thank you, Senators Martins, Carlucci, all
19 the members of the Committee, for the opportunity to
20 testify in support of paid family leave, a policy
21 that can drive economic growth by enabling women to
22 participate fully in the labor market.

23 My name is Nancy Rankin. I'm vice president
24 for policy, research, at Community Services Society,
25 a non-profit organization that works to advance

1 upward mobility for low-income New Yorkers.

2 I would describe paid family leave not as a
3 benefit, but as an economic necessity for all
4 working families; but especially for working women
5 and for those struggling to survive on low wages.

6 In New York City, where my organization is
7 based, 1 out of 4 working women lives in a
8 low-income household.

9 That's close to half a million working women
10 struggling to get by on less than 38,000 for a
11 family of 3. Their jobs and earnings are essential
12 to keep their families afloat.

13 These same workers are also the customers of
14 local businesses, so when they do better and have
15 some income replacement, local businesses also do
16 better.

17 A mere 5 percent of workers in the bottom
18 wage quartile have paid family leave now from their
19 employers.

20 Some might argue that workers could use
21 saved-up vacation and sick days to deal with a
22 serious family health crisis or a newborn, but that
23 ignores the stark reality that half of low-wage
24 workers do not even get any paid vacation, according
25 to 214 -- 2014 BLS statistics. And outside of

1 New York City, workers don't even have a right to a
2 few paid sick days.

3 Low-paid workers are unable to save anything
4 from their inadequate wages to sustain themselves
5 and their families for days, much less for weeks,
6 without a paycheck.

7 According to a CSS (unintelligible) survey
8 that we do every year, close to half of low-income
9 working mothers in New York City have less than \$500
10 to fall back on in an emergency, so 7 days lost pay
11 for them would just wipe out their entire life
12 savings.

13 When a critical family need triggers job
14 loss, a low-income family's hardships skyrocket.

15 We found that among low-income households
16 reporting job loss, the proportion failing to meet
17 their rent doubled.

18 Compared to low-income families that didn't
19 have a job loss in the past year, they were
20 24 percent more likely to be on Medicaid, 32 percent
21 more likely to receive food stamps.

22 So paid leave that enables people to hold
23 onto their jobs and to receive some modest wage
24 replacement is good public policy, and modernizing
25 our existing TDI insurance system is a smart,

1 affordable, self-sustaining way to provide that paid
2 family leave.

3 So I wanted to make two points.

4 First, to be meaningful, benefits need to be
5 adequate.

6 And you've heard about the current TDI cap of
7 \$170 a week.

8 That's dramatically below that of every other
9 TDI state, where the caps range from 552 to over
10 1,000 a week.

11 We believe we need to gradually raise the
12 maximum, concurrently, for the existing TDI purposes
13 and the new family paid leave, and that weekly
14 benefits below the cap should be set at two-thirds
15 of an employee's own average weekly wage, because
16 for a low-wage worker, half a normal paycheck, much
17 less \$170, is not enough to survive on.

18 This is especially true with medical bills to
19 pay and a new baby to care for.

20 Two-thirds is what New Jersey does.

21 Two-thirds is the international standard.

22 Two-thirds is workers' comp.

23 I just wanted to make the point, because
24 there's been some confusion in some of the press
25 accounts, where they say everybody would get 606,

1 the average weekly wage.

2 606, the average weekly wage, would just
3 be -- would be the maximum. But what you get is
4 based on your own weekly wage.

5 The second point I wanted to make is that all
6 private-sector employees will be paying for
7 insurance coverage, they will all be contributing,
8 so it should cover all-size employers, just as TDI
9 does, and it's important for it to be consistent
10 with that.

11 If you don't cover smaller firms; for
12 example, if you didn't cover firms of less than 25,
13 that would leave out 2 million workers, or, over
14 30 percent of all the private-sector workers
15 statewide.

16 Growing up as the daughter of a small
17 business owner, and having managed small operations
18 myself, I understand the concerns that it might be
19 harder for small business to manage a worker's
20 temporary absence.

21 But I think we should keep in mind that the
22 vast majority of paid family leave, over 80 percent,
23 based on the experience of other states, would be
24 taken by parents of newborns, to care for newborns,
25 which gives employers time to figure out how to

1 handle an expected absence.

2 And this is, in fact, something most
3 employers have to do now.

4 The big difference will be that, with paid
5 family leave, an employee will be able to draw
6 modest insurance benefits to avoid the severe
7 financial hardship and debt that may take them years
8 to pull out of.

9 Others have testified about the research in
10 California, showing fears that paid family leave
11 would be a burden on small businesses and subject to
12 abuse, were not borne out.

13 But, we need not look all the way to
14 California.

15 We can look right here in our state, to
16 New York City, where I'm sure Senator Sanders
17 remembers the exact same concerns were raised: that
18 requiring small businesses to provide paid sick days
19 would be a job-killer.

20 So what's happened in the year since paid
21 sick time took effect in New York City?

22 New York City has experienced record job
23 growth and is the strongest local economy in the
24 state, according to a recent report from the
25 New York Fed.

1 Fortunately, New York is poised and ready to
2 become the next state to provide paid family leave.

3 Not only do we have a TDI program already in
4 place that can serve as the foundation, we have the
5 Administration's own Medicaid redesign team that
6 made enacting paid family leave one of its top three
7 priorities in its October 2014 report.

8 This group of statewide leaders, that I had
9 the honor of being part of, cited the ample
10 research, showing the benefits to maternal and child
11 health, as well as projected long-run savings from
12 improved health outcomes, averting job loss, induced
13 Medicaid enrollment, and reducing hospital
14 readmissions by enabling family caregivers to assist
15 with increasingly complicated post-discharge needs.

16 And, we have widespread public support.

17 84 percent of New York City adults polled
18 support modernizing TDI to provide paid family
19 leave.

20 Most striking is the growing intensity of
21 that support.

22 When we polled on this 10 years ago,
23 42 percent said they strongly support it.

24 Now two-thirds say they strongly support it,
25 and more than 8 out of 10 support it, and that

1 support crosses party lines.

2 89 percent of Democrats favor it, 83 percent
3 of Independents, and two-thirds of Republicans all
4 favor paid-family legislation.

5 Clearly, Senator Squadron, paid family leave
6 is an idea whose time has come, and it's time for us
7 to do this.

8 So, let me close with a story told to me by
9 Marjorie Salas (ph.), a pediatric oncology nurse in
10 Manhattan.

11 She recounted her experience translating for
12 a physician about a child's condition to her family.

13 "I could see her mother's eyes fill with
14 tears, and the father holds his daughter a little
15 bit tighter in his arms, as I gently told the family
16 nothing else could medically be done to save their
17 3-year-old's life.

18 "The sadness in the room was overpowering.

19 "After explaining what they might encounter
20 in the next few days, the conversation changed
21 direction dramatically.

22 "Could the father take time off from work to
23 spend the last few days of his little girl's life by
24 her side?

25 "He chose to be with her and go a week

1 without pay.

2 "A week without pay would take a serious
3 financial toll on the family, because his wife
4 didn't work, they had another child to support, and
5 they had mounting medical bills to pay.

6 "She said to me, 'How do you ask a parent to
7 make a decision between supporting their family and
8 spending what little time is left with their tiny
9 daughter before she dies?'"

10 Your consideration of the legislation being
11 debated today can bring us one step closer to no
12 longer asking parents to make impossible choices.

13 Thank you.

14 SENATOR MARTINS: Ms. Rankin, thank you very
15 much.

16 I neglected to call on Sherry Leiwant as
17 well.

18 Would you like to join us at this point?

19 Why don't you come down and we'll hear from
20 you as well, and then we'll take questions together.

21 Did I pronounce that right?

22 Lie-want (denoting pronunciation)?

23 SHERRY LEIWANT: Lee-want (denoting
24 pronunciation).

25 SENATOR MARTINS: Leiwant. Excuse me.

1 Ms. Leiwant is the president and co-founder
2 of A Better Balance.

3 Welcome; and my apologies for not having
4 called on you earlier, but I did hear that you
5 wanted to testify together.

6 SHERRY LEIWANT: Yes.

7 SENATOR MARTINS: So, please.

8 Thank you.

9 SHERRY LEIWANT: Either way, it's perfectly
10 fine.

11 And, I wanted to thank you, Senator Martins,
12 Senator Carlucci, the entire -- both Committees.
13 I'm very happy to be here.

14 Thank you for the opportunity to testify on
15 this really important issue.

16 My organization is a legal-advocacy
17 organization, and we've been working on this issue
18 here in New York as part of the steering committee
19 that Don and Nancy are also a part of, and writing
20 laws around the country on paid family leave,
21 because it is an issue whose time has come, and
22 there's a lot of excitement about it. There are
23 many, many states that are introducing laws.

24 And I think, you know, you've heard from my
25 colleagues here that the United States stands alone,

1 and it comes as a shock to a lot of people that we
2 do stand alone on being the only industrialized
3 country that doesn't have some kind of paid family
4 leave when a new child is born, to take care of a
5 sick family member.

6 With no right to paid family leave, that
7 means that people are relying on their employers to
8 provide that benefit, and it's an expensive benefit,
9 and many, many employers, they just can't do it.

10 And, so, only about 12 percent of workers are
11 covered by some form of paid family leave that is
12 given by employers, and only 4 percent of low-income
13 workers.

14 And, therefore, that's why it's essential for
15 government to step in and to help; to help both
16 employers and employees with these issues.

17 And you've also heard that we need to
18 modernize, that women are in the workplace now,
19 they're half the workforce; and, therefore, we need
20 to address issues around new children, taking care
21 of family members.

22 And I think that it has become now an issue
23 that is being recognized.

24 The President mentioned it in his State of
25 the Union in January, and, as Donna said, in June at

1 the summit at the White House. He called on all of
2 the states to consider paid family leave because
3 it's going to be hard to do it in Washington, but we
4 can really set the example, we can really take the
5 lead.

6 And you've heard about California,
7 New Jersey, and Rhode Island.

8 I can also tell you, we're writing laws
9 around the country.

10 We have about 10 laws that have been
11 proposed, including in our neighboring state of
12 Connecticut where there really is a lot of traction
13 around it.

14 Those are states that do not have a temporary
15 disability insurance program.

16 It's going to be very expensive to start this
17 program, but the states are considering it.

18 And, we are really lucky that we have a TDI
19 program that we can build on, at virtually no cost
20 to the State, and as we're proposing with family
21 care, at least no cost to the employer.

22 It verges almost on embarrassing that the
23 states around us are considering this, and that we
24 haven't done it yet.

25 And, as you've also heard from the previous

1 testimony, and also from some of the statements from
2 the community itself, the emergence of paid family
3 leave is important because it's a win for everybody.

4 It's a win for workers, it's a win for
5 businesses, for children, for elders, and for the
6 economy.

7 It makes it easier for new parents, both
8 mothers and fathers, to care for their children
9 without undue financial hardship.

10 It makes it easier to care for our elders.

11 And the benefits of family caregiving, as our
12 population ages, can't be overestimated.

13 That's a savings also to the public, as you
14 heard from Nancy.

15 And I just want to emphasize it really is
16 good for business.

17 Studies have shown that paid family leave
18 leads to business savings by increasing retention,
19 employee morale, lowering turnover costs, improving
20 productivity.

21 And that's something that was found in
22 California, and it is in some ways, just logical.

23 I want to talk about the specific proposals
24 for paid family leave.

25 A Better Balance has been -- we've been

1 helping to write these laws. And you have a -- you
2 have two before you in the Senate. And, of course,
3 the law that passed in the Assembly last week.

4 The bill that passed the Assembly, and has
5 been proposed by Senator Addabbo, who is the sponsor
6 here in the Senate, S-3004, the elements of that,
7 are that we will be using the temporary -- the state
8 temporary disability insurance program as a base and
9 as a system.

10 It provides workers with wage replacement
11 during time off from work to care for a child in the
12 first 12 months after the child's birth or placement
13 for adoption. And it may also be used to care for a
14 seriously ill family member.

15 And we've also added, and this is kind of an
16 addition from last year, our military families, to
17 care for an injured service member or to prepare for
18 deployment.

19 That was something that was added to the
20 FMLA, and we felt it should be added here in
21 New York as well, to support our service members and
22 their families.

23 The "family members" listed are: child,
24 spouse, domestic partner, parent, grandchild,
25 grandparent, sibling, and parent of a spouse or

1 domestic partner.

2 That bill provides for 12 weeks of benefits.

3 And as you also heard, it's two-thirds of the
4 worker's average weekly wage, up to the maximum cap
5 that will be increased year by year.

6 And I want to also emphasize, again, I mean,
7 we've had a lot of discussion about it, but the TDI
8 benefit has not been raised since 1989.

9 It's embarrassingly low when you compare it
10 to our -- other TDI states, which have caps of 1104
11 in California, 604 in New Jersey, and 770 in
12 Rhode Island.

13 The bill will apply to all private-sector
14 employees, and it contains an opt-in provision for
15 public employees through their unions.

16 It's subject to a one-week waiting period,
17 which I just want to say, in terms of looking at it
18 in other states and costing this out, is a real
19 cost-savings to the program.

20 And it will be financed -- the "family care"
21 part of it will be financed solely by employee
22 deductions, and deductions from employees' pay.

23 The raise in the TDI level would continue to
24 be a joint payment.

25 And there's job protection in our bill.

1 There's another bill that has been introduced
2 also, as 3301, and that would also provide paid
3 family leave to New York families.

4 There are some differences, which we can talk
5 about.

6 We commend the sponsors of that bill -- thank
7 you -- for recognizing the importance of this issue.

8 We really think that has shone a light on it
9 and raised the profile, and it's really appreciated.

10 I want to concentrate on one aspect, though,
11 of the laws, and an attorney who's helped to draft a
12 lot of these; and that is, that it is crucial to the
13 success of any paid-family-leave law that it covers
14 everybody; that all employees and employers have
15 access to the program.

16 Because there's no cost to business in any of
17 the proposals before you, there's no real reason to
18 say, oh, well, the small business can't really
19 afford it.

20 They're not paying for it.

21 So it's unfair to workers. As Nancy
22 testified, 2 million workers would be left out.

23 And -- but it also makes it unworkable,
24 particularly if you're using the TDI system, because
25 workers change jobs, and you could have spent your

1 entire career paying in as part -- as working for a
2 larger business, and then change jobs to a smaller
3 business and you're no longer covered.

