

ENCOURAGING FAMILY-FRIENDLY WORKPLACE POLICIES

HEARING

BEFORE THE

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

COMMITTEE ON

EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

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ENCOURAGING FAMILY-FRIENDLY WORKPLACE POLICIES

**Tuesday, March 3, 2009
U.S. House of Representatives
Subcommittee on Workforce Protections
Committee on Education and Labor
Washington, DC**

The subcommittee met, pursuant to call, at 10:04 a.m., in Room 2175, Rayburn House Office Building, Hon. Lynn Woolsey [chairwoman of the subcommittee] presiding.

Present: Representatives Woolsey, Shea-Porter, Hare, Sablan, Price, and Kline.

Also present: Representative Holt.

Staff present: Aaron Albright, Press Secretary; Tylease Alli, Hearing Clerk; Fran-Victoria Cox, Staff Attorney; Lynn Dondis, Labor Counsel, Subcommittee on Workforce Protections; David Hartzler, Systems Administrator; Jessica Kahane, Press Assistant; Sara Lonardo, Junior Legislative Associate, Labor; Joe Novotny, Chief Clerk; Meredith Regine, Junior Legislative Associate, Labor; Michele Varnhagen, Labor Policy Director; Robert Borden, Minority General Counsel; Cameron Coursen, Minority Assistant Communications Director; Ed Gilroy, Minority Director of Workforce Policy; Rob Gregg, Minority Senior Legislative Assistant; Alexa Marrero, Minority Communications Director; Jim Paretto, Minority Workforce Policy Counsel; Molly McLaughlin Salmi, Minority Deputy Director of Workforce Policy; and Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel.

Chairwoman WOOLSEY [presiding]. A quorum is present. The hearing of the Subcommittee on Workforce Protections will come to order. And I will give my opening statement, then our Ranking Member Price will give his opening statement, then we will introduce all of you wonderful people, and we will go from there.

I want to thank all of you for being here at this hearing encouraging family-friendly policies. We have got a pretty good roomful, considering yesterday we weren't in session because of the snow, and people are coming in on airplanes as we speak. So this is our hearing and it will be in the record, and members will be coming as they arrive in town.

Balancing work and family is a very important issue for millions of workers in this country. That is why today's hearing is called, "Encouraging Family-Friendly Policies." It is also why this subcommittee is picking up where we left off last session, the 110th

Congress, when we had four hearings on balancing work and family.

Of course, this issue has taken new urgency in light of the current economic crisis. But before I proceed with my full opening statement, I wanted to make an introduction.

First of all, I would like to welcome Representative Tom Price from the Sixth District of Georgia, who has been a member of this subcommittee but who is now the Ranking Member. Welcome.

Dr. PRICE. Thank you, Madam Chair.

Chairwoman WOOLSEY. I look forward to working with you.

Dr. PRICE. Thank you.

Chairwoman WOOLSEY. I also want to thank Representative Joe Wilson, who was the Ranking Member for the last Congress, and we worked—last two Congresses together, and I found him a very amiable Ranking Member, and we will be working together at the same good tenor. I will miss him, but he stayed on this subcommittee, and I am pleased with that.

Now, on the Democratic side, we have two new members of our subcommittee. First, Raul Grijalva, who can't be here this morning, is a new member but has been a member of the committee, the full committee, of Education and Labor. And he has served with distinction, and we are delighted that he will be joining this. He is also my co-chair of the Progressive Caucus, so we do a lot together, believe me.

Second, and most important of all, the brand-new member, Gregorio Sablan, the first non-voting delegate from the Commonwealth of the Northern Mariana Islands—Mariana Islands. Forgive me.

Delegate Sablan has served as special assistant for management and budget for the Island's governor. And from 1982 to 1986, he served in the Northern Mariana House. In the 1980s, he worked as a special assistant to Daniel Inouye of Hawaii. Welcome, Mr. Sablan. We are so glad to have you.

Now, we don't have any new members on the other side, so I am going to go on with my opening statement.

The final crisis—defined natural crisis of our country is facing particularly devastating times for workers. In January alone, we lost 598,000 jobs, pushing the unemployment rate to 7.6 percent. And that was in January, and it has gotten worse, and today is March the 3rd. So, it is just so much worse already.

Over 11.6 million Americans have lost their jobs, and, sadly, we know this is not the end of the story, nor is it the whole story—7.8 million people are under-employed, which means they are working part-time jobs, either because their hours have been cut or because they are unable to find full-time work.

Moreover, 4.1 million people have given up looking for work altogether. They have just given up. So families are suffering very badly.

Some people have no income, and others have to rely on one income when they are budgeted for two, and they can't always count on the remaining income because the employer may cut back the one worker in the family's work hours.

So here is something surprising. Listen to this. This really surprised me. More men are losing their jobs than women, but this re-

sults in more women being responsible as the sole major support and the sole breadwinner for their families.

And with women earning less than men—they earn 78 cents for every dollar earned by a man—everyone suffers. Men, women and families are living on less.

Forty years ago, I was a single working mother supporting three children, so I know what it is like to constantly worry about economic security for my family. Later, I was remarried, and I was still a working mother, but I had four children—four teenagers, if you can believe it—and working as a human resources manager. And I did that for over 20 years.

During that time, I not only had my own experience as a working parent, but I saw how important employee benefits, benefits such as paid leave, paid sick days, healthcare and all of that are to workers in both good times and bad times.

But when there is only one working parent in a family, then it is essential that that person's employer helps them with what they need to bridge work and family. There is substantial evidence, and we all know that, that employers who provide these benefits actually improve their bottom line.