4 And that's just not any way to run an
5 insurance program.

6 But more importantly, and I really want to
7 focus on this, a carve-out is really unfair to small
8 business.

9 Small businesses are among the most important
10 beneficiaries of a program like this.

11 They can't afford -- they really can't afford
12 to pay for 12 weeks, or even 6 weeks, of leave for
13 their employees.

14 And we've seen this in New York City when we
15 were working on sick time, and we heard this a lot
16 from small employers, saying, "Our workers are like
17 our family, and we really do" -- that is often the
18 case.

19 But, you know, they -- so employers would
20 like to see "their family," their employees, have
21 some kind of wage support when they have to take
22 time off, which they will take the time anyway after
23 they have a child or a really seriously ill family
24 member.

25 Employers can give them the time, but they

1 can't afford to give them the money.

2 And, I just wanted to say we recently spoke
3 to the owner of a small business -- a lithograph
4 business in Chelsea, in New York City, who got on
5 the phone -- we have a clinic, so we hear from a lot
6 of people who are very upset about the fact that we
7 don't have paid family leave in the state.

8 Anyway, the employer got on the phone, after
9 his employee called to us find out if there were any
10 benefits she could get after she had her baby, and
11 he was as upset as she was that there was none.

12 And he said how wonderful it would be if
13 there was a program that would enable her to have
14 money that she needed, where he wouldn't have to
15 pay.

16 Why would we cut small-business owners out of
17 the ability to offer their workers this benefit?

18 It really means that small businesses who
19 will be competing for staff will be at a tremendous
20 disadvantage with larger businesses who can offer
21 paid family leave.

22 And, believe me, women of child-bearing years
23 are going to make decisions about their employment,
24 at least as one factor.

25 So leaving small businesses out is really

1 going to hurt them.

2 And as somebody who runs a small business, in
3 the sense of a small non-profit, we have
4 10 employees, it's part of our mission to work --
5 family is part of our mission, and so we do pay for
6 paid family leave, but it really is difficult.

7 And I would be very upset, really upset, if
8 my workers -- if this program was passed and we
9 couldn't take advantage of it and I would have to
10 continue to pay this out of my grants, et cetera.

11 So, I really hope that you will think about
12 that when you think about any kind of carve-out.

13 There should not be one.

14 And, there's no precedent for it. It's not
15 in the TDI program. There's no carve-out in the
16 TDI program. And there is no carve-out in any of
17 the bills that have been passed around the country.

18 There are not.

19 So, yeah, I really hope that you will
20 consider that.

21 So, in closing, I just want to say:

22 We do run a clinic for workers who have
23 problems due to their caregiving responsibilities,
24 and we get so many calls from workers asking us
25 about paid family leave here in New York, who are

1 upset to learn that there's no income support for
2 them.

3 And many workers call, who live in New Jersey
4 and work in New York, and they're particularly upset
5 because they've hear their state has the program,
6 but they can't take advantage of it because they
7 work here.

8 We also have a petition to the Governor,
9 which has over 12,000 signatures, with amazing
10 comments about how important this program is, or
11 would be.

12 And, so, I really thank you so much for
13 allowing to us testify, and for hearing about this
14 issue.

15 We're hoping that New Yorkers won't to have
16 wait any longer.

17 And, we really appreciate your attention to
18 this.

19 Thank you.

20 SENATOR MARTINS: Thank you for your
21 testimony this morning.

22 This whole issue is gender-neutral.

23 I know it's gender-neutral. We say it's
24 gender-neutral.

25 But the reality is, that the vast majority of

1 times, when there's a caregiver who's going to have
2 to step in to care for a loved one, it's going to be
3 a woman. It's going to be a wife, a mother, that is
4 being asked to take on that responsibility.

5 And, you know, certainly, given the fact that
6 we have TDI in place, it gives us certain options
7 that perhaps some of the other states that you're
8 working with just don't have; and, so, we are able
9 to look at it a little bit more holistically.

10 I know you went over the two bills that we
11 discussed and that are currently pending, but I want
12 to ask you to take a step back away from the
13 two bills and give us a sense of where you think we
14 can create a sustainable model.

15 Obviously, either bill would probably do
16 that, but if you had a blank slate and you were
17 working on this issue, understanding what the
18 different currents are, how would you suggest that
19 we look to setting up a paid-family-leave component
20 to TDI in New York?

21 How would it be paid?

22 Where do we set the thresholds?

23 Yes, we have FMLA, the 50-employee threshold.

24 How do we setup guaranteed jobs as opposed to
25 non-guaranteed jobs?

1 What do you think we should do?

2 SHERRY LEIWANT: Well, again, you have to
3 cover everybody.

4 I really think that that's almost
5 non-negotiable. I mean, it just won't work
6 otherwise in terms of the pay.

7 I think there is a difference between the
8 payout and the job protection. I think they can be
9 separated.

10 We would like to see job protection for
11 everybody because, if you've paid in for a benefit,
12 you shouldn't have to risk your job to take the
13 benefit.

14 But I do understand that there could be a
15 conversation about that.

16 I don't think there can be a conversation
17 about whether people are covered in terms of the
18 insurance itself.

19 So that's what I would say about that.

20 I think, you know -- we think, I mean,
21 obviously, we have proposed this, and we've seen it
22 work in California, New Jersey, and, just beginning
23 in Rhode Island, but, so far, so good, that, you
24 know, using the existing TDI program, having
25 employees pay for the family-care part, and is

1 sustainable, and is definitely affordable.

2 We have a cap of 45 cents a week for -- and
3 we've looked at this time and time again, the Fiscal
4 Policy Institute has looked at it. That will
5 finance this in the first year.

6 And if it needs to be raised, the insurance
7 commissioner can raise that, that contribution.

8 And the estimate is that, as you've heard
9 before, wouldn't go over 80 cents.

10 SENATOR MARTINS: Yeah, I've got the tell
11 you, I'm not a big fan of, in this instance, when
12 we're dealing with insurance and sustainability, of
13 capping anything, frankly.

14 I think we have to be more concerned with
15 ensuring that whatever is actually being considered
16 is something that is sustainable, and is sustainable
17 on its own, that is not subject to pressures in the
18 economy, because if you're going to make the
19 commitment to an entire workforce that they have
20 this insurance available, you don't get to take that
21 back.

22 SHERRY LEIWANT: Right, I agree with you.

23 SENATOR MARTINS: So artificially imposed
24 limits for the sake of creating optics, I think, are
25 dangerous.

1 SHERRY LEIWANT: Can I just -- just let me --
2 the bill that passed the Assembly, and the bill
3 that's been proposed here in the Senate, is --
4 there's only a cap in the first year.

5 It's just the first year.

6 After that, it's unlimited.

7 We were just estimating how much it would
8 probably be, but the insurance commissioner would be
9 the decider on that, and there is no limit after the
10 first year.

11 SENATOR MARTINS: I understand.

12 And if we look at California, as, again, just
13 because they've been doing it for longer than anyone
14 else, they have a workforce of about 12 million
15 people that are paying into this system.

16 They have another 3 million that don't
17 qualify for their TDI so they don't pay into the
18 system.

19 So out of 12 million, I think, if I remember
20 the statistics correctly, they have about 240,000 or
21 so, on average, applicants who take paid family
22 leave per year. The vast majority of those are for
23 bonding with newborns.

24 But, 240,000, as against 12 million, and
25 they're not all -- there isn't this mad rush of

1 people to take this.

2 You take it in the event of an emergency.

3 You're taking a pay hit.

4 You're taking a pay cut.

5 Obviously, to the point that was also made
6 earlier, this is an opportunity for people to get
7 something, but more often than not, it's not enough
8 to sustain them. It's enough to give them some help
9 along the way.

10 And, so, you know, if we're going to sustain
11 it, California has a large contribution by
12 employees.

13 There's a commitment there, that they're
14 paying 1 percent of their salary, up to \$104,000,
15 for this.

16 And they have demonstrated it to be
17 sustainable, even on the numbers that I'm
18 discussing, where you only have, you know, 2 percent
19 of those contributing actually using it annually.

20 And so, again, if we're going to have this
21 discussion, and since we're having this discussion,
22 and since I think there is, you know, some real
23 interest in finding a way to get us to that point,
24 I think we also have to discuss it in terms of
25 realistic numbers, and what we can realistically

1 tell our workforce is going to be their buy-in for
2 this type of insurance.

3 They still want the benefit, but they have to
4 understand what that buy-in is going to be as well.

5 To the point about, you know,
6 disproportionately affecting people in the
7 workforce, obviously, I said it before, I believe
8 very strongly this is an issue that is, far and
9 away, you know, disproportionately affects,
10 obviously, our women in the workforce, and it's
11 something that we have to work on, societally, to
12 deal with.

13 We have the ability through TDI to do
14 something, and, you know, we're evaluating it now.

15 Where should we put that threshold, as far as
16 the amount of benefit that they're entitled to?

17 California is up over \$1,000.

18 New Jersey and Rhode Island are significantly
19 less.

20 What is the number and the threshold that we
21 in New York should be looking to achieve, balancing,
22 obviously, the contribution rate that we're
23 expecting from employees, as against that weekly
24 benefit that they'll be receiving?

25 Where do you think that should be?

1 SHERRY LEIWANT: Well, I mean, I'll let Nancy
2 answer it, because she's the "numbers" person, but
3 I do feel like we've thought that through, and
4 that's why, you know, we're not going up to 1,000,
5 we're not even in four years, because it would be
6 more expensive, I think, than we would like to see
7 it be.

8 SENATOR MARTINS: But that's exactly it.

9 SHERRY LEIWANT: But, you know, there are
10 moving parts, and so we've formulated, you know,
11 each year it will go up, but it goes up gradually.

12 And, ultimately, in four years is, what,
13 six -- what's the -- yeah, go ahead.

14 NANCY RANKIN: Well, you know, we were
15 suggesting, and I think it's true in both bills, is
16 that we want to move -- I mean, we want to move the
17 cap, which is the maximum, to be half the statewide
18 average weekly wage.

19 The average weekly wage in New York in 2013
20 was \$1212, so the cap would be \$606.

21 But what we were saying is, for those
22 low-wage workers that are earning below that, we
23 would give them a benefit of two-thirds of their
24 average weekly wage, up to the cap.

25 So that means when you reach the equivalent

1 of earning about \$47,000 a year, you would bump up
2 against the cap.

3 So instead of getting two-thirds of your own
4 average weekly wage, you would then hit the cap and
5 then you would get \$606.

6 So we think that, that way, we're balancing
7 the need to have a livable benefit for the
8 lowest-wage workers.

9 47,000 is about twice the federal poverty
10 level for a family of 4, so, for them, you know,
11 where half their weekly wage would really not be
12 enough to survive on, they're getting two-thirds.

13 But, then, you hit up against the cap of
14 50 percent of the statewide average weekly wage,
15 which would grow up gradually in time.

16 And we're not even having the cap, you know,
17 we're not -- because it's taking us so long to raise
18 TDI, the current cap of 170, we're not suggesting we
19 make that leap in one year. We're suggesting that
20 we gradually phase it in.

21 SENATOR MARTINS: That's interesting.

22 You know, one of the statistics that jumped
23 out at me, in looking again at the California model,
24 is that, out of those who are using it and applied
25 for this benefit annually, upwards of 70 percent of

1 those are people who are affluent.

2 Upwards of 70 percent.

3 Meaning, to me, that those who are in the
4 lower income brackets simply don't have the ability
5 to take the financial hit for caring for someone and
6 taking time off, because they can't take the lower
7 wage.

8 So, it's interesting that you would suggest
9 increasing it on the lower -- for lower-wage
10 earners; thereby, giving them some more flexibility,
11 the theory being, that those who are higher-wage
12 earners certainly have the ability to cushion that
13 impact and they can take the lower wage, but they
14 have, I guess, a larger safety blanket.

15 So, it's an interesting concept --

16 SHERRY LEIWANT: Yeah, they have a little
17 savings.

18 And so that our wage-replacement rate would
19 be, for lower-income people, a little higher,
20 actually, than California.

21 But I would say another really important
22 issue that explains some of what you're seeing in
23 California, is that there's been fairly limited
24 outreach.

25 And that if we do this, it's really important

1 to have robust outreach to let workers know about
2 their -- that they're paying for this and that they
3 have this benefit, because people just may not
4 realize it.

5 I mean, I can speak to my own case.

6 When I had my first child, which was, like,
7 over 30 years ago, I worked for a place, and when
8 I -- I worked up until the day I delivered. And
9 I actually left my job.

10 Nobody told me, Nancy, you're entitled to get
11 this, you know, 170, which was a little more than.

12 And then in, you know, six months, they
13 rehired me. You know, the same company rehired me
14 back, and I never even got my TDI benefit.

15 So, I think we have an obligation to do
16 outreach to inform people.

17 NANCY RANKIN: And I just would add that that
18 is in the bill --

19 SENATOR MARTINS: Of course.

20 NANCY RANKIN: -- that passed the Assembly,
21 that we do have an outreach and education.

22 And that it's also important to keep it
23 going, because they had it in California in the
24 first year, and then there was a real fall off in
25 people not knowing about it after that.

1 SENATOR MARTINS: I hate to keep referring to
2 California, but, I guess they're the model.

3 We do have a few questions from our members
4 here.

5 We'll start with Senator Sanders.

6 SENATOR SANDERS: Thank you, Mr. Chair.

7 Good to see both of you.

8 NANCY RANKIN: Good to see you, too, Senator.

9 SENATOR SANDERS: Good to see, you
10 Vice President Rankin.

11 We did this in New York City.

12 How long ago was that?

13 NANCY RANKIN: Well, in 2013, and we expanded
14 it in 2014.

15 SENATOR SANDERS: Has New York City gone
16 bankrupt since?

17 NANCY RANKIN: No.

18 New York has had record economic growth,
19 record job, since.

20 SENATOR SANDERS: So that means we can take
21 some small part of that, some claim of that.

22 I think that there are many, many good
23 reasons why we should have a -- this legislation,
24 but among them that we're not really pressing is the
25 gender gap that's going on, where we're not looking

1 at that it's women, by and large, who are thrust
2 into the position of being the family caregiver, and
3 they are taking time out from their own careers.

4 They're losing skills, they're losing
5 experience, they're losing all of the things that
6 people are evaluated on for promotion; and,
7 therefore, are not getting the promotions.

8 And this is leading to a greater societal
9 problem, of course, which we call the "gender gap,"
10 this gap that keeps growing.

11 And that we, in a small way, can do something
12 about it, right here.

13 Of course, a happier employee should be more
14 productive in the workforce.

15 I am looking forward, of course, to hearing
16 from the business community, which is coming up
17 shortly thereafter.

18 One of my hats that I wore at New York City
19 also, was chair of economic development, so I was
20 very, very interested in how they did.

21 And I believe that we found a balance that
22 made it possible.

23 And I believe that these bills that we're
24 looking at make it possible also.

25 I, of course, will favor a 12 week, and

1 including all employees, but, let the conversation
2 continue.

3 Thank you, Mr. Chair.

4 Good see you.

5 SENATOR MARTINS: Thank you very much.

6 Senator Squadron.

7 SENATOR SQUADRON: Thank you very much.

8 I just want to talk about this exemption --
9 the potential of an exemption, based on the number
10 of employees, because that's something that we do
11 see in different settings, somewhere.

12 Can you just explain sort of a scenario where
13 an exemption for a small employer might be
14 appropriate, and why that wouldn't apply here?

15 You touched on that point, but I just think
16 it's a really important one that, you know, is
17 easily missed.

18 This is not an employer benefit.

19 This is an insurance program, on the
20 paid-family-leave side, entirely funded by
21 employees; on the TDI side, and jointly.

22 So what is something where you could kind of
23 imagine a small employee -- a small employer having
24 an argument to be exempt, a different kind of
25 benefit?

1 SHERRY LEIWANT: I honestly can't, because
2 I think that --

3 SENATOR SQUADRON: So there's no other sorts
4 of benefits at all?

5 SHERRY LEIWANT: I think -- you know --

6 SENATOR SQUADRON: In paid-sick, even in
7 New York city, for example.

8 SHERRY LEIWANT: Oh, other kinds of.

9 Yeah, we have -- you know, we have a small
10 exemption for under five in New York City, and it --

11 SENATOR SQUADRON: And what was their
12 argument for that?

13 Whether you agree with it or not, what was
14 the argument?

15 SHERRY LEIWANT: That they were paying for it
16 out of their pockets.

17 And so the idea was, that the smallest
18 businesses are really going to have trouble doing
19 that.

20 That it's -- you know, I mean, and it -- you
21 know, it has a certain, "we don't like them."

22 But, you know, I've been also writing
23 paid-sick-days bills around the country, and,
24 mostly, there are these small exemptions for
25 small -- the smallest businesses because, they say,

1 We're are not going be able to afford it.

2 But that isn't the case here.

3 SENATOR SQUADRON: So I just want to be make
4 sure that we all fully understand that distinction.

5 So in the scenario of a paid-sick benefit,
6 that's something that the employer is funding.

7 That is a day where the employee is not
8 working?

9 SHERRY LEIWANT: Yes.

10 SENATOR SQUADRON: And is receiving their
11 salary?

12 SHERRY LEIWANT: That's correct.

13 SENATOR SQUADRON: Which is something the
14 employer has to pay for?

15 SHERRY LEIWANT: That's correct.

16 SENATOR SQUADRON: We both happen to be
17 supporters of that policy, not everyone is, but
18 that's what that policy is.

19 This policy is not something the employer is
20 paying for?

21 SHERRY LEIWANT: That's correct.

22 Not at all.

23 SENATOR SQUADRON: It is being funded -- and,
24 so, in a scenario where you have a carve-out for
25 employers of certain sizes, for people who work at

1 companies of less than a certain size, you could
2 easily have a scenario, where someone has not paid
3 into this system at all --

4 SHERRY LEIWANT: Right.

5 SENATOR SQUADRON: -- goes to an employer of
6 over 25 --

7 SHERRY LEIWANT: Right, exactly.

8 SENATOR SQUADRON: -- has a qualifying life
9 event, and then gets the paid family leave, having
10 not paid in it.

11 SHERRY LEIWANT: Correct.

12 SENATOR SQUADRON: Or, alternatively, you
13 actually create a disincentive for people to go work
14 for a startup, to go participate in the
15 entrepreneurial economy --

16 SHERRY LEIWANT: Yes, especially --

17 SENATOR SQUADRON: -- because they've been
18 paying in for years and years with the larger
19 employer, they go to a smaller employer, and, that
20 contribution doesn't work.

21 It would be like having social security only
22 be available if you retired from employees of
23 certain sizes.

24 I think it's a really important distinction.

25 I think there's a policy conversation to be

1 had over small businesses and larger businesses.

2 I actually sponsored a piece of legislation
3 that -- I sponsor, currently, a piece of legislation
4 that would increase the minimum wage more quickly
5 and more dramatically at larger businesses than at
6 smaller businesses.

7 National chains, based on their revenue size,
8 we would get to a \$15 minimum wage more quickly for
9 those large employers than for smaller ones.

10 So, there is a real issue here for small
11 businesses that I think we do need to acknowledge in
12 a state like New York, and in a city like the one
13 that I come from, New York City, where we really
14 want small employers to be able to thrive.

15 They are such an important part of the
16 economy. They are often working much closer to the
17 razor's edge than the larger or the national
18 businesses.

19 This conversation has nothing to do with
20 that, though, and I think that's very important.

21 This is an employee contribution,
22 employee-funded insurance program.

23 Or in the case of TDI, a 65-year-old program,
24 with very low costs, with shared contributions from
25 the employer and the employee, just like

1 social security, just like unemployment insurance,
2 unlike a benefit like paid sick leave.

3 SHERRY LEIWANT: Precisely.

4 And I would say, again, that carving out the
5 small businesses will be a detriment to them.

6 It's really telling them, okay, you know,
7 there's a benefit out here that you're not paying
8 for and that the bigger guys aren't paying for, and
9 the State is running, but your employees can't
10 access it.

11 SENATOR SQUADRON: And, of course, a big
12 cost, especially for small employers, is turnover.

13 SHERRY LEIWANT: Right.

14 SENATOR SQUADRON: And even if they can, as
15 you say, if they really do see their employees as
16 family themselves, and they can afford to give them
17 the time off, which they're going to take anyway --

18 SHERRY LEIWANT: Right.

19 SENATOR SQUADRON: -- they're going to take
20 the time off when you have a child.

21 SHERRY LEIWANT: Exactly.

22 SENATOR SQUADRON: You're going to take time
23 off when you have a parent at end stage of their
24 life.

25 They're going to take the time off, but they

1 can't make it affordable for them.

2 Under this proposal they wouldn't be required
3 to.

4 The system would, through employee
5 contributions.

6 SHERRY LEIWANT: Right.

7 SENATOR SQUADRON: I just think that's such
8 an important distinction for those of us who are
9 conscious of the burdens that get put on especially
10 small employers.

11 This just isn't one of those categories,
12 unlike, for example, my minimum-wage proposal.

13 Thank you.

14 SHERRY LEIWANT: Thank you.

15 NANCY RANKIN: If I could just add a point,
16 Senator Squadron, in that, we also have empirical
17 evidence, because we have the evidence from
18 California, New Jersey, and to a limited extent, in
19 Rhode Island which is newer.

20 But, in New Jersey, and certainly in
21 California, they looked specifically at small
22 business, and they found that, in fact, it was not a
23 burden on small business.

24 So we have that experience to look at.

25 And then we also have, as a practical matter,

1 that business size fluctuates, you know, so that you
2 might have thought you were working for a larger
3 business, but, then, three people leave.

4 Does it change into a smaller business and
5 you don't get your benefit after all?

6 So I think, for practical reasons, as well as
7 because we just have the empirical evidence and
8 experience in states, like California, that show
9 that we may have feared it would have been a burden
10 on small business; but, in fact, it turned out not
11 to be.

12 SENATOR MARTINS: Senator Savino.

13 SENATOR SQUADRON: Thank you.

14 I do have one question.

15 Because this has been, you know, an issue
16 that we've struggled with over, I don't know, the
17 10 years we've been trying to develop what
18 New York's paid-family-leave programs should be, do
19 we match the federal program or not?

20 Do you recall, what was the thinking behind
21 the FMLA that said "employers of 50 or more"?

22 How did they decide that that 12 weeks of
23 unpaid leave only applied to large employers?

24 Does anybody recall what the thinking behind
25 that was?

1 SHERRY LEIWANT: Well, I think it was some of
2 the things that Senator Squadron was saying, that,
3 you know, that that's going to be a burden on small
4 business, that they have to keep their job open.

5 If there's only five people in the business
6 and you have to keep the job open, that's more of a
7 burden on a very small business than on a larger
8 business.

9 And that's -- we're not talking about
10 insurance, we're not talking about (unintelligible).

11 So I think that was -- and then there was the
12 idea -- there really was the idea, because I do
13 remember, that it would be revisited, and that you
14 would be able to bring that threshold down. And it
15 just never happened.

16 SENATOR SAVINO: And it never happened.

17 All right, thank you.

18 SENATOR MARTINS: Thank you.

19 Senator Kennedy.

20 SENATOR KENNEDY: Thank you, Chairman.

21 And, thank you, Nancy and Sherry, for your
22 testimony here today.

23 It certainly is captivating to hear these
24 personal stories as well.

25 And one of the titles of your testimony, as

1 I read, was, "An Issue Whose Time Has Come: Paid
2 Family Leave."

3 I couldn't agree more.

4 It's certainly time New York State step up
5 and be a leader in the nation and set a precedent.

6 I would like to switch gears, if I could, to
7 another issue that has a direct impact on working
8 families across our state, and that's the issue of
9 child-care subsidies.

10 In Western New York, we're experiencing a
11 rebirth, in large part, to New York State's
12 investment in our community; a lot of public-sector
13 dollars that are leveraging private-sector
14 development.

15 But, unfortunately, there's many working
16 parents that aren't able to participate in this
17 renewed economy because of the staggering costs of
18 child care.

19 And, currently, there's child-care subsidies
20 provided in Erie County, which is out in
21 Western New York, Buffalo, where I reside.

22 And in Erie County, and many other counties
23 in New York State, the child-care subsidy is at
24 200 percent of the federal poverty level, those
25 families would qualify.

1 But, there are counties in the state --
2 Oneida County, the Capital Region, Monroe County --
3 where that qualification number, the threshold, is
4 actually at 275 percent of the federal poverty
5 level. And the child-care assistance is actually
6 issued through the Workforce Development Institute's
7 child-care enrollment program.

8 And, we're fighting right now, collectively,
9 to get more funding in the budget, to change this
10 disparity, to create an even playing field, for
11 working families across the state, whether it's
12 Erie County or New York City or anywhere in between.

13 And I can tell you, personally, in
14 Erie County, there would be an added 300 children
15 that would qualify if we were able to get this
16 improved subsidy.

17 And, so, I just wanted to ask you about
18 child-care subsidies; the importance of child care,
19 and the ability for families, working families,
20 especially single mothers, and the ability to get an
21 appropriate child-care program, to allow them to
22 enter the workforce and to become a member of the
23 workforce again, as has been articulated by some of
24 my colleagues, and yourself in some of your
25 testimony.

1 Unfortunately, there are families that have
2 to forgo opportunities for advancement in the
3 workforce because of the lack of paid family leave.

4 But I would submit, that child-care subsidies
5 offer that same problem.

6 And so I wanted to hear what your thoughts
7 were on that situation as well.

8 SHERRY LEIWANT: Yeah, I mean, certainly,
9 I think it's a continuum.

10 I think one of the reasons that we -- one of
11 the reasons -- one of the many reasons that we
12 support paid family leave is that, for a very small
13 child, it's going to be very difficult to find infant
14 care.

15 Especially, there's some very good laws that
16 protect, you know, ratios, et cetera, for very small
17 children, but, it becomes very expensive.

18 So I think that is another reason to support
19 paid family leave, is for the -- but, certainly,
20 after parents go back to work, things have not
21 stopped.

22 If they want to be working, then there has to
23 be child care.

24 And, you know, we certainly are supportive of
25 efforts to make it so that everyone can afford

1 quality child care in this state.

2 It's essential, I totally agree with that.

3 And it should be -- certainly, it should be
4 fairly distributed in terms of subsidy.

5 SENATOR KENNEDY: Thank you.

6 SENATOR MARTINS: Thank you, Senator.

7 Just following up on the point that
8 Senator Squadron was just making a few moments ago,
9 because I haven't heard a proposal that would carve
10 out small businesses altogether.

11 You know, if we are looking at this as a,
12 predominantly, employee-funded system, the concerns
13 that I have heard is that, you do have small
14 businesses that have key personnel, and sometimes
15 the flexibility that they have to not have somebody
16 there for a prolonged period of time is significant,
17 and so it creates certain pressures.

18 What I have heard is creating a threshold,
19 similar to FMLA, but slightly different, as they do
20 in other states, as to which jobs will be guaranteed
21 in the event that a person chooses to leave on paid
22 family leave.

23 If they do, you know, the threshold typically
24 is, and please correct me if I'm wrong, that, above
25 that threshold; in this case, 50 employees or more,

1 that you would have protections that your job would
2 be guaranteed, or a similar-type position or
3 comparable position with would be guaranteed.

4 But if you have 50 -- or fewer than
5 50 employees, that the small business would not have
6 to guarantee that job; again, specifically, for
7 those small businesses where they don't have the
8 flexibility, perhaps, of not having somebody there.

9 And, whereas we would expect that they would
10 keep that job and position open for their employee
11 when they got back, there wouldn't be a requirement
12 that a two-, three-, four-, five-, or so-person
13 small business would have to keep that position
14 open, because they may not have the flexibility of
15 covering that position. They may have to bring
16 somebody on.

17 And, so, it allows flexibility for the small
18 business, understanding that there are different
19 pressures when you're dealing with the smaller
20 businesses as opposed to the larger businesses.

21 Would you support such a provision in a
22 discussion for paid family leave in New York?

23 SHERRY LEIWANT: I mean, I think that's a
24 conversation, but I do -- I think, on our side of
25 it, I would say that, you know, if people are paying

1 into this insurance benefit, and the only way they
2 can take it is to risk their jobs, that's not really
3 on -- on the worker's side, that's not really fair.

4 So -- but, that said, you know, there are
5 differences in terms of job protection in the
6 different states.

7 SENATOR MARTINS: But a slightly different
8 point then was made by Senator Squadron, because he
9 was saying, if you're paying into it, you should
10 have the benefit of having paid into it; that is,
11 you would get the 6 weeks, or 12 weeks, whatever
12 that term would be, and the payments during that
13 period.

14 I don't think anybody is questioning that.

15 The question is: For a small business,
16 obviously, balancing the issue, and trying to create
17 the consensus around a program, and looking at what
18 they have done in other states, that has been
19 included as well, as a difference, that allows for
20 addressing some of the concerns that have been
21 raised by small businesses, when it comes to,
22 especially those smaller businesses, where that kind
23 of flexibility just simply doesn't exist.