So, we share President Obama's optimism that the recovery plan currently being implemented will get people back to work. But we also know that we need to pass legislation that will help ease the burden on working families so they can balance their jobs and their responsibilities to their families.

So today, I look forward to hearing from each of you with your testimony and learning more from you as we put together our plan for helping working families bridge both responsibilities, the responsibility to their employer and the responsibility to their family.

Now, I defer to Ranking Member Price for his opening statement. [The statement of Ms. Woolsey follows:]

Prepared Statement of Hon. Lynn C. Woolsey, Chairwoman, Subcommittee on Workforce Protections

I want to thank everyone for coming to this hearing on "Encouraging Family-Friendly Policies." Balancing work and family is a very important issue for millions of workers in this country. And that is why the subcommittee is picking up where we left off last session when we had four hearings on balancing work and family.

Of course, this issue has taken new urgency in light of the current economic crisis. But before I proceed with my full opening statement, I want to make some introductions.

Representative Tom Price from the 6th district of Georgia has been a member of this subcommittee but now he is its ranking member. I want to welcome him and look forward to working with him on the important issues before this subcommittee.

I also want to thank Representative Joe Wilson from the 2nd district of South Carolina, who was a great ranking member. While I will miss him in that capacity, I am pleased that he remains a member of the subcommittee.

On the Democratic side, we are fortunate to have two new members of the subcommittee.

Representative Raul Grijalva of Arizona is no stranger to the Education and Labor Committee and has served on it with distinction. He is also my co-chair on the Progressive Caucus, and so I know that he is a great champion of working families.

Welcome, Representative Grijalva.

Gregorio Sablan, the first nonvoting delegate from the commonwealth of the Northern Mariana Islands. Delegate Sablan has served as Special Assistant for Management and Budget for the Islands' Governor, and from 1982 to 1986, he served in the Northern Marianas House. In the 1980's he worked as a special assistant to Senator Daniel Inouye of Hawaii.

Welcome Delegate Sablan to the subcommittee.

The financial crisis our country is facing is particularly devastating for workers. In January alone, we lost 598,000 jobs, pushing the unemployment rate to 7.6 percent, and it is worsening. Over 11.6 million Americans have lost their jobs.

And sadly, this is not the whole story.

7.8 million people are underemployed, which means they are working at part-time jobs either because their hours have been cut or because they are unable to find full-time work.

Moreover, 4.1 million people have given up looking for work altogether. So families are suffering badly.

Some people have no income, and others have to rely on one income when they were budgeted for two. And they can't always count on the remaining income because employer cut-backs continue.

Here's something surprising: more men are losing their jobs than women resulting in more women being responsible for the sole or major support of their families. And with women earning less than men (78 cents to every dollar earned by a man), men, women and families are living on less.

40 years ago I was a single-working mother, supporting 3 children.

So I know what it is like to constantly worry about the economic security of my family. Later as a human resource manager, I saw how important employee benefits—such as paid leave, paid sick days and health care—are to workers in both good times and bad.

And there is substantial evidence that they ultimately improve the bottom line of the employer.

We share President Obama's optimism that the recovery plan currently being implemented will get people back to work.

But in addition, we also need to pass legislation that will help to ease the burden on working families to balance their jobs and their family responsibilities.

Dr. PRICE. Thank you, Madam Chair, and I, too, want to congratulate you on chairing this committee, and I look forward to working with you during this new Congress—

Chairwoman WOOLSEY. Thank you.

Dr. PRICE [continuing]. As we try to solve the remarkable challenges that we face as a nation.

We are here today for the first subcommittee hearing of this 111th Congress, and the issues that we will address are so vital and important to today's workforce, not just today but throughout this upcoming Congress.

I want to thank the distinguished panel for joining us today and taking time to share your experience and your expertise on a very chilly morning, not the most comfortable of mornings to get around in Washington.

Workplace flexibility and work-life benefits have become a bottom-line issue for many companies, becoming critical components of workplace effectiveness and attracting human capital. Research has shown that such programs can boost motivation, productivity and morale for workers, and I would suggest that most employers understand the effectiveness and necessity of having a family-friendly workplace.

And while this issue remains an important one for many American workers, it is not surprising that, given the current state of the economy, job security has surpassed work-family balance as the top concern of the majority of workers.

Many workers are increasingly concerned about losing their jobs, not having enough money to pay their bills, and seeing their retirement accounts shrink. Nearly half of those surveyed in a recent Associated Press poll said that they worry about becoming unemployed, almost double the percentage at this time last year.

So as we engage in policy discussions about workplace benefits and coverage, we must not ignore the implications of placing costly government-imposed mandates on employers, many of whom are small businesses trying to stay afloat in the current economic climate. The reality is that businesses today are struggling with shrinking budgets, tightened credit, decreased demand for their products and services, and now a federal budget proposal that will drastically increase taxes on small businesses.

Mandating new paid benefits, and thereby increasing the cost of labor, may well have the effect of jeopardizing many employers' ability to maintain employment levels and further stifle job creation and opportunity.

Having Congress dictate a one-size-fits-all labor structure for all businesses will eventually limit creative work arrangements between employers and their employees.

So what can be done to encourage the creation of work environments that are family-friendly and flexible, and yet meet the needs of workers and the considerations of the businesses? We might want to begin by looking at removing obstacles to outdated federal laws and regulations that complicate or even prevent employers from working out flexible arrangements with their employees.

For example, legislation has been introduced by our distinguished colleague from Washington State, Cathy McMorris Rogers, which would allow private sector workers to enjoy the same right that public sector workers already have, and that is to choose for themselves whether to take overtime pay as cash wages or to bank it as paid time off at their own discretion.