24 SHERRY LEIWANT: Yeah, again, you know,
25 I think that's a conversation.

1 I mean, I think what we were talking about
2 with Senator Squadron was the money.

3 And that's -- you have to give everybody --
4 everyone has to have that access to that benefit,
5 I think, the money.

6 But, in terms of job protection, I think
7 that's another conversation.

8 We would like to see that come down from 50,
9 because it just -- as I say, if you have a benefit
10 that you're taking advantage of, you shouldn't have
11 to be fired to use it.

12 There are a number of states that have come
13 down from 50, to 25. Even without paid leave, they
14 just have done it, and do job protection on a lower
15 threshold, in a state law.

16 That's -- I think 10 states have done that.

17 So we would like to see the threshold come
18 down for job protection.

19 And the Addabbo -- Senator Addabbo's bill,
20 like the Assembly bill, would protect everybody.

21 But as I say, I think that -- you know,
22 that's a conversation that could be had, about that
23 threshold.

24 SENATOR MARTINS: All right.

25 Thank you, both.

1 I appreciate your testimony here this
2 afternoon.

3 Thank you.

4 SHERRY LEIWANT: Thank you.

5 NANCY RANKIN: Thank you.

6 SHERRY LEIWANT: Senator Savino, did you
7 have -- I'm sorry. You had asked Donna a question,
8 and I -- did you want to -- did you want me to
9 answer it?

10 Because I don't remember what it was.

11 I apologize.

12 SENATOR SAVINO: E-mail me.

13 NANCY RANKIN: Okay.

14 SENATOR SAVINO: E-mail me (inaudible).

15 NANCY RANKIN: Okay. Thank you very much.

16 SENATOR SAVINO: Thank you.

17 SENATOR MARTINS: Our next witness testifying
18 this morning -- this afternoon, is Ken Pokalsky, who
19 is the vice president of government affairs with
20 The Business Council.

21 KENNETH POKALSKY: Yes, good afternoon.

22 SENATOR MARTINS: And accompanied by
23 Tom Minnick as well.

24 Good afternoon.

25 KENNETH POKALSKY: I'm joined here by

1 Tom Minnick.

2 I'm vice president of government affairs for
3 The Business Council. Tom Minnick is our labor HR
4 expert.

5 One of the things that we do is provide
6 HR compliance guidance to employers, and Tom speaks
7 with employers, large and small, every day of the
8 week.

9 So I'm going to talk a little bit about our
10 concerns about legislation, and Tom will give you
11 some -- relay to you some of the concerns he hears
12 from practitioners on the challenges of dealing
13 with a paid-family-leave law, as proposed in
14 New York State.

15 Before I start, I've heard a lot of things
16 already this morning, some of which I think is --
17 some of which is irrelevant, or, perhaps, even
18 disingenuous.

19 But, we hear that, you know, Canada has a
20 great program.

21 I don't know that losing people to the
22 economic wonderland of Canada is a real challenge
23 for New York or the U.S. And at the moment, after
24 having a decent UI rate, Canada is now about one
25 full point above the U.S., which Canada's economy

1 isn't that -- isn't performing as well as the U.S.
2 right now.

3 I heard a number of references to California.

4 And I'm sure that, as you follow other
5 states, California is facing all kinds of
6 challenges.

7 Their budget's a mess.

8 Their municipal finances are a mess.

9 And right now, their unemployment rate is the
10 fourth highest of any state in the country, almost
11 7 percent.

12 And I'm sure it didn't happen because of paid
13 family leave, but, certainly, I think, you know, we
14 heard the suggestion that it's somehow indicative
15 that their economy is fine and paid leave had
16 nothing to do with it.

17 We also heard mentioned a couple of times
18 that New York City is the strongest regional economy
19 in New York State.

20 It was before the city council passed paid
21 leave, it is now. And I think it's, quite frankly,
22 a strong economy despite some of its policy choices.

23 But even in -- if you look at New York City's
24 recent economic performance, it's a bit of a veneer.

25 It's had a very strong job-growth percentage,

1 but if you look at the makeup of the new jobs and
2 jobs being created in New York City, they tend to be
3 in the lower-wage industries, particularly
4 hospitality and leisure.

5 Their highest-paid jobs in the financial
6 services are still well below their pre-recession
7 peak.

8 New York State has struggled with
9 manufacturing jobs. We've lost manufacturing jobs
10 at double the national rate for the better part of
11 two generations.

12 New York City's manufacturing workforce has
13 fallen double the state rate.

14 So, yes, New York City is showing good job
15 growth, but the makeup of that job recovery in
16 New York City is not as strong as I think all of us
17 would like it to be.

18 So, again, these are, you know, comparisons
19 to what other regional economies are doing, and
20 somehow that's suggestive of the effects, or lack of
21 effect, of a paid leave law, I think, are
22 misleading.

23 And the one thing we heard this morning that
24 I thought was the most interesting, and perhaps
25 troubling, was response -- or, an answer that the

1 first witness today, that seemed to suggest that
2 costs don't matter. That employers don't go out of
3 business because of some particular mandate.

4 I think we can all think about, you know,
5 large scale, largely, unionized employers, who
6 were -- had large operations in New York State, you
7 know, 20 years ago, that are no longer here.

8 And if you look at -- and it's always hard to
9 say, "This is what caused it."

10 And, you know, our frustration in dealing
11 with legislative proposals is:

12 Mandates on employer-provided health care
13 doesn't matter;

14 And, a billion dollars in new assessments on
15 energy costs don't matter;

16 And, significant increases in workers' comp
17 costs don't -- all of these things, taken
18 individually, never matter.

19 But we can't look at New York State's
20 economic performance, particularly that upstate
21 performance, and say, none of this matters.

22 Of course it matters.

23 So, you really have to look at, whether it's
24 paid leave, or minimum wage, or any other, you know,
25 employer-cost mandate that's being talked about

1 before the Legislature, and put it in that context.

2 And, I'm not going read my testimony, but one
3 of the things we talk about is, again,
4 New York State, if you look at over the last
5 10 years, or, since the beginning of the 2009
6 recession, New York State has outperformed the
7 nation in terms of recovery.

8 Virtually all of that growth is in
9 New York City.

10 Right now, 27 out of the 50 counties -- I'll
11 say upstate counties, the counties that are outside
12 the MTA service region, 27 out of the 50 have yet to
13 recover the private-sector jobs lost in the 2009
14 recession; meaning, there are fewer people in
15 private-sector jobs in 27 out of 50 counties today
16 than there was in 2008.

17 So, we have the sense that the state is doing
18 well economically.

19 The economic performance in New York State is
20 very mixed.

21 Much of it is downstate.

22 Four out of the five boroughs are doing quite
23 well.

24 Bronx is struggling.

25 Long Island is doing okay.

1 Even the northern suburbs are not recovering
2 strongly from the recession.

3 And, much of upstate has been flatlined, you
4 know, going back over the last 10 years.

5 So you have to put it in those contexts.

6 The other context I think you need to
7 consider is, I don't think the cost of increased
8 TDI coverage, driven by paid leave, is that
9 significant in and of itself.

10 I would say this:

11 We have talked to actuarials with some of the
12 insurance companies that we work with in
13 providing -- we -- our insurance trust sells
14 TDI coverage to employers.

15 The numbers they've given us are -- in
16 looking at both the Senate and Assembly bill,
17 including the version of Senate bill that has both
18 paid leave and increased non-leave TDI coverage, and
19 they're projecting premium-cost increases of between
20 1.5 and 3.5 times current costs.

21 That's well more than \$100 a year, I think
22 one of the testifiers had given the number.

23 And not only that, based on, say, the
24 employee-share cap that's in the Assembly bill --
25 and, Tom, you can correct me if I'm wrong -- I think

1 when TDI was first adopted all the many years ago,
2 it was seen as a 50/50 split.

3 We're looking at a premium share of about
4 5 to 6-to-1, employer-to-employee.

5 And the last thing I'll say on this point:

6 We appreciate some of the modifications that
7 the Senate has made in their proposal to address
8 impacts on business.

9 The small-business carve-out, the
10 cost-sharing approach, we appreciate that.

11 And we appreciate the position that, today,
12 there's a focus on the paid leave, and perhaps
13 leaving where it is, for now, the TDI benefit.

14 But, I have no -- no expectation that, even
15 if you were successful in having this as a
16 state-funded or a state/employee-funded program,
17 with no TDI increase, that we're not going to be
18 back in this conference room next year talking about
19 increasing the TDI.

20 I think most of the pro-leave witnesses we've
21 heard from today have talked about the need to
22 increase the TDI benefit as well.

23 So you need to put it in these -- in these
24 contexts.

25 I've hit on most of the points.

1 I've just got to quickly take a look at...

2 Oh, the last thing I want to say about the
3 proposal, and, again, we appreciate -- we appreciate
4 some of the amendments that the Senate has made.

5 We know in the version that's in the budget,
6 it talks about covering a portion of the cost, and
7 the costs related to the paid-leave component,
8 initially, with general-fund contribution, and,
9 then, through some unspecified split between general
10 fund and employee benefits.

11 As a practical matter, I mean, TDI is a
12 coverage mandate imposed on employers.

13 Employers are required by law to purchase
14 coverage, either through commercial carrier or
15 through SIF.

16 And, if you use workers' compensation program
17 as a proxy, there's somewhere between four and
18 five hundred thousand entities in New York State
19 required to buy workers' compensation insurance.

20 So, a similar number who are required by law
21 to pay -- to buy TDI coverage as well.

22 I don't know of a practical way to use -- to
23 distribute a general-fund subsidy or cost-sharing to
24 four hundred to five hundred thousand private-sector
25 employers who are paying premium checks to their

1 provider.

2 A far more straightforward approach would be
3 to say, this is -- you know, to allow this to be
4 just directly passed through to employees.

5 I appreciate the effort.

6 I don't know how it works.

7 And, again -- and the last thing I'll say,
8 and then I'm going to turn it over to Tom, I found
9 it interesting that, earlier, I think it was
10 Senator Squadron who raised concerns about a
11 general-fund contribution here, because, future
12 years, economic recession will put, you know,
13 additional hardships on state government.

14 I would love to hear that kind of concern
15 raised about private-sector employers having to bear
16 costs, this, or anything else, during economic
17 recessions as well, because, certainly, we bear it
18 too.

19 This is a -- I always find it interesting
20 that when legislators are very willing to impose
21 costs on the private sector, because they have
22 concerns about those costs borne by the public
23 sector may be difficult to bear in less-bounceable
24 times than perhaps we have today.

25 So those are our -- those are some thoughts

1 that we think the Legislature needs to consider:
2 Look at the overall context.

3 One last point. Because I'm not reading,
4 I got to jump around.

5 There are several major cost components
6 imposed on employers.

7 Workers compensation now is a more expensive
8 program, both, in absolute terms, by far, and in
9 relative terms, than before the 2007 reform package.

10 We now have the fourth-highest average
11 workers' comp premium rates of any state in the
12 nation. About 48 percent above the national
13 average.

14 We just did a significant bump up in our
15 UI taxable wage base, and the average UI taxes, you
16 know, to pick up the cost of borrowing from the
17 federal government.

18 So we do have expenses, costs of employer
19 mandates.

20 Again, this is the context that this needs to
21 be considered.

22 And now I really mean it, last point:

23 Our members -- and Tom will give you the
24 flavor of this -- our members understand that the
25 overall compensation package they offer, including

1 paid leave, whether it's vacation, sick time,
2 et cetera, is important.

3 It's important to getting and retaining the
4 employees you want and need.

5 Our employers have crafted compensation
6 packages that work for them and their employees.

7 National survey data shows that somewhere
8 between 75 and 85 percent of employers provide paid
9 leave today.

10 They provide it in different forms.

11 It could be a combination of sick days,
12 vacation. This is not counting, you know, paid
13 holidays.

14 But they do that within the context of their
15 ability, both financially and staffing, to
16 accommodate it.

17 And, whether it is the Senate bill or the
18 Assembly bill, any new proposals or any new mandates
19 on employers will have to be dealt with by the
20 employers in the context of those overall
21 compensation packages.

22 So, anyway, those are some of the contextual
23 issues that we think is important that the
24 Legislature considers.

25 Tom?

1 THOMAS MINNICK: Good morning.

2 In talking with Business Council members,
3 I'm going to differentiate two groups, because there
4 are some distinct different concerns that these
5 two groups have.

6 The first group is the group that employs
7 50 or more employees and is already subject to the
8 federal Family Medical Leave Act.

9 So, they are already used to 12 weeks of
10 unpaid leave, where they integrate in their current
11 time-off programs, sometimes to get through that
12 full 12 weeks, other times, not, based on their
13 particular programs.

14 And while the categories of absence -- caring
15 for a newborn, newly adopted child, caring for
16 seriously ill family members -- is the same in both
17 the Assembly and Senate bills, and matches up to the
18 federal FMLA, those eligible employees and those
19 family members who could trigger a leave is more
20 expansive than the federal family medical leave.

21 On paper it doesn't look like much, but,
22 these employers are concerned about the additional
23 leave time that will be generated from either of
24 these state-level bills.

25 The second thing are additional costs in

1 two areas:

2 Number one, additional premium increases.

3 We've heard discussion over the years, and
4 we've seen in the bills, that the family-care
5 portion will be picked up by employees or a state
6 subsidy of some kind.

7 We understand that.

8 However, with the increase in the suggested
9 disability maximum increases, as Ken mentioned a
10 moment ago, there are some significant increases in
11 premium, DBL premium, that will result, that they
12 will be responsible for.

13 And, let me add that, this is, of course, on
14 top of the current time-off programs that employers
15 have; which, you know, generally, I guess, all
16 benefits, including time-off programs, is usually a
17 35 to 40 percent above payroll-cost number.

18 So, they're already investing significant --
19 significantly in time off. This is another cost on
20 top of that.

21 That's one cost.

22 The second cost, is the replacement cost.

23 They are, since they deal with the federal
24 Family Medical Leave Act now, they have gotten used
25 to a certain level of absence, and they've taken

1 means to deal with that.

2 I think we all agree that expanding the
3 definition of "disability" to family care, and,
4 increasing the DBL maximum, will cause additional
5 absences.

6 These additional absences, they are concerned
7 about; and, mainly, certainly for many of the
8 skilled positions that our members would have to
9 replace.

10 This is not going out to a Manpower or a
11 Kelly and getting, for 6 or 12 weeks, a replacement.
12 It really remains in-house, with mandatory overtime,
13 on those current skilled employees that they already
14 have.

15 Not factored in this, at least into the
16 discussions, is, you know, a morale factor that they
17 have to deal with in bearing down on their current
18 employees to pick up the slack, usually at overtime
19 rates.

20 Those are the cause of concerns.

21 Something that has not been mentioned at all,
22 that I talked to my human resource managers and
23 directors about, that's hard to quantify, but I'll
24 say it anyhow, is the management of intermittent
25 leave.

1 Now, most of the folks who testify talk about
2 caring for a newborn child, bonding time, maternity
3 leave, and, on the family-care side, caring for a
4 seriously ill family member, usually a block of
5 time.

6 I know some examples in the testimony, when a
7 family member is near death, that a block of time is
8 certainly needed for the family affairs.

9 But, both the federal Family Medical Leave
10 Act, and I bring it up because that's the original
11 context, but, both of the current bills, the Senate
12 and the Assembly bills, also have this
13 intermittent-leave component.

14 And intermittent leave is very tough to
15 manage today, and these are HR professionals who do
16 this; that's what they do. They do it all the time,
17 every day.

18 And, the extension, and the additional
19 intermittent leave, that would be generated from a
20 state-level mandated program, they are very, very
21 concerned about, because intermittent leave, on the
22 federal level, can go in as increments as small as
23 one hour.

24 Very difficult for employers to manage.

25 And, again, we would see some increase in

1 intermittent-leave requests as a result of the
2 statewide proposals.

3 The -- those are the main concerns with our
4 larger employers.

5 The second group are the employers under
6 50 who are not currently, and have never been part
7 of, the federal family medical leave.

8 Certainly, their concern is -- main concern
9 is, to the extent they are able, they have been
10 working with their employees, for years, on time-off
11 issues, be they maternity-related, child bonding, or
12 family care, within the confines of their current
13 time-off programs, and, their ability to replace
14 employees who are out for extended periods of time.

15 And, naturally, they would prefer to keep
16 doing it in-house, to the extent they are able, and
17 not have a cookie-cutter type of mandate imposed
18 upon them, especially in an area where they really
19 haven't been mandated before.

20 KENNETH POKALSKY: So, those are both the
21 legislative concerns and some of the practical
22 concerns we hear from our members.

23 I'll be happy to take any questions or
24 comments that you have.

25

1 SENATOR MARTINS: Thank you, gentlemen.

2 Senator Sanders, you mentioned you had a
3 question?

4 SENATOR SANDERS: I'll yield to
5 Senator Savino.

6 SENATOR MARTINS: Senator Savino.

7 SENATOR SAVINO: Thank you, Senator Martins.

8 Ken, Tom, I love you guys, I really do, but
9 I feel like "Groundhog's Day" here.

10 I've been having the same conversation with
11 you two guy for almost 10 years on paid family
12 leave, and while some of those conversations have
13 been informative, I don't reject everything that you
14 guys have to say on this issue. I understand the
15 population that you have to represent, and
16 I understand the concerns that they have.

17 But, I'm going to say this, I'm going to tell
18 you the same thing today that I told you when we
19 began this discussion years ago:

20 Those qualifying life events are happening in
21 the lives of employees, whether they are employers
22 of 50 or more, or below 50. They're happening
23 anyway.

24 So the replacement costs that employers have
25 to impose -- or, that are imposed upon them as a

1 result of their qualifying life events are -- they
2 have them anyway.

3 That's not going change whether we have a
4 paid-family-leave program in New York or we don't.

5 People have babies. Their parents get sick.
6 Their children get sick.

7 They take that time off anyway, which
8 triggers overtime, or, a temporary replacement.

9 That will not change. Nothing we do in this
10 bill, whether we adopt it or not, will change for
11 those employers, so that's not a valid argument
12 against a paid-family-leave program.

13 If we adopt the model that is completely paid
14 for by the employee, and pass-through of the
15 additional TDI can still go to the employee, and the
16 employers aren't paying for it, that's not a valid
17 argument against it anyway.

18 The reality is, people get sick, they have
19 qualifying life events, they take time away from
20 work.

21 So, we have to decide, what we should decide
22 is, how do we develop a benefit package that makes
23 sense for employees so that they want to work for
24 somebody?

25 You represent several large employers that

1 provide better benefits, and somehow or other, they
2 manage to do so.

3 The Business Council does. I asked you on
4 the way in the door, "Do you have paid family
5 leave?" and you said, "Yes."

6 We have paid family leave in the government.

7 Many of your members provide a better
8 benefit.

9 So I will ask you: How do they deal with all
10 of these costs that you're concerned about for
11 people that don't have it, and still manage to run
12 in the state of New York?

13 And, I don't need to hear about all the other
14 problems that New York State employers face.

15 We're only trying to figure out, how do we
16 replace a -- how do we create a wage-replacement
17 mechanism that has no cost to employers, but
18 provides a real benefit for employees so they can
19 deal with those qualifying life events that are
20 going to happen to all of us anyway?

21 KENNETH POKALSKY: Well, I don't know that
22 any employer has a "leave" policy, a paid-leave
23 policy, that matches either the Senate, certainly
24 not the Assembly, where you're eligible for 12 weeks
25 of paid leave after one month of service, as

1 I understand how it works, because it's in the
2 context of TDI.

3 Well, how do companies accommodate this?

4 There seems to be dismissing the fact that
5 the majority of employers have paid leave today.
6 They provide paid leave to their employees.

7 It's not the paid leave in the format that's
8 being presented in this legislation.

9 And one of our challenges is, that we've
10 looked nationally, we've looked in the state,
11 I don't know that there's any good data. Most of
12 what's out there is survey data.

13 But there are employers -- most employers
14 have "leave" policies today, and they fashion those
15 "leave" policies to accommodate what their needs are
16 and what they can accommodate.

17 We as an -- we're a small employer, we're
18 under 50. We have a leave policy. It certainly
19 doesn't provide 6 or 12 weeks, but it provides a
20 combination of paid vacation, paid sick, personal
21 days, and, family leave.

22 Employers accommodate those things today,
23 because they fashion their policies based on what
24 their needs, and what they see as needed by their
25 employees.

1 SENATOR SAVINO: So would you say that, if an
2 employer was given the option of maintaining the
3 benefit -- the benefit that they developed on their
4 own, or, shifting all their employees to this
5 paid-family-leave policy, which would prevent --
6 probably reduce the cost of that benefit that they
7 would have to pay for, and the employee would
8 contribute to it, and actually pay for it, wouldn't
9 that be a better deal for the employer?

10 KENNETH POKALSKY: For the...?

11 SENATOR SAVINO: For the employer.

12 So, right now, I'm covering the -- the
13 Business Council is covering the entire cost of
14 providing a benefit, a combination of, you would use
15 your sick leave, annual leave.

16 You wouldn't have to qualify the sick leave,
17 so it would be, basically, duty-free leave.
18 Whatever the qualifying event is, you could use all
19 of your leave balances for that period of time.

20 Is that what you do at the Business Council?

21 KENNETH POKALSKY: If you're asking me,
22 "Would employers rather just have paid leave as,
23 eliminate all of the current policy on paid leave to
24 do the TDI-based leave"? --

25 SENATOR SAVINO: Maybe?

1 KENNETH POKALSKY: No, I doubt it.

2 But --

3 SENATOR SAVINO: Okay.

4 KENNETH POKALSKY: But that's not a realistic
5 proposal, so I don't know how useful it is to
6 answer.

7 SENATOR SAVINO: So -- well, maybe not.

8 KENNETH POKALSKY: The other thing I'll
9 mention --

10 SENATOR SAVINO: The reason I asked you, Ken,
11 is because you said, most employers already provide
12 that -- the majority of employers provide a benefit
13 equal to what we're discussing today.

14 KENNETH POKALSKY: Right.

15 SENATOR SAVINO: I'm not sure I agree with
16 that.

17 But, if an employer did do that --

18 KENNETH POKALSKY: No, I said most employers
19 provide paid leave, in one form or another.

20 Most employers -- most employees have the
21 access to some form of leave.

22 I mean, the thought is that there's none out
23 there.

24 You said, How do employers deal with this
25 now?

1 They have paid-leave policies that they
2 fashion based on their -- what they see as necessary
3 to maintain their workforce.

4 The other question that you asked about, you
5 said: Nothing changes because of the presence of a
6 benefit or increased benefit.

7 I think data will show that that's not true.

8 If you look at, and the State had been doing
9 a fair amount of data-mining on its workers'
10 compensation program, and showed that leave is
11 influenced by benefit, and not always -- I don't
12 think everyone would argue that, appropriately so.

13 So it does change the use of leave. No
14 doubt, it does.

15 SENATOR SAVINO: Well, I think that --

16 KENNETH POKALSKY: We can debate whether it's
17 always appropriate or not, but it does. It
18 certainly does.

19 SENATOR SAVINO: See, but I think that shows
20 it's a fundamental difference in our philosophies,
21 because I've heard over the years from the
22 Business Council, and other, you know, employee
23 representative -- employer representatives, that the
24 concern is, that if you allow employees to have a
25 wage replacement for these qualifying events in

1 their life, they'll actually take the leave.

2 I tend to believe that that's something we
3 should encourage, because you don't want the
4 intermittent absences; because, again, those
5 qualifying events are going to continue to happen in
6 people's lives.

7 Is it better for an employer to have someone
8 come in Monday and Tuesday, and then take off
9 Wednesday and Thursday, and then come back Friday
10 afternoon?

11 Or is it better to let them take that block
12 of time, knowing that they don't have to worry about
13 diminished income, or, drastically diminished
14 income, and deal with that event in their life, and
15 then come back and be a more productive employee?

16 That's where we differ on this issue.

17 I think this provides more stability to
18 employer; certainly, economic stability to
19 employees.

20 We may never come to agreement on this.

21 I do agree, though, that there are some
22 positions that you guys have brought forward over
23 the years, with respect to the issue of intermittent
24 leave, whether that should be covered by this taking
25 a day.

1 "What is a qualifying period of time to
2 trigger paid family leave?" I think that's a
3 discussion that we definitely need to have.

4 And, also, how do we coordinate this benefit
5 with existing benefits that an employer might have,
6 and what triggers one or the other?

7 But, on a philosophical level, the idea that
8 people should take time off to deal with these
9 qualifying events, and not have to suffer
10 financially, is something that I think is a bedrock
11 principle that I believe that we should pursue.

12 Thank you.

13 SENATOR MARTINS: Senator Sanders.

14 SENATOR SANDERS: Thank you.

15 I think that you laid out some very, very
16 worthy points that anyone should -- any worthy
17 person should take into consideration.

18 You will forgive my apparent crowing over
19 New York City, a father's -- just a fatherly thing.

20 I understood it was an oversimplification.

21 I understood that this one thing was not the
22 cause of.

23 And as you pointed out, good arguments can be
24 made that it would have done well either way.

25 If you would just answer two questions for

1 me, mine will be brief; and they are:

2 If we say that we have a carve-out for
3 smaller businesses, and not larger, could this be
4 seen as the government picking and choosing winners?

5 Could this be seen as, we are, in one sense,
6 if a thing is being paid for, regardless, are we
7 not -- do we not have a bias towards the larger
8 corporations than the smaller ones?

9 The second one is over the gender gap, and
10 I'm not sure if -- if you want to weigh in on it.

11 But, we have a seemingly growing gender gap
12 also, and a part of it is caused by women having to
13 come out of the economy to deal with real-world
14 experiences.

15 What do -- what should we do about that
16 portion of this?

17 Doesn't this aid us in dealing with that?

18 And if that is true, wouldn't it be a more
19 effective workforce in the future?

20 We may be taking some steps backwards at a
21 moment, but, if we are allowing women to get more
22 seniority, if they are getting more experience, and
23 staying in the game longer, wouldn't that give us a
24 better-prepared workforce in the long run?

25 So, again, picking and choosing winners, and,

1 the gender-gap argument.

2 KENNETH POKALSKY: On the first, I think
3 that's an easy answer.

4 I think it's the opposite.

5 I mean, many times, you see New York State
6 legislation, whether it gets passed or not, will
7 carve out small business or agriculture or some
8 entity who is being -- getting dispensation from
9 whatever cost or mandate being proposed.

10 We do it all the time.

11 So, if anything, I think it's a tendency to
12 avoid imposing costs on some, you know, target
13 class.

14 On the latter, I've looked at, you know, wage
15 data nationally and at the state level.

16 I don't really think, and I haven't fully
17 thought it through, but I don't really think this
18 legislation would make any significant difference in
19 the wage gap between males and females, in part,
20 because if you look at some of the -- you know, the
21 research done, it isn't temporary leave that's
22 having an effect on, you know, lifetime earnings by
23 women.

24 It's, long-term, people who remove themselves
25 from the workforce for a period of years, primarily

1 in -- you know, during child-bearing years. Not
2 temporary leaves, some of which are protected on the
3 federal Family Leave Act anyway.

4 So I don't think that this would have much of
5 an impact on it.

6 I really don't.

7 SENATOR SANDERS: There -- oh, I guess it is
8 loud.

9 Although I might differ with you, I will turn
10 it back to the Chairs.

11 Thank you very much.

12 SENATOR MARTINS: Thank you, Senator Sanders.

13 Gentlemen, I just wanted to thank you for
14 being here.

15 You know, one of the -- I am loathed to tell
16 anyone on any issue that their point is not valid.

17 I try to find consensus, especially in what
18 we do here, with different points of view.

19 And one of those questions that I will then
20 pose to you, as I posed to others is: Is there a
21 program for paid family leave that you believe,
22 structurally, can be set, so as to address the
23 concerns that you have for businesses and small
24 businesses in New York State; while at the same
25 time, addressing some of the concerns that have been

1 raised by advocates here today?

2 And, so, is there a path, where:

3 Deciding where the contribution rate is?

4 Who is contributing?

5 Where that threshold is for guaranteed jobs
6 and protections?

7 The number of weeks for which a person can
8 take paid family leave, whether or not there's
9 intermittent leave, or whether it's taken as a
10 block?

11 Are there -- is there a path where there's a
12 structure that allows us to advance this discussion
13 with the support from all sides?

14 And do you see that as a viable option?

15 KENNETH POKALSKY: I think as far as we can
16 answer is, you know, we've -- you know, we're
17 representing a membership, and we've heard what
18 their concerns are.

19 The one thing I could respond is that, you
20 know, we're not a position to, you know, support a
21 mandatory, a new, you know, labor mandate.

22 We hear is, the more you address the
23 practical concerns of compliance, the more this
24 looks like the federal Family Medical Leave Act, in
25 terms of the parameters and the application.