Employees have different needs throughout their careers. Some may desire flexible work schedules to accommodate the needs of young children. Others may have elderly relatives to care for or a desire to upgrade or expand their job skills or education.

Likewise, employers have different business considerations based on the type or the size of their company. In light of today's trying economic circumstances, we should be mindful of the realities facing businesses. When we do, then the challenge for policymakers is to find ways to encourage the availability of family-friendly programs without interfering at the federal level in ways that are counter-productive to both workers and employers.

Again, I want to welcome our witnesses, and I look forward to your testimonies.

[The statement of Mr. Price follows:]

**Prepared Statement of Hon. Tom Price, Ranking Republican Member,
Subcommittee on Workforce Protections**

Good morning and thank you, Chairwoman Woolsey.

As you have noted, we are here today for the first Subcommittee hearing of the 111th Congress. I look forward to working with you, Madame Chair, as we consider many of the important issues confronting today's workforce.

I would like to begin by thanking our distinguished panel of witnesses for appearing today. We appreciate that they have taken time out of their busy schedules to share their expertise and experiences with us.

Workplace flexibility and work/life benefits have become a bottom line issue for many companies, becoming critical components of workplace effectiveness and attracting human capital. Research has shown that such programs can boost motivation, productivity and morale for workers, and I would suggest that most employers understand the effectiveness and necessity of having a family-friendly workplace.

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Others may have elderly relatives to care for, or a desire to upgrade and expand their job skills or education. Likewise, employers have different business considerations based on the type or size of the company.

In light of today's trying economic circumstances, we should be mindful of the realities facing businesses. When we do, then the challenge for policy-makers is to find ways to encourage the availability of family-friendly programs, without interfering at the federal level in ways that are counterproductive to workers or employers.

I again welcome our witnesses and look forward to their testimony.

Chairwoman WOOLSEY. Thank you.

Without objection, all members will have 14 days to submit additional material for the hearing record.

I would like to introduce our very distinguished panel of witnesses that are here with us this morning. First, Rebia Mixon Clay, a home care worker from Illinois and currently living in Chicago's South Side. She attended DuSable High School in Chicago, but dropped out as a teenager to get married and raise four children. Ms. Clay returned to high school at the age of 47 and earned her degree. Congratulations, Rebia.

She then went on to attend Truman College and Robert Morris, and looks forward to being able to complete her college degree in the near future. Ms. Clay is a member of the SEIU and currently serves on the executive board of her local healthcare Illinois—in Indiana.

Heather Boushey is a senior economist at the Center For American Progress, where she studies working families and trends in the US labor market. Prior to joining the Center, she was a senior economist with the Joint Economic Committee of the US Congress.

Before that, she was a senior economist with the Center for Economic and Policy Research. Dr. Boushey has written extensively on labor issues, including tracking the recession and its impact on

workers and their families. Boushey received her Ph.D in economics from the New School for Social Research and her BA from Hampshire College. Welcome.

Michelle Bernard is president and CEO of the Independent Women's Forum, IWF, a position she has held since January 2006.

Before IWF, she was a partner in Patton-Boggs and served in the executive office of the Bush-Cheney 2000 Inaugural Committee. Well, we know who is our Republican representative on the—no, I am just—we always have to have this balance, so we make sure we can do that.

Ms. Bernard was also the chair of the District of Columbia Redevelopment Land Agency. She graduated from Howard University and the Georgetown University Law Center. Welcome.

And now, Representative Holt is going to introduce Dr. Appelbaum, because they are all so proud of you. Actually, if Donald Payne had been here—he is on an airplane—they would have been drawing straws to see who got to introduce you, Dr. Appelbaum.

Mr. HOLT. Thank you, Madam Chair, and thank you for allowing me to join you this morning.

On behalf of Representatives Payne and Andrews who sit on this committee, and really on behalf of all the representatives of New Jersey, I would like to introduce someone of whom we in New Jersey are very proud.

Dr. Eileen Appelbaum has 20 years of experience in carrying out empirical research on workplace practices and labor management. She is a professor of management and labor relations at Rutgers and director of the Center For Women And Work. She holds a concurrent position as professor in the People Management and Organizations Department of University of Manchester, and she is also on leave, spending time at the Center for Economic and Policy Research.

Dr. Appelbaum has made significant contributions to the people of the state of New Jersey and the country, and was instrumental in passage of New Jersey's Paid Leave Insurance Bill, which provides wage replacement for workers who need family leave for birth, adoption, or to care for a family member with a serious health condition.

She has a Ph.D in economics from the University of Pennsylvania, but what is most important for our concerns here today, she understands economics and policy. She understands how the numbers fit into policies, and she understands economics and people. She understands the people, in particular the women, behind the numbers, and does extraordinarily good work in policy that is relevant to people's lives.

And so, I thank you, Madam Chair, for inviting Dr. Appelbaum to testify today.

Chairwoman WOOLSEY. You are welcome, and thank you for joining us. Congressman Holt is on the full committee, but not a member of the subcommittee, and is interested in this subject. So, thank you for being here with us this morning.

Okay, and thank all of you for being here.

Okay. Now, just so you understand how the lights work, for those of you who have not testified before the committee, let me explain

the system. We have the 5-minute rule. Everyone, including members, is limited to 5 minutes of presentation or questioning.

So that means, when the green light is on, you begin to speak. Turn on your microphone, too. That is always so important, because we all yell, "microphone," and it is kind of hard on you.

And when you see the yellow light, it means you have 1 minute left, and when you see the red light, your time expires. You are not going to fall through a trap on the floor, but that is absolutely the time to start tying it together if you haven't already, because even my Ranking Member and myself and all the members, we have 5 minutes each also. And if we spend our whole 5 minutes asking you a question or giving a speech and don't give you time to answer it, then that is our loss. So this is the 5-minute rule.