1 SENATOR MARTINS: Very well.

2 Anyone else?

3 Oh, I'm sorry.

4 Senator Addabbo.

5 SENATOR ADDABBO: Thank you, Mr. Chairman.

6 I want to thank both Chairs and the staff and
7 members for this hearing today, and for all those
8 who have given testimony.

9 Tom, Ken, thank you so much for being here
10 today.

11 Please note that when we do a bill like this,
12 it's certainly not drawing (unintelligible) on the
13 backs of businesses.

14 We all understand what our businesses mean
15 throughout the state, and certainly the backbone of
16 certain segments of our economics.

17 And, certainly, you know, throughout my
18 district, you know, these small businesses are the
19 little employment centers that employ local people.

20 So I know the value of protecting our
21 businesses.

22 And, again, I would just certainly focus, but
23 I guess, through this bill, we're trying to improve
24 upon the relationship between the employer and the
25 employee, making the better workplace throughout the

1 state.

2 So, certainly, that's my focus.

3 Just wanted to comment on a couple of things
4 that were mentioned.

5 Tom, you mentioned the overtime, and,
6 certainly, there's a cost in possibly hiring another
7 part-timer.

8 Just to reemphasize that, there is money
9 there.

10 If the person who has left to take that
11 12-week leave, that the insurance is paying that
12 employee, so the employer has the salary of that
13 employee who has left, for spreading it out over
14 hiring, possibly, a part-timer, or, distributing it
15 as far as overtime.

16 So, I don't think there's an additional cost,
17 certainly, for the employer.

18 And, Ken, the current system of paid leave,
19 I think, and what we're trying to do here, is
20 possibly apples and oranges, because the current
21 paid-leave system needs to be improved.

22 You know, currently, the TDI hasn't been
23 changed, that number is still the same, of \$170 a
24 week, from 1989.

25 You know, what is your opinion about

1 something that has not been changed, that tries to
2 help an employer -- employee, that hasn't been
3 changed since 1989, is that acceptable to you?

4 KENNETH POKALSKY: Well, let's remember what
5 that is.

6 That is an employer-required coverage for
7 injuries not related to work.

8 SENATOR ADDABBO: Right.

9 KENNETH POKALSKY: We're one of five states
10 to have it. And no state has adopted a TDI program
11 since 1969.

12 So, I would say that it's not -- from that
13 I would suggest, it's not really in the mainstream
14 of state-level policy actions these days.

15 But, again, I would put it in the context of,
16 I know we're here to talk about one bill.

17 Our membership has to deal with all of the
18 other things that aren't being talked about today.

19 So if we want to increase a cost of any
20 employer mandate, there's a lot of things that we --
21 issues we have in employer mandates that aren't
22 being talked about.

23 I think it has to be looked in that context.

24 So, yes, I think that there would be concerns
25 to say, that we should, you know, both, adopt a new

1 leave-coverage mandate, and, you know, do a
2 3 1/2 times, that's the proposal on the table today.

3 One of the proposals that's before the
4 Legislature, to do a 3 1/2 times increase in the
5 benefit under TDI as well.

6 SENATOR ADDABBO: I appreciate you at least
7 understanding that this needs to be looked at.

8 As in your recent statement, you know, we
9 need to look at this.

10 To show the importance of what the
11 Business Council opinion is about this, have you
12 been contacted by advocates for the Assembly bill?

13 Have you been contacted by certain advocates
14 for the paid family leave to try to get your opinion
15 on this?

16 KENNETH POKALSKY: Have we?

17 THOMAS MINNICK: We certainly have, Senator.

18 A number of the testifiers ahead of us,
19 I, with several of our member companies,
20 HR directors, sat down for almost two hours about a
21 month ago at the Business Council headquarters, and
22 we talked about, specifically, the Assembly bill,
23 and, of course, the issue, in general.

24 So, yes, there's been very -- this year,
25 especially, there's been very open --

1 SENATOR ADDABBO: More so than in years past?

2 THOMAS MINNICK: Oh, yes.

3 SENATOR ADDABBO: Right, yeah, I've seen
4 that, too.

5 KENNETH POKALSKY: But, also, I'll just add,
6 because you may not be aware, that we worked with,
7 and Senator Savino knows this story well, we reached
8 out to the labor advocates on reforms on Wage Theft
9 Prevention Act, which produced a compromise, where,
10 it did some regulatory relief for us, and we think
11 created a more useful enforcement mechanisms for
12 state in cases where employers were actually
13 stealing wages from employees.

14 We reached out to -- I don't know if we
15 reached out to them or they reached out to us, but
16 we responded to the concerns of labor advocates on
17 the labor-law components of the Women's Equality
18 Act: The disparity impact. Challenges attorney's
19 fees in pay-discrimination cases. Full coverage or
20 full applicability of state human-rights law. To
21 clarify and emphasize that employers have to provide
22 reasonable accommodations to -- for medical
23 conditions related to pregnancies.

24 You know, we have worked with labor advocates
25 on issues.

1 We may not be able to reach agreement on
2 everything, but we have. And sometimes we've done
3 the reach-out, sometimes they've come to us.

4 But I think we have a record of, you know,
5 where there's a compromise to be had, we've reached
6 them.

7 Some of them take three years, but, we've
8 reached them.

9 SENATOR ADDABBO: And, you know, listen, I'm
10 a firm believer that great things happen when
11 dialogue occurs, and we're inclusive about each
12 other's wants and needs and concerns.

13 And I'm hopeful that, if you have mentioned
14 the record of success in the past of negotiating
15 with labor, and with the -- again, with the focus of
16 the Business Council, that we here, too, with the
17 paid family leave, can come to some agreement and
18 some common ground with regard to this issue.

19 And, so, I hope those conversations with the
20 advocates with paid family leave continue, and we
21 keep an open door.

22 And, certainly, if I can be of any help,
23 please let me know.

24 But I do look forward to working on this
25 issue, because, like I said, I don't think it's a

1 question of "if" paid family leave ever happens.
2 I just think it's as question of "when" in this
3 state.

4 Thank you, Mr. Chair.

5 SENATOR MARTINS: Thank you, Senator.

6 Thank you, Senator Addabbo.

7 Gentlemen, thank you.

8 Appreciate it.

9 KENNETH POKALSKY: Appreciate your time.

10 THOMAS MINNICK: Thank you very much.

11 SENATOR CARLUCCI: Next we'll hear from
12 Michael Durant, the director for New York State,
13 National Federation of Independent Businesses.

14 MICHAEL DURANT: Good afternoon.

15 Thank you to both Senator Martins and
16 Senator Carlucci, Senator Savino, Senator Addabbo,
17 for hanging with us.

18 I know there's a lot of things going on, so
19 I will not read my testimony verbatim. I'll just
20 kind of go through some key points that I'd like to
21 make, and happy to respond to any questions you or
22 your staff have on this issue, moving forward.

23 NFIB represents 11,000 small and independent
24 businesses across the state; Long Island,
25 New York City, all across upstate. It covers,

1 virtually, every, I dare say, business within any
2 industry in the state.

3 And, rightfully so, there's been some
4 conversations about small business and paid leave,
5 and the small-business experience in other states,
6 and the impact.

7 And I appreciate the recognition by all
8 members of the Joint Committee today, taking a look
9 at that.

10 Small business is integral to our state's
11 economic future, our economic competitiveness.

12 Over 3 million New Yorkers are employed by
13 small businesses. 1 in 5 New Yorkers is employed in
14 a business that has 20 or fewer employees.

15 And they do, largely, to Senator Sander's
16 comments, I think, get excluded from positive
17 economic efforts, and disproportionately are
18 negatively impacted.

19 I think we can use -- I could highlight a
20 whole variety of issues, issues being talked about
21 today, and, this week, as the budget gets finalized.

22 They have not seen their taxes dramatically
23 reduced as we've seen in other places. They see
24 startup programs and targeted economic-development
25 programs, and small business, largely, don't qualify

1 or are excluded.

2 You know, the typical NFIB member has five to
3 eight employees, and that's anywhere from
4 four hundred fifty to eight hundred thousand dollars
5 a year.

6 So we're talking about, where you get your
7 hair cut. Probably where you maybe get your family
8 pizza on a Friday, your deli.

9 We do have manufacturers. We do have, you
10 know, some small startup; tech firms, et cetera.

11 But, predominantly, that is what I represent.

12 And I think what's important with leave
13 mandates and labor mandates, in general, and it gets
14 lost in public-policy conversations here in New York
15 quite a bit, is that there's not a
16 one-size-fits-all.

17 Too often, business gets lumped as business:
18 the chain stores, the retail stores, the major
19 corporations, Fortune 500 companies. But they
20 forget that the overwhelming private-sector
21 employers in the state, and in this country, are
22 small employers.

23 So, within even the small business, there are
24 complex issues and variables that exist.

25 Do they only employ hourly?

1 Is it only part-time work, first, that they
2 rotate?

3 Is it full-time, part-time?

4 Is it combinations of any of it?

5 So what I ask, when you look at this issue,
6 when I look at labor mandates, don't paint with a
7 broad brush, and continue to take consideration of
8 this.

9 We have opposed paid-leave mandates, and --
10 or, inflexible mandated leave requirements, not just
11 here in New York, but as an organization across the
12 country.

13 The problem is, we feel, is that, and it was
14 alluded to before, that most small businesses
15 already offer some sort of paid or unpaid leave.

16 According to a national NFIB survey 7 years
17 ago, 97 percent of our members indicated that they
18 provide flexible leave.

19 If you even look at the New York City debate
20 around sick leave, the Partnership for New York City
21 found that 70 percent of small businesses offered
22 formal paid time off, and 62 percent offered paid
23 sick time.

24 Of those that do not offer, when we survey
25 our members, they often, on a case-by-case basis, or

1 an informal policy, do allow leave for the reasons
2 we are looking at today.

3 And this is in spite of the FMLA exempting.

4 Now, I think what this speaks to is, small
5 employers, especially in this new economy,
6 acknowledge that they're competing with big-box
7 stores, they're competing with major corporations,
8 they're competing with each other, and they're
9 competing in the different business climates each
10 state has, and they understand that to have valued
11 employees, they need to offer the best compensation
12 and wage that they can.

13 And that's what they are trying to do.

14 I know, previously, they've talked about
15 replacement worker, and we've heard that
16 conversation.

17 For a too-small business, that can be an
18 issue.

19 If you think about the auto-repair shop that
20 employs four people, you have four bays, one's not
21 there, you have to replace that somehow, or, you are
22 going to have overtime costs, or somebody is going
23 to have to cover.

24 So, there can be a disproportionate impact,
25 financially, on a small employer with that.

1 Sometimes, in other states, we've seen,
2 depending upon what the compensation package, a
3 paid-leave package is put in place, it does increase
4 costs on small employers, forcing them to modify an
5 existing plans that they.

6 We've seen paperwork requirements, you know,
7 with wage theft, that, sometimes, that can
8 disproportionately impact small business.

9 So my point, and I can go through a whole
10 bunch of other things, and I don't need to, is where
11 I'm coming from is different than probably what a
12 lot of other business organizations or business
13 leaders would come from.

14 The impact of this issue on small employers
15 is tremendous.

16 And I think that, Senator Savino, you said,
17 you know, We're looking at this issue. We can't
18 look at it all.

19 I don't have that luxury, because I represent
20 such a varied and diverse group of employers that do
21 have complex issues.

22 And they are looking at minimum wage, they
23 are looking at health-care costs, energy costs,
24 workers' comp costs, UI, et cetera.

25 And if they're being excluded from positive

1 economic-development efforts, if they're being
2 excluded from positive tax reform, and these things
3 keep happening, it does impact them, and it does
4 impact their bottom line.

5 And, leaving you with this:

6 I think that because so many in our surveys
7 show that small employers are offering it, I think
8 that just mandating it is not going to allow them to
9 have the affordability to offer it.

10 They're not doing so because they can't,
11 because they understand that this is a new economy
12 and they have to offer something, to compete.

13 So that's me paraphrasing it all, and, have
14 at it.

15 SENATOR MARTINS: Senator Savino.

16 SENATOR SAVINO: Thank you.

17 Thank you.

18 Thank you for, you know, not reading your
19 testimony.

20 And I'm not going to debate with you the
21 challenges and the pressures that are appraised on
22 small businesses by the State of New York.

23 You know, I feel for you on that.

24 The only point I'm going to ask you again is:
25 Whether you're in large business or a small

1 business, your employees have these events in their
2 life and they have to take time off.

3 So if you're not paying the wage replacement
4 for them while they take that time off, isn't that
5 lifting a burden on you?

6 MICHAEL DURANT: I don't disagree that these
7 life events are going to happen.

8 SENATOR SAVINO: Right.

9 MICHAEL DURANT: Absolutely.

10 I think that what it comes down to, is not so
11 much the cost there with a replacement worker, but
12 also need to look at, maybe the loss of business
13 that losing that employee has, and how do you then
14 make up the difference?

15 SENATOR SAVINO: But don't you have to do
16 that anyway?

17 MICHAEL DURANT: Well, but the --

18 SENATOR SAVINO: It's happening.

19 MICHAEL DURANT: -- but the challenges are
20 increasingly difficult.

21 SENATOR SAVINO: So -- but, also, wouldn't
22 you say, if I'm an employee and I work for -- you
23 know, I'm one of those auto mechanics, and there's
24 only five of us, the owner and the four of us -- and
25 I have this event in my life, and, I need to take

1 the time off, and I have this wage replacement, this
2 paid-family-leave program now, that guarantees I'm
3 going to get paid, I'm more likely to come back to
4 work for you in the six weeks?

5 Because, one, I like my employer, I'm happy.
6 I've had that stability in my life. You're able to
7 let me go and deal with that. I'm going to be the
8 kind of productive employee that you want. I'm
9 going to come back to you;

10 As opposed to, I don't have that, I take the
11 time off, I can't afford it, you can't pay me,
12 I quit, you're stuck, and now you have to hire
13 somebody.

14 MICHAEL DURANT: Right.

15 So --

16 SENATOR SAVINO: You could stop right there.

17 [Laughter.]

18 MICHAEL DURANT: That would be nice. Right?

19 SENATOR SAVINO: That would be the answer
20 I want.

21 MICHAEL DURANT: Well, look, and I think
22 that, sometimes there is truth to that.

23 But, at the same time, because some small
24 businesses require very skilled replacement workers,
25 which are very hard to find, which then feeds into

1 your argument.

2 Some do not.

3 But, again, I think one of the biggest
4 problems I have in looking at this, and, like your
5 question, Senator Addabbo, to the Business Council,
6 we worked with labor on workers' comp, we worked on
7 UI, we worked on wage theft, we were happy to meet
8 with labor and other advocates -- and some of these
9 advocates that testified today have reached out to
10 me, and happy to talk with them -- there's a trust
11 factor.

12 You know, if I take just the issue -- and I'm
13 not poking the bear -- but if I take the issue of
14 minimum wage, this was a big issue, we just did it
15 two years ago, it's being phased in, now it's going
16 to happen again.

17 If you structured a paid-leave mandate, and
18 say it excluded 25, or it excluded 10, whatever it
19 is, we're going to be here next year having this
20 conversation.

21 If it's just an employer, if employers are
22 excluded, whether we use the TDI or the general
23 fund, that may be where we start, but where are we
24 two years later?

25 And, ultimately, who I represent, gets the

1 bulls eye.

2 And that's the problem I have even starting
3 having these conversations.

4 SENATOR SAVINO: I have no answer for you on
5 that. I really don't.

6 But I do think that if we -- we can develop a
7 policy here in New York State that takes into
8 consideration the concerns of large employers and
9 small employers.

10 MICHAEL DURANT: And, Senator, we'll always
11 have that conversation just to at least have it.

12 SENATOR SAVINO: Thank you.

13 MICHAEL DURANT: Thanks.

14 SENATOR CARLUCCI: Senator Martins.

15 SENATOR MARTINS: Just to dovetail off that,
16 and I appreciate the candor, I appreciate the
17 willingness to have the discussion, and I appreciate
18 the reluctance to have the conversation under the
19 circumstances that you detailed, because that's
20 reality.

21 But, again, I'll ask the same question I've
22 asked before:

23 You know, if we're attentive to those
24 concerns that are most likely to affect small
25 businesses, as a small business owner myself, if

1 I have -- well, let's say I worked for Senator
2 Savino.

3 SENATOR SAVINO: You would be very lucky.

4 [Laughter.]

5 SENATOR MARTINS: Right.

6 -- and I had the need to ask, because I had a
7 need to care for a loved one, I would go see my
8 employer and ask for that time.

9 If they denied me the time, I would be left
10 with the option of either continuing to work or
11 quit.

12 If I quit, again, the flexibility, that that
13 would allow the employer to make that decision:

14 One, can I afford to allow this person to
15 quit?

16 Can I afford to give them, you know, the
17 multiple weeks off to care for their loved one?

18 Or, frankly, if I can, I will. And if
19 I can't, I can substitute them and bring someone in
20 tomorrow, even though that's not my choice.

21 But, flexibility, I think is important when
22 we look at it from a small-business standpoint.

23 Certainly, the small businesses that you
24 represent, being in that range, 10 or less,
25 I understand that.

1 I understand that you just don't move people
2 around that way. That they have a role, and,
3 oftentimes, a critical role, in the viability of
4 that business.

5 If we are to incorporate those concerns, and,
6 if we get a commitment from the advocates that that
7 is sufficient, and that they will not come back in a
8 year or two, or three, or four, but allow the system
9 to roll itself out, similar to some of the examples
10 that we've seen in some other states, we can at
11 least continue the dialogue. Right?

12 MICHAEL DURANT: There you go.

13 SENATOR MARTINS: I appreciate it. Thank
14 you.

15 I appreciate you being here.

16 Thank you.

17 MICHAEL DURANT: Thank you.

18 SENATOR CARLUCCI: Thank you, Michael.

19 MICHAEL DURANT: Thanks, appreciate it.

20 SENATOR CARLUCCI: Next, in the convenience
21 of time, we're going to ask that the speakers come
22 up together.

23 We have Ms. Dolan, the assistant director
24 of DC 37;

25 Susan Antos, the senior staff attorney at the

1 Empire Justice Center;

2 And, Gregory Bender, the co-director of
3 policy with United Neighborhood Houses -- oh,
4 Kevin Douglas, the co-director of policy,
5 United Neighborhood Houses.

6 SUSAN ANTOS: Good afternoon.

7 SENATOR CARLUCCI: So please just introduce
8 yourselves, and if you could give us a summary of
9 your testimony, that would be really appreciated,
10 and then we'll do questions.

11 SUSAN ANTOS: Well, thank you,
12 Senator Martins, Senator Carlucci, Senators Savino
13 and Addabbo, for staying through this day.

14 A very important -- very important issue, and
15 thank you for having this hearing.

16 As you indicated, my name is Susan Antos.
17 I'm a senior staff attorney at the Empire Justice
18 Center.

19 Today I am testifying on behalf of
20 Winning Beginning New York, which is a coalition of
21 early care and learning organizations, and advocacy
22 organizations, across the state that care about
23 early care and learning issues.

24 Everything I say today is also supported by
25 the Empire Justice Center.

1 I'm on the steering committee of
2 Winning Beginning, and I'm also the co-chair of the
3 child-care subcommittee.

4 All of you should have gotten a packet.

5 And in the interest of time, I just want to
6 highlight for you a few of the key points, and point
7 to you to some of the resources that are in your
8 packet, that I hope will help you as you think
9 through the important issue of funding for
10 child-care subsidies.

11 The position of Winning Beginning this year,
12 was that \$100 million should be -- additional
13 dollars should be invested in child care this year.

14 The Assembly has added twenty-five in their
15 budget bill; in the Senate, twenty.

16 We'd definitely like to see more.

17 The reason why, is that we strongly believe
18 that child care is important, for many reasons.

19 One was mentioned by Senator Carlucci, which
20 is, brain development, quality child care is
21 critical.

22 And another by Senator Savino, which is, we
23 have to see this as a piece of economic development.

24 As Senator Kennedy said, Erie County may have
25 gotten a lot of money to help with its economic

1 development, but if they don't have enough money for
2 parents to pay for child care, then the jobs ring
3 hollow.

4 I brought a copy for each of the Chairs, and
5 I'm happy to show anyone else, if you don't already
6 have this report. It's a "Self-Sufficiency Standard
7 for New York State."

8 It's a report that analyzes, county by
9 county, and within family -- by family size, what it
10 costs a family to live.

11 And it details what's called a
12 "self-sufficiency wage"; which means, what it costs
13 a family to live and work in New York State.

14 It uses very modest markers: The fair-market
15 rent, for rent. It looks at the market rate for
16 child care.

17 And what it finds is that, in most counties,
18 people are paying more for child care, or an equal
19 amount, than they are for rent.

20 And when you're making the minimum wage, even
21 slightly over the minimum wage, there just are not
22 enough dollars there to make ends meet.

23 The self-sufficient wages, when you flip
24 through this book, you'll see, kind of start in the
25 high teens, at around \$17 an hour, and go up as high

1 as 30, depending on where you live.

2 And that includes nothing for student loans,
3 for credit card payments, for entertainment. It's a
4 barebones working budget.

5 It does include transportation.

6 So, funding for child care is a critical need
7 for working families in New York.

8 And so, in your packet, I wanted to highlight
9 a few things that will help you to analyze that
10 need.

11 One, there's a one-page handout called
12 "Child Care In Crisis." We try to keep this up to
13 date.

14 And what it does is, is it documents, county
15 by county, what counties are no longer able to serve
16 families, up to 200 percent of poverty.

17 This is a very conservative document, because
18 some counties keep their eligibility level at
19 200 percent, but they've shut the door to intake for
20 months.

21 You go to apply for a subsidy and they're
22 saying, We're tapped out. Come back another day.

23 Other counties have waiting lists.

24 In New York City, technically, the
25 eligibility level is 200 percent of poverty.

1 When I talk to my friends at the Center for
2 Children's Initiatives, their data shows that there
3 are very few families over 135 percent of poverty
4 that are able to access subsidies. There's just not
5 enough money in the system.

6 The other priorities of Winning Beginning
7 that have to do with child care, that I want to
8 alert you to the handouts in your packet around
9 these, are, that there be a fair and equitable
10 policy for the payment of absences.

11 This helps providers who are working people.

12 For those of you who have paid for child
13 care, I know when I paid for child care, when my
14 children were sick, I had to pay the provider
15 regardless of whether or not they were there, or
16 I was there, because, the provider has to turn on
17 the lights, pay her staff, pay for food, pay for all
18 of the activities, regardless of whether or not my
19 child shows up.

20 This -- for every provider in New York State,
21 that's how they bill private-pay parents.

22 But for subsidized children, they keep track,
23 in this very complicated data-system, attendance,
24 and providers are only paid, for the most part, when
25 children are there.

1 So, we have a piece on the "absence"
2 policies.

3 And we have -- we have a chart attached which
4 shows what the policies are, county by county.

5 The reason this should attach your attention
6 is coming down the pike.

7 The federal law has now told states that they
8 can't have this two-tiered system. That they're
9 going have to start paying subsidies for low-income
10 children the same way they're paid for in the
11 private market.

12 So, the New York Legislature's going to have
13 to start thinking about how we're going to do this,
14 and, we're happy to help provide you with any
15 information we can that might make this easier.

16 So, again, we have the chart for absences.

17 The other chart that I think you may find
18 informative and interesting is, we allow
19 social-services districts to choose what the family
20 share is, which means what a parent co-pay is.

21 So even though our child-care program, right
22 now, is almost 80 percent federally funded, and the
23 rest is about 15 percent -- or, 75 percent of that
24 remainder is State money, and the rest is local
25 money, we allow localities to choose what the parent

1 fee is, and the parent fee is so dramatically
2 different across the state.

3 Some families pay 5 percent of their income.

4 Some families pay 17 1/2 percent of their
5 income.

6 It isn't fair.

7 And where you're really going see the crunch
8 is, in counties that are now getting this
9 facilitated enrollment money, which is great, I'm
10 glad they're getting it, if they're in high co-pay
11 counties, the co-payment is going to go up to
12 25 percent of the their income.

13 That makes no sense.

14 When Monroe got facilitated enrollment money,
15 the local legal-services program started getting
16 calls there, because the co-payment assessed was
17 higher than the cost of care.

18 People were paying thousand and thousands of
19 dollars a year for slots that were cheaper if they
20 paid for them themselves.

21 So we have to design a system where
22 co-payments make sense.

23 One other thing that I wanted to raise for
24 you, in terms of, and I know this has come up in
25 legislative sessions before, is the issue of how we

1 choose to spend dollars.

2 Do we choose to spend them on working
3 families who have jobs, or, are we going to require,
4 and we've discussed, that infant care is the most
5 expensive form of care?

6 We have a program for welfare recipients in
7 New York State where we do not give them much of a
8 work exemption.

9 It's interesting talking about paid family
10 leave here.

11 If you're the poorest of the poor in
12 New York, you are allowed three months on welfare,
13 and then you have to go back into a work program.

14 The work program -- even if you don't have a
15 job, infant care is the most expensive.

16 So you have to do job search, you have to go
17 to resume-writing classes, and you're paying,
18 perhaps, the county is paying, the full slot,
19 because, infant care, welfare recipients have no
20 co-payments, while they're shutting the door to
21 low-income families with real jobs, saying, We don't
22 have enough money for child care.

23 We have in your packet, a memo that has been
24 endorsed not only by us, but the Legal Aid Society
25 in New York City and the Federation of Protestant

1 Welfare Agencies, where we suggest, that if counties
2 allowed, and this would be optional, if people
3 wanted to go into job-search programs -- job-search
4 programs, or any other programs, they would be free
5 to do it if they were on public assistance.

6 But if they want to take a work exemption for
7 up to a year, that would save the county over
8 \$5 million -- the State, I'm sorry, \$5 million a
9 year, to free up for subsidies for working families
10 with real jobs, and save an additional \$3.5 million
11 in administrative costs for not having all those
12 people in workfare programs, because they have to
13 verify their job search.

14 Other states that have done that have found
15 significant savings.

16 So those are the key points.

17 There are more points in our testimony about
18 some of the other Winning Beginning priorities,
19 about integrating pre-K with wraparound child-care
20 programs.

21 I hope you'll take a look at it.

22 I'm available for any questions.

23 SENATOR CARLUCCI: Thanks.

24 Mr. Douglas.

25 KEVIN DOUGLAS: Good afternoon.

1 Thank you, Chairman Martins, Chair Carlucci,
2 Senator Savino, Senator Addabbo.

3 I appreciate you sticking around to hear our
4 testimony this afternoon.

5 My name is Kevin Douglas. I'm co-director of
6 policy with United Neighborhood Houses of New York.

7 We're an association of 38 settlement houses
8 and non-profit providers in New York City that
9 provide services to about half a million New Yorkers
10 a year, in everything from early childhood
11 education, through older adult services.

12 We're a very active advocacy coalition to the
13 city and state level, that look at how we make sure
14 there are good budget and policy decisions to
15 support working families, and part of that work is
16 actually done in partnership with Winning Beginning,
17 so I'll try not to be repetitive to the points that
18 Susan has made and we support.

19 I want to go to something that you mentioned
20 earlier, Senator Savino, about this being economic
21 development, and we really couldn't agree more with
22 that.

23 You know, one of things we want to emphasize
24 is that, that's not theoretical.

25 In 2013, as part of our work in a city

1 campaign to really combat the threat of cuts to the
2 child-care system, we surveyed over 1100 parents who
3 had children in the early childhood system in city,
4 and said: If these cut stood that were proposed and
5 you lost your child care, what would you do?

6 50 percent of the respondents said they would
7 quit their job.

8 50 percent of the parents said, "We would
9 quit our job if we lost the child care," because
10 they had no other options.

11 This is frightening: 2 percent said, "We'd
12 leave our kids at home by themselves."

13 So, this is really a significant issue.

14 And if these parents are quitting their jobs,
15 leaving their kids at home in unsafe situations,
16 that has an impact, obviously, on the workforce and
17 their ability to be gainfully employed.

18 So we really agree with you, and really can't
19 underscore how important we think this is to the
20 economics of this state; and, particularly, the
21 families who rely on income through their work.

22 One of the, sort of, major points I want to
23 try to make here, is we see childhood education
24 services, child-care after school, sort of a
25 continuum, and don't just see it as child care as

1 sort of the end-all, be-all.

2 We think, whether a child is 2, 3, 4, 5, 7,
3 8, 9, 10, that parent needs a safe, quality place
4 for their child to be so they can maintain their
5 work.

6 So we're very supportive of any efforts the
7 State makes to support child-care subsidies,
8 universal pre-kindergarten, after-school.

9 And to that point, I really want to thank the
10 Senate for the work that you've done in the past
11 couple of fiscal years to help us really build a
12 robust system.