So now we are going to hear from our first witness, Ms. Clay.

**STATEMENT OF REBIA MIXON CLAY, HOME HEALTH CARE
WORKER**

Ms. CLAY. Thank you very much for having me here today.

I am a home care worker. The job of a home care worker is to take care of someone's mother, brother, husband or wife, aunt or grandfather, when they can't take care of themselves.

I live in Chicago, where I was born and raised. My client is one of the greatest people God has ever created. He is unique. He is full of love and laughter, and every day he makes this world a greater place. He is my brother.

Caesar was born 43 years ago with cerebral palsy and also suffers from paranoid schizophrenia. My mother would never give up on him, and took care of him until she died in 1999. My brothers and sisters tried to take care of him, but they were raising their family.

My children were grown by then, so I left my job as a property manager and got qualified to be a home care worker. It was a big pay cut, but, if I hadn't done that, he would have been sent to an institution, and that just couldn't happen.

My employer, the State of Illinois, only pays me for 8 hours of work, but it is more than a full-time job. Caesar cannot dress himself, though he tries, and he picks out some strange outfits at times. He cannot clean himself, use the restroom on his own, or do many of the everyday things most of us do without thinking twice about it.

I thank God that the state provides so much help for my brother, but I could use some help for myself. I, like hundreds of other caregivers in Illinois, have no sick days and no paid time off. Three years ago, my husband became very sick. He passed away last April, and before that, he needed a lot of care.

I had to care for him and my brother at the same time. I couldn't afford to take any unpaid time off to focus on my husband because the three of us were surviving only on my income.

I know this hearing is about good family policies, but everything comes back to money, something nobody seems to have enough of these days. I recently became a member of the Service Employees International Union, and now I make \$9.85 an hour, and that is \$1.50 increase from before the Union, but it doesn't go far.

I get paid twice a month. One check goes to my rent entirely, and the other goes to my bills. They include \$200 a month electrical bill, \$500 for gas, \$160 for the phone and cable, since we cannot use antennas any longer. I constantly have to take from Peter to pay Paul, and had to file bankruptcy because I just could not pay my household bills and my hospital bills.

I recently received a notice that the state may cut my hours because of budget cuts. If that happens, I don't know how I am going to manage. My children help me financially when they can, but they have children of their own, and now money is tighter than ever.

My youngest son recently lost his job, laid off because of the economy. He stays with me off and on. He helps me watch Caesar during the day, and looks for work when he can.

Nobody in my family is rich, but, whenever someone needs something extra, we all put our pennies together as best we can. I love my brother, and I am inspired by him every day. But I would like to go and visit my dentist, who I haven't seen in 13 years.

I would like to get a real pair of glasses. These are from the neighborhood store. I would like to afford a mammogram. I would like to know if that I became seriously ill, I could take time from work and not have my utilities cut off, or without losing my home and not having to worry about my brother ending up in an institution.

My dream is to go back to college and get my degree. And if I had personal days, that would make it much easier for me to do.

I came here today because I want to share my story. There are people like me in every town across the country, people who work hard and do their best to provide for their families.

Our stories are different, but our hope is the same—it is that you help give us change that works. I just hope I have helped you find the courage and desire to make that difference.

God bless you, and God bless your work. Thank you.

[The statement of Ms. Clay follows:]

Prepared Statement of Rebia Mixon Clay, Homecare Worker, on Behalf of the Service Employees International Union (SEIU)

Thank you very much for having me here today.

I am a home care worker. The job of a home care worker is to take care of someone's mother, brother, husband or wife, an aunt or grandfather when they cannot take care of themselves. I live in Chicago, where I was born and raised, and, my client is one of greatest people God has ever created. He is unique, he is full of love and laughter and every day he makes this world a greater place. He is my brother.

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Three years ago, my husband became very sick. He passed away last April, and before that he needed a lot of care. I had to care for him and my brother at the

same time. I couldn't afford to take any unpaid time off to focus on my husband, because the three of us were surviving only on my income.

I know this hearing is about good family policies but everything comes back to money, something nobody seems to have enough of these days. I recently became a member of the Service Employees International Union and now make \$9.85 an hour, a \$1.50 increase from before the union, but it doesn't go very far. I get paid twice a month, one check goes to the rent and the rest, \$926, must go to everything else. After \$200 for the electricity, \$500 for gas and now \$160 for phone and cable TV since we cannot use antennas anymore. The money goes so fast.

You may have noticed I didn't even mention things like food or my church tithes, which always come first. So, we find the places where we can cut back. I am on every payment plan you can imagine and make sure I pay just enough every month so they don't cut off the heat but I never can pay them all off. I constantly have to take from Peter to pay Paul, and had to file for bankruptcy because I just could not pay all my household and medical bills. Now my credit is ruined. I was recently notified that because of budget cuts I might have my hours cut. That won't cut down on any of the work I have to do, but it would reduce my paycheck, and I don't know how we would manage.

Even though my job is to provide for the health of my Caesar, I do not have health care except for general clinic visits thanks to my union contract. Even then, with no paid sick days and a \$15 co-pay I cannot afford to go very often. I was recently diagnosed with diabetes and the doctor said I had to go on insulin or I would die. I went to get the testing strips, pads and everything else and it cost \$417. I had to ask my family for help just so I could get the medicine I need to live. Now, I have found a way to get my medicine through the county hospital for free but it takes two whole days of sitting and waiting in line for the help. That is two days worth of unpaid time. I do it because I cannot afford to die, but there has to be a less expensive way to live.

My children help me financially whenever they can, but they have children of their own, and now money is tighter than ever. My daughter has nine children, but gave me her stimulus check to help pay for my husband's funeral. I'm sure she could have used the money herself, but I couldn't have afforded it otherwise. Nobody in my family is rich, but whenever someone needs something extra we all put our pennies together as best we can.

My youngest son recently lost his job, laid off because of the economy. He stays with me off and on. He helps watch Caesar during the day, and looks for work when he can. My daughter in Christ is in school to be a nurse, and needed a place to stay. So when she offered to stay with my brother so I could come here to address you here in Washington DC, I readily agreed.

I love my brother and I am inspired by him every day, and without fail every time we go to church. But I would like to go to visit my dentist, who I haven't seen in 13 years. I would like to get a real pair of glasses. I would like to be able to afford a mammogram. I would like to know that if I became seriously ill I could take time away from my job having our utilities cut off, or without losing my home, and not have to worry that my brother would end up in an institution. I would like not to have to consider living on a street where I'm afraid to step outside just to lower my rent. My dream is to go back to college and finish my degree in business, and if I had personal days, that would make it much easier for me to do that. In the meantime, I do my best with what I have.

I came here today because I wanted to share my story with you. There are people like me in every town across this country, people who are working hard and doing their best to provide for their families. Our stories are different but our hope is the same—that you help give us change that works. It wouldn't take very much to make a big difference in our lives. We cannot fix everything overnight but we can't give up. I just hope I have helped you find the courage and desire to make that difference. Thank you for your time. God bless you and God bless your work.

Chairwoman WOOLSEY. Thank you.

Dr. Boushey?

**STATEMENT OF HEATHER BOUSHEY, SENIOR ECONOMIST,
CENTER FOR AMERICAN PROGRESS**

Ms. BOUSHEY. Thank you, Chairwoman Woolsey and Ranking Member Price, for inviting me here to speak today.

For over a generation now, families have been struggling to figure out how to balance work and family responsibilities at home.

The recession is exacerbating these challenges for families. And in my comments today, I want to lay out how the recession is affecting families and how it makes the need for family-friendly workplaces ever more urgent.

We must update our antiquated policies and ensure that, as we rebuild our economy, we recognize and address the fact that both men and women work inside and outside the home.

Women are increasingly taking on the responsibility of supporting families as men's jobs have disappeared. During the first 12 months of this now 14-month long recession, men have held four out of every five jobs that have been lost. The share of men in the United States with a job right now is lower than it has ever been. Fewer than seven out of every 10 adult men is actually at work today.

So far, half of the job losses that have occurred have been in either construction or manufacturing, two industries where men are the overwhelming majority of workers. On the other hand, women's jobs have been sustained over the past year by hiring by government and the healthcare sector, where they are the majority of workers.

This recession is amplifying the long-term trend towards the importance of women's earnings to family economic well being, yet women continue to earn just 78 cents on the male dollar, much of which cannot be explained by differences in the kinds of jobs that men and women hold, nor their skill levels.

As male unemployment rises, paid discrimination has become a more pressing issue for millions of families. Since the typical husband in a dual earner family brings home just under two-thirds of his family's income, the loss of his job, and potentially his health insurance, can quickly push a family into economic hardship.

Now, Congress has dealt with some of these issues in passing the Lilly Ledbetter Fair Pay Act, but there is certainly more to do. The Paycheck Fairness Act still sits in front of the Senate, and its passage is critical to ensuring that every worker gets a fair day's pay. Further, the administration should ensure that the laws we already have on the books are in force, and that workers with caregiving responsibilities are not discriminated against, especially in these tough economic times.

No family should have to cope with a wage earner losing a job because they needed time off to care for a sick child or family member. Yet, the Family and Medical Leave Act only covers half of the labor force and excludes workers in firms with fewer than 50 employees. Expanding this right to smaller employers would limit the unemployment of workers with caregiving responsibilities, and establishing the right to job-protected paid sick days would guarantee that no one loses a job because of a minor illness.

The recession has led many employers to cut hours. The share of workers who work part-time due to slack work or business conditions is now at its highest share since the 1950s.

Shorter hours mean that millions will be left without basic benefits, such as health insurance coverage and paid time off. Access to healthcare benefits for part-time workers is now more critical than ever.

The recession is turning out to be deeper and much more protracted than many had predicted even a few months ago. The American Recovery and Reinvestment Act is a crucial down payment on creating jobs in the months to come and laying the foundation for long-term economic growth.

In particular, the recovery package will help states avoid cut-backs, safeguarding some women's jobs. The Council of Economic Advisors estimates that about four out of every 10 jobs created by the recovery package will likely go to female workers.

But the recovery package alone will not be enough to close the gap between what the economy is currently producing and what our economy has the capacity to produce. Work-family balance policies are an excellent investment in our long-term economic growth while also providing short-term economic stimulus.

For example, the Family Income To Respond To Significant Transitions Act provides grants to states to implement programs that provide wage replacement for those taking leave for the birth or adoption of a child, to recover for an illness, or to care for an ill family member. This act would encourage states to support working families at a time when families especially need the benefit of paid time off and job protective leave while providing a boost to the states who adopt these policies.

As families face this tough economy, we must update our work-family balance policies to reflect changing needs and a transformed workplace. Ensuring that workers can be both good employees and good caregivers is a good place to start to rebuild our economy and secure our economic future.

Thank you again for inviting me to speak here today.

[The statement of Ms. Boushey follows:]

Prepared Statement of Heather Boushey, Senior Economist, Center for American Progress Action Fund

Thank you, Chairwoman Woolsey and Ranking Member Price, and Chairman Miller and Ranking Member McKeon, for inviting me to speak to you today on these important issues facing working families. My name is Heather Boushey and I'm a Senior Economist at the Center for American Progress Action Fund.

For over a generation now, families have been struggling to figure how to balance work and responsibilities at home. Most children—over 70 percent—grow up in a family with either a working single parent or with two parents who both work. Because both men and women are overwhelmingly likely to be working, most families do not have a stay-at-home parent or anyone available to provide care if a family member falls ill.

The recession is exacerbating these challenges for families. In my comments today, I want to lay out how the recession is affecting families and how it makes the need for family-friendly workplace policies ever more urgent.

The recession—so far—is leading to higher unemployment among men than women: As of December 2008—which is the latest data available—men have lost four out of every five jobs shed since the recession began in December 2007. This means that in millions of U.S. households, a woman is supporting the family.¹

This has a number of implications for families:

- Families will increasingly rely on women's earnings, which are typically lower than men's and are less likely to come with health insurance.
- The poor economy and lack of job creation means that families will need to ensure that they do what they can to keep parents working; losing a job because a parent needs some time off to care for a sick child, for example, will create increased hardships for families since finding a new job is now so much more difficult.

¹ Heather Boushey, "Equal Pay for Breadwinners" (Washington, DC, Center for American Progress, 2009).

- Families are increasingly relying on workers who are working less than full-time, so ensuring that those workers have access to health insurance and fair pay is increasingly important.

These new trends, driven by the how the recession is playing out, should shape our thinking about what policies are most important to support working families who struggle to balance being a good employee with being a good caretaker.

Before I move on, I want to say a few words about the recovery plan.

The recession is turning out to be deeper and more protracted than many had predicted even a few months ago. The American Recovery and Reinvestment Act was a down payment on creating jobs in the months to come and laying the foundation for long-term economic growth. The Council of Economic Advisors estimates that the recovery package will save or create 3.5 million jobs and that about 4 in 10 of these jobs will go to female workers.²

In particular, the recovery package will help states avoid some cutbacks, which places some women's jobs out of jeopardy since women make up the majority of state and local government workers. But most importantly, the recovery package will get the economy back on track, which benefits all kinds of families.

The recovery package alone, however, will not be enough to close the gap completely between what the economy is producing and what our economy has the capacity to produce. Millions will remain idle until the economy gets fully back on track. As we move forward through the budget process, Congress should keep this in mind and continue to focus on programs that can stimulate the economy in the short run. Along these lines, work-family balance policies are an excellent investment in our long-term economic growth and can also provide short-term economic stimulus.

Women are increasingly the breadwinners

Women are taking on the responsibility of supporting families as men's jobs have disappeared in this recession. During the first 12 months of 14-month recession, men so far have seen larger job losses than women, having been affected by four out of every five lost jobs. As a result, the share of adult men (over the age of 20) in the United States with a job is at its lowest point ever: 69.2 percent. Adult men's unemployment has risen by 3.2 percentage points since the recession officially began, to 7.6 percent in January from 4.4 percent in December 2007. Adult women's unemployment has risen by 1.9 percentage points, to 6.2 percent during that same period from 4.3 percent.

Men's job losses have been higher than women's because they work in industries harder hit by the downturn. From December 2007 to December 2008, half of the job losses occurred in either construction or manufacturing. Men make up nearly all (87 percent) of construction workers and have lost 94 percent of the construction jobs. Likewise, men make up just over two-thirds of manufacturing workers, and have lost about that same share of the jobs. On the other hand, women's jobs have been sustained over the past year by hiring in the government and health care sectors.

The recession is amplifying a long-run trend of women's earnings becoming more and more important to their family's economic well-being. Between 1980 and 2006, the share of total family income brought home by a working wife has risen from 26.7 to 35.6 percent. Indeed, among married couples, only those with two earners have seen their inflation-adjusted family income grow since the 1970s.

For years, the media tried to tell us that women didn't want to work, they were "opting out," and their jobs weren't important to their families. This story wasn't true, but it captured the public's imagination because if women had simply gone back home, it would have solved some of our most intractable social problems. Who should care for children after school? Should women earn as much as their male colleagues even if they've spent a few years at home raising the kids? Should employers be required to provide paid time off for family reasons?

Back in reality, families have needed Mom's earnings for quite some time. We didn't want to admit it because in doing so, we'd have to finally address how we were going to deal with all the things she used to do for us—for free—before she had a day job. And we'd need to make sure that she was paid fairly on the job.

But now, this recession may allow our economic structures to catch up to the reality that families face every day. While there's nothing good about higher unemployment, it is giving million of families someone with the time to turn that "second shift" into a first shift and assist the breadwinning wives. That's the silver lining that may help families survive these difficult times.

²C. Romer, and J. Bernstein, "The Job Impact of the American Recovery and Reinvestment Plan". (Washington, DC, Council of Economic Advisors, 2009).

Policies that make sense for working families, even in a recession

Families need policies that ensure that as we rebuild our economy, we recognize and address the fact that both men and women work inside and outside of the home. The increased importance of women's earnings has implications for a number of other work/life balance issues.

Going back to the recovery for a moment, one policy that could get money to states while making long-term investments in working families would be for Congress to consider the Family Income to Respond to Significant Transitions (FIRST) Act. This legislation provides discretionary grants to states to implement programs that provide partial or full wage replacement for those taking leave for birth or adoption or those who are taking leave to care for themselves, their child(ren), spouse, or parent with a serious health condition, as defined by the Family Medical Leave Act (FMLA). In helping to defray the costs of setting up these programs, the federal government can encourage states to support working families at a time when families especially need the benefit of paid, job-protected leave.

Because women are supporting more families, pay discrimination has become a more pressing issue for millions of families. Men continue to earn more than women in the workplace, which means that the loss of a man's income can quickly push a family into economic hardship. In three-quarters of dual-earner families, the husband out-earns the wife. The typical wife in a dual-earner family brings home over a third (36.5 percent) of her family's total income. When her husband loses his job, they lose just under two-thirds of family income and, in many cases, the family's access to health insurance from his employer.

The lower pay of women is due to a number of factors, but key among them is that many women continue to be paid less for doing the same job as the man sitting next to them. By the most basic measure women continue to earn 78 cents on the male dollar and much of this gap cannot be explained by the kinds of jobs men and women hold or their skill levels. For example, Blau and Kahn (2007) found that 41.1 percent of the gender pay gap remains unexplained. This means that if women worked in the same jobs as men and had the same educational and experience levels, the gender pay ratio would rise from 80 to 91 percent of men's.³

Congress dealt with some of these issues in passing the Lilly Ledbetter Fair Pay Act, but we can still do more. The Paycheck Fairness Act is still sitting in front of the Senate and passing it is critical to ensuring that every worker gets a fair day's pay. Further, the administration can take steps to ensure that the laws we already have on the books are enforced and that workers with caregiving responsibilities are not discriminated against.⁴

Now, more than ever, workers cannot afford to lose a job due to work/family balance challenges. Losing a job in this economy could mean significant hardship for families. No family should have to cope with a wage earner losing a job because they needed a day off to care for a sick child or family member.

The unemployed are finding it increasingly difficult to get back to work. The typical unemployed worker has been out of work and searching for a job for 10.3 weeks, and nearly one in four (22.4 percent) unemployed workers have been out of a job for at least six months. The problem is that there are many more job seekers than jobs to be had. There were 2.7 million job openings on the last business day of December (the latest data on job openings), but there were 11.1 million unemployed workers. In January, 6.0 million workers entered or reentered the labor market, but less than two out of three (60.7 percent) actually found a job that month.

Establishing job-protected family and medical leave for more workers would help to ensure that no worker is pushed into the masses of the unemployed simply because they needed to care for a sick child or needed time to recover from an illness. Currently, the Family and Medical Leave Act only covers half the labor force because it excludes workers in firms with fewer than 50 employees; bringing this down to smaller employers would limit the unemployment of workers with caregiving responsibilities.

Ensuring that part-time workers have access to health care and fair pay has become more important to families. Many employers have cut hours instead of laying off workers. The share of workers who work part-time hours due to slack work or

³While educational attainment levels lowered the discrepancy in pay between men and women, other productivity-related factors, such as experience, occupation, and industry all increased the gap. Overall, nearly a third of the gender pay gap (27.4 percent) can be explained by differences in occupations, one-fifth (21.9 percent) can be explained by industry, and 10.5 percent can be explained by labor force experience.

⁴J. Williams, "Perspectives on Work/Family Balance and the Federal Equal Employment Opportunity Laws" (Washington, DC: Equal Employment Opportunity Commission, 2007),.

business conditions is now at its highest since the 1950s. Overall, 7.8 million workers are employed part-time, even though they would like a full-time job.

Employers are reporting that they are asking workers to take shorter hours to avoid lay-offs. Weekly hours worked are at a historically low level, even as employers shed workers. The average number of hours worked held steady last month at 33.3 per week. This is fewer hours per week than at any other time since the Bureau of Labor Statistics began tracking the data in 1964. Yet shorter hours or part-time work means that millions will be left without basic benefits such as health insurance coverage and paid time off unless employers alter their usual practice of not providing benefits to part-time workers.

The increase in part-time workers—especially involuntary part-time work—underscores how important it is to ensure that part-time workers are included in our plans to expand health care coverage. With more families being supported by a female worker who may not work full-time, access to health care benefits will become even more critical for working families.

Families are facing a tough economy. For many, the challenges of balancing work and family have only grown: with jobs scarce, workers are in greater need of family-friendly policies, especially those that ensure job protection. These policies can help to stimulate the economy in the short-term.

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Chairwoman WOOLSEY. Thank you.
Ms. Bernard?

STATEMENT OF MICHELLE BERNARD, PRESIDENT AND CEO, INDEPENDENT WOMEN'S FORUM

Ms. BERNARD. Chairman Woolsey, Ranking Member Price and other distinguished members, I sincerely thank you for giving me the opportunity to testify before you today on this very important topic.

My name is Michelle Bernard, and I am president of the Independent Women's Forum. IWF is a nonprofit group that is dedicated to educating the public about the issues of greatest concern to women, men and families.

We believe that free markets and economic liberty are fundamental to women's prosperity and well-being. IWF believes that encouraging a dynamic, diverse job market is one of the most important policy issues facing American women today.

Yet, my testimony today will not just reflect the perspective and analysis of the Independent Women's Forum. It is also based on my own personal experience.

I am the mother of two young children. I have taken time out of the workforce after a child's birth. I have sought at-home part-time employment and flexible work schedules in order to balance my desire to spend hands-on time with my children and to pursue my career.

I am also an employer. IWF is a small group with a total of 11 full-time staffers. Currently, everyone who works for me happens to be a woman. Many of my employees have children. In fact, six

of my 11 employees have children. I have two employees on maternity leave, and another is scheduled to deliver her son any day. I know from an employer's perspective both the benefits and challenges of working with employees to create arrangements that work for the good of the organization as well as for the personal needs of the employee.

Like most employers, I recognize the benefits of finding mutually beneficial work arrangements. While many focus on what employers aren't doing for their workers, it is also important to recognize that most businesses, large and small, already provide their employees with more benefits and flexibility than what is required by federal law.

For example, the Department of Labor reports that, as of 2006, 82 percent of American workers in the private sector had access to some sort of paid leave. As of 2004, 27 percent of full-time and salaried workers worked in arrangements that allowed them to vary their work start and end times. These statistics are encouraging, but we all know that they still mean that there are millions of workers without paid leave or certainly sufficient paid leave, and many who crave for more flexibility.

Those who propose new laws and regulations to require businesses to provide specific leave, benefits, or more flexible work arrangements do so because of their concerns for these individuals. I share that concern, but I am also concerned about the unintended consequences of government mandates for the employer-employee relationship.

Consider the situation of leave with benefits. If employers are required to increase the amount of leave time we offer employees, our costs are going to go up. It will become more expensive to retain our higher workers. As a result, businesses will have an incentive to hire fewer workers or to outsource jobs.

This isn't just economic theory. This is a fact. I can show you this on my own balance sheet. If the cost of benefits go up, that means that there will be less for workers. That means that, in tough economic times like this, I may face the grim prospect of actually having to let someone go or cutting salaries.

On a macro level, raising the cost of employment means a loss of job opportunities in the United States, particularly for employees whose jobs responsibilities can be fulfilled from alternative locations. I am a big believer in family-friendly workplaces, but government mandates are the wrong way to get us there.

The best way is to encourage a thriving economy that offers workers numerous job opportunities so that we can negotiate arrangements that make sense for our unique situation. Government can help women by encouraging more job creation and making it easier for women to start businesses of their own.

Start by simplifying our tax code, which is a drag on everyone's time, but particularly on those who run small businesses. Lower taxes, particularly taxes directly related to job creation, and reduce regulations that drive up costs and make doing business more complicated and expensive.

End the counter-productive taxes that discouraging savings so that people are better able to provide for themselves in times of need. Remember that, for every story you hear about someone who

would benefit from a law mandating employer-provided benefits, there is another story about someone looking for a job whose prospects of finding work are reduced because of the high cost of unemployment.

Particularly in economic times like these, new government mandates that raise the cost of employment are moving in the wrong direction. Policymakers should focus on job creation, not dictating the content of employment contracts. A thriving job market is the real key to providing women with the work opportunities that we crave.

Thank you again for your time, and I look forward to your questions.

[The statement of Ms. Bernard follows:]

Prepared Statement of Michelle D. Bernard, President, Independent Women's Forum

Chairman Woolsey, Ranking Member Price, and other distinguished Members, I sincerely thank you for giving me the opportunity to testify before you today on this important topic.

My name is Michelle D. Bernard and I am the president of the Independent Women's Forum. We are a nonprofit group that is dedicated to educating the public about the issues of greatest concern to women, and believe that free markets and economic liberty are fundamental to women's prosperity and well being. IWF believes that encouraging a dynamic, diverse job market is one of the most important policy issues facing American women today. Yet my testimony today will not just reflect the perspective and analysis of the Independent Women's Forum. It is also based on my personal experience. I am the mother of two young children. I have taken time out of the workforce after a child's birth. I have sought at home, part-time employment and flexible work schedules in order to balance my desire to spend hands-on time with my children and still pursue my career.

I am also an employer. IWF is a small organization, with a total of 11 full-time staff members. Currently, everyone who works for me happens to be a woman. Six of my eleven employees have children. I have two employees on maternity leave and another a few weeks away from giving birth. I know from an employer's perspective both the benefits and challenges of working with employees to create arrangements that work for the good of the organization as well as for the personal needs of the employee. Like most employers, I recognize the benefits of finding mutually beneficial work arrangements. While many focus on what employers aren't doing for their workers, it's also important to recognize that most businesses, large and small, already provide their employees with more benefits and flexibility than is required by federal law. For example a study conducted by the Families and Work Institute¹ found that:

- 70 percent of employers allowed at least some employees to periodically change start and quitting times;
- 31 percent allowed at least some employees to change starting and quitting times daily;
- More than half (55 percent) allowed at least some employees to move from full-time to part-time work, then back in the same position;
- 44 percent allowed at least some employees to share jobs;
- 44 percent also allowed employees to compress their work week;
- More than one third (35 percent) allowed at least some employees to work at home or off-site on a regular basis;
- 85 percent employers allowed at least some employees to return to work gradually after childbirth;
- 86 percent of employers provided women with 12 weeks or more of job-guaranteed leave after the birth of a child; and,
- More than half (54%) reported that their female employees received some pay from any source during the period following giving birth.

The U.S. Department of Labor reports that, as of 2006, 82 percent of American workers in the private sector had access to some sort of paid leave, whether paid sick leave, vacation, or personal leave. Not surprisingly, full-time workers were

¹Ellen Galinsky, "National Study of Employers 1998-2005," Families and Work Institute, February 16, 2006.

much more likely to have access specifically to paid sick leave than part-time workers (nearly 70 percent of full-time workers had paid sick leave, compared with 20 percent of part-time workers).² As of 2000, 4 million Americans were telecommuting on most days and 20 million were telecommuting at least one a month.³ The Department of Labor also found that, as of 2004, 27 percent of full-time and salaried workers worked in arrangements that allowed them to vary their work start and end times.⁴

These statistics are encouraging, but we all know that they still mean that there are millions of workers without paid leave, or certainly sufficient paid leave, and many who crave more flexibility. I know that there are heartbreaking anecdotes of people who face illnesses, either personally or among their families, and who then must struggle to meet the demands of their job. I know too many women have too little time, and too little support, after giving birth. Those who propose new laws and regulations to require businesses to provide specific leave benefits or more flexible work arrangements do so because of their concerns for these individuals. I share that concern, but I am also concerned about the unintended consequences of government mandates for the employer-employee relationship. We cannot ignore