13 Obviously, last year, you guys signed off on
14 a significant enhancement to services in
15 New York City; \$300 million that allowed us to
16 create 50,000 slots for universal pre-kindergarten
17 in city, which was wonderful.

18 There's a smaller investment in the state
19 that can certainly be built on.

20 In addition, there was 400 million provided
21 in school aid to New York City that allowed us to
22 expand our after-school offerings, which, right now,
23 is serving 33,000 kids during the school year,
24 16,000 in the summer.

25 So these are kids and youth that are in safe,

1 productive places so their parents can maintain
2 jobs.

3 And I want to thank you for those
4 investments.

5 Similarly, last year you signed off on a
6 \$55,000 million enhancement to the child-care block
7 grant. That's great.

8 It allowed providers to meet some of the
9 increased costs, as well as do modest expansion of
10 about 4500 slots.

11 So I just wanted to kind of lay the framework
12 before I talk about what we're hoping to see, by
13 really acknowledging the work that you guys have
14 done, and really commending you for it.

15 Kind of looking forward, there are a couple
16 of challenges that we're still seeing in the system
17 in New York City: One is around capacity; one is
18 around, sort of, staff wages; and one is around
19 reimbursement rates.

20 In terms of capacity, even with the
21 investments that we've seen at the city and state
22 level, right now, only 30 percent of eligible
23 families are receiving child-care subsidies.

24 It's pretty remarkable.

25 70 percent of families are, just, they're

1 sort of cut off. They can't access them.

2 And we anticipate -- we estimate that's
3 around 100,000 households in New York City.

4 Around the rest of the state, we predict
5 that -- really think that those rates are much
6 higher in terms of the amount of people who are not
7 able to draw down on these services.

8 So, 30 percent is pretty bad in
9 New York City.

10 And as Senator Kennedy can probably attest,
11 it's even worse in other regions.

12 In addition to this, sort of, staff benefits
13 and wages are a tremendous issue, as are the
14 reimbursement rates.

15 And I raise these not because there's
16 something that you can directly do to alter those,
17 but, to the extent to which there's more money in
18 the system, it gives us the ability to sort of
19 negotiate these issues with administration and the
20 City.

21 When we look at staff wages, early childhood
22 educators, and sort of the community-based system
23 that we're a part of, are seeing wages that start in
24 the mid-30s.

25 When we compare them to sort of the school

1 system, those teachers are looking at wages, you
2 know, low 50s.

3 So this creates a real drain on our system of
4 community-based providers who are trying to find and
5 retain talented, qualified staff to care for
6 children, and we really want to have the best and
7 brightest to serve those kids.

8 So, the fact that they don't have the wages
9 to do that is a major barrier.

10 Health-care costs are a huge issue for these
11 employees as well. Their wages really don't provide
12 enough for them to purchase those health-care
13 insurances, and many of them are actually just
14 opting out of that, at large.

15 Looking at the rates, this is a huge issue.

16 Non-profit providers have an unfortunate
17 track record of sort of taking funding and contracts
18 that doesn't fully cover their costs and making it
19 work, because they want to support their
20 communities.

21 We surveyed our members and found, across the
22 board, they're running about 10 to 20 percent
23 deficits on their contracts to provide child care
24 because the rates simply aren't high enough.

25 So, again, I raise these not because they

1 will be directly addressed by you, but to the extent
2 there's more money in the system for us to negotiate
3 higher rates, higher wages of pay, that will enable
4 us to retain staff and provide better services and
5 more services to people in New York City.

6 So where this leads to, sort of,
7 recommendations, and we have a couple.

8 I would really echo Susan, \$100 million is
9 what we had recommended at the start of the session,
10 which would create an additional 13,000 subsidies
11 across the state.

12 We're probably past the point of sort of
13 getting to that as we wrap up the budget
14 negotiations.

15 And when -- a very concrete ask, ask that the
16 Senate support the Assembly's one-House
17 recommendation of 25 million.

18 The Senate did include 20 million in the
19 proposal, and we thank you for that.

20 If we can get to 25, it just helps us serve
21 that many more parents.

22 Long term, we would -- we think it makes
23 sense for the State not to just think about this
24 fiscal year, but what are we actually going do to
25 fix the system to rightsize it?

1 And so, by 2020, we would love to see the
2 State investing just over \$2 billion; 2.2, to be
3 exact, and that is based on conversations we've had
4 with OCFS, in terms of what it would take for the
5 State to provide a subsidy to every eligible family,
6 county by county.

7 That would be a wonderful thing, I think, for
8 our workforce, to ensure every working family who is
9 eligible for child-care subsidies are able to access
10 them.

11 In terms of after-school, again, because we
12 see this as a continuous service, is, at the
13 beginning of the session, we recommended an
14 investment of \$178 million to provide slots to
15 110,000 kids.

16 That was sort of making a dent in the overall
17 need, because there's over 1 million kids around the
18 state right now who qualify or could access
19 after-school, but don't have the funding in their
20 districts to allow them to do that.

21 This issue also is probably beyond your
22 capability at this point in budget negotiations, and
23 so the minimum that we would ask for is,
24 restorations to the youth-development program, and
25 advantage after-school support, after-school

1 programs, in the city and state.

2 Those are pretty modest cuts that were made
3 by the Governor, and would really just ask for your
4 support in restoring them.

5 So, with that, I will really just echo that
6 we support the Winning Beginning's agenda, and happy
7 to take any questions.

8 SENATOR CARLUCCI: Great, thank you very
9 much.

10 Senator Martins.

11 SENATOR MARTINS: Thank you.

12 Thank you both for being here.

13 You know, obviously, child care is
14 critically, anywhere you go.

15 I just wish we had more locations where there
16 was a concerted effort to promote it, because,
17 frankly, there's a need.

18 We have dual-income households, multiple jobs
19 for both parents, and the idea that you have kids
20 who don't have access to after-school programs, or
21 the idea that a person cannot return to the
22 workforce because they don't have a reasonable place
23 and a safe place to leave their children, is
24 something that, obviously, we need to address.

25 But on some of the details, when we talk

1 about the amount of co-pay, and, the 5 percent, or
2 the 17 percent, we're talking about 5 and 17 percent
3 off a certain baseline; right?

4 SUSAN ANTOS: No, I wish I were.

5 So the way that the co-payment is calculated
6 is that, you take the parents' income and you
7 subtract the poverty level, and then you apply a
8 multiplier against that.

9 The figures that we've come up with, between
10 5 and 17.5 percent, look at the resultant co-pay
11 against the household's gross-income total.

12 So, that, it does get confusing, because the
13 calculation method is based by subtracting out the
14 poverty level.

15 But when you have a high multiplier, like a
16 35 percent multiplier, and you'll see from the chart
17 in our materials that many do, if you're a family at
18 200 percent of poverty, you pay 17.5 percent of your
19 gross income as a co-payment.

20 And that co-payment is going to go up in
21 counties that have facilitated enrollment money
22 because, by taking the poverty level out first, and
23 applying 35 percent against the balance --

24 We made a chart of up to 275, which I don't
25 have in my materials, but if you're interested, I'll

1 show you.

2 -- it becomes unsustainable.

3 SENATOR MARTINS: And I appreciate that.

4 KEVIN DOUGLAS: If I could just add to that
5 point, and absolutely agree, one of the things that
6 I neglected to add is, in that \$2.2 billion
7 investment we'd love to see by 2020, in addition to
8 providing a subsidy to every family around the state
9 who would be eligible, it would allow OCFS to put a
10 cap on co-pays, and it would allow that cap to be
11 set at 10 percent.

12 Obviously, we would love to see it as low as
13 possible, but it's certainly better than 17 percent.

14 And in New York City right now, families, the
15 upper limit is sort of around 15 percent.

16 So that investment allows us to provide a
17 greater number subsidies, and really put a cap on
18 how much parents are having to outlay.

19 SENATOR MARTINS: If I understood it
20 correctly, also, and, again, correct me if I'm
21 wrong, that \$100 million ask, you said would result
22 in 13,000 more subsidies, statewide?

23 KEVIN DOUGLAS: That's correct.

24 SENATOR MARTINS: For 100 million?

25 Now, is that 100 million towards the

1 75 percent of the 8 -- of the 20 percent that the
2 feds don't pick up?

3 Now, I understand that --

4 SUSAN ANTOS: That would increase --

5 SENATOR MARTINS: -- there was an
6 80 percent/20 percent match between the federal
7 government and local governments.

8 And that you mentioned that, three-fourths of
9 that, 75 percent of the 20 percent, was picked up by
10 the State, and the other 25 percent was picked up by
11 the local communities, even though, then you got
12 into a discussion as to the co-pays.

13 But that 100 million is that specifically
14 with regard to the three-quarters of that 20 percent
15 that the State picks up?

16 And if so, if you can work out how we got the
17 13,000 subsidies against 100 million on such a small
18 fraction?

19 Why wouldn't it be more?

20 SUSAN ANTOS: Well, the -- and I apologize if
21 I'm misunderstanding your question.

22 The 100 million would actually then increase
23 the State's share in the overall pie.

24 There is a maintenance-of-effort requirement,
25 but, this would put New York above and beyond the

1 maintenance-of-effort requirement.

2 It would be investing some additional State
3 monies for slots.

4 SENATOR MARTINS: So we would no longer have
5 the federal match, we would take on a predominant
6 responsibility for those above that level?

7 SUSAN ANTOS: Right.

8 There's -- the "match" requirement is set at
9 a specific dollar amount, and it's based on spending
10 in 1997; and, so, that amount doesn't -- doesn't go
11 up or go down. It's just a fixed dollar amount that
12 the feds set many years ago.

13 So anything additional that the State
14 invests, it does not, unfortunately, draw down any
15 more federal money.

16 SENATOR MARTINS: No, so, again, I'm glad
17 I clarified it.

18 So it does not have that match. It's just
19 the State taking on what was originally a federal
20 program, and that the feds just simply have not done
21 enough to fund?

22 SUSAN ANTOS: That's correct.

23 SENATOR MARTINS: Thank you.

24 SUSAN ANTOS: That's correct.

25 The other -- the way we calculated the 13,000

1 in slots was by using figures that OCFS gave us. We
2 use their average cost per slot.

3 And so, actually, I think that's a fairly
4 conservative estimate, because that includes the
5 cost of people who don't have co-pays, the people in
6 the system who are below the poverty level, and
7 those people are, in large part, being served in
8 many communities, they're given priority;
9 particularly, the ones on public assistance, are
10 given a guarantee.

11 So it's a very conservative estimate as to
12 number of slots that would be created, because it's
13 based on the average cost per slot by OCFS.

14 SENATOR MARTINS: So we're talking about,
15 approximately, if you just do the math, 100 million
16 divided 13,000, approximately, 7,000; or, \$7,000 per
17 child for care?

18 SUSAN ANTOS: Right.

19 OCFS is \$7200.

20 SENATOR MARTINS: Thank you.

21 Thank you very much.

22 SENATOR CARLUCCI: Thank you,
23 Senator Martins.

24 And I want to thank you for the work that
25 your organizations are doing, and you've explained

1 that to us quite a bit.

2 Are there some strategies that you're working
3 on to help middle-class families afford child care
4 that might not qualify for the subsidies that you're
5 talking about?

6 KEVIN DOUGLAS: I think one of the
7 interesting things that could be entertained,
8 although we're not currently working on it, is as
9 you increase the amount of money available for child
10 care, you potentially have the ability to adjust
11 eligibility levels.

12 In New York City, we have sort of two levels.
13 Access is mandated at 100 percent of the --
14 excuse me.

15 At 100 percent of the federal poverty level,
16 it's mandated.

17 We also provide, up to households that are at
18 200 percent of the poverty level.

19 Theoretically, if we were to sort of meet the
20 thresholds of what -- county by county, what they
21 term their eligibility, you could, theoretically,
22 increase the eligibility levels beyond that to look
23 at other income bands.

24 I don't have any sort of numbers here right
25 now about what that cost would be or what sort of

1 time frame it would take to get there.

2 SUSAN ANTOS: One of the priorities of
3 Winning Beginning is that money be invested for
4 quality child care.

5 We have been very supportive of Quality Stars
6 New York, which is an initiative that provides
7 support and evaluation of child-care providers, so
8 that parents of any income level who are looking for
9 child care can see at an easy glance what quality
10 standards their providers meet.

11 There are some states that have this.

12 And, I had the experience of meeting my
13 nephew's newborn and his -- they live in
14 North Carolina -- and his wife, who lives in a state
15 that has a quality-rating system, was telling me how
16 wonderful and helpful it was to her -- she's not, by
17 any means, a low-income person -- to locate quality
18 child care for her child.

19 So we want all children, regardless of
20 whether or not they're low-income or middle-income,
21 to be able to choose high-quality care for their
22 children.

23 And investment in Quality Stars is a really
24 good step to help all children, identify, and their
25 parents choose quality care.

1 SENATOR CARLUCCI: Have you had an ability to
2 look at -- we have legislation in front of the
3 Senate that would increase the dependent-care tax
4 credit.

5 Is that something that either of your
6 organizations have explored or looked into?

7 SUSAN ANTOS: Well, I can't speak for
8 Winning Beginning on that issue.

9 We would definitely consider it.

10 At the Empire Justice Center, we have, in the
11 Rochester area, a program called -- I'm blanking on
12 it right now -- but it's an expanded FIDA
13 organization, and that is exactly the kind of
14 legislation that we would be supportive of.

15 So, thank you for alerting us to that.

16 And it is a -- it is a program that the
17 Empire Justice Center would support.

18 I can't speak for Quality Stars -- I mean,
19 for Winning Beginning.

20 KEVIN DOUGLAS: And we haven't taken a
21 position, but we will look at it.

22 SENATOR CARLUCCI: Okay, great.

23 Well --

24 SENATOR SAVINO: Is it Hillside?

25 Is it the Hillside program in Rochester?

1 SUSAN ANTOS: No, no, no.

2 It's -- I'm embarrassed that I can't remember
3 it.

4 SENATOR CARLUCCI: Well, Mr. Douglas,
5 Ms. Antos, we want to thank you for being with us
6 today, and for your testimony.

7 And, with that, I want to thank
8 Senator Martins for teaming up on this very
9 important issue.

10 And, all the members that have been here
11 today, and made it through the end, with that,
12 this -- we're adjourned.

13 Thank you.

14

15 (Whereupon, at approximately 2:09 p.m.,
16 the public hearing held before the New York State
17 Senate Standing Committee on Labor and
18 Senate Standing Committee on Social Services
19 concluded, and adjourned.)

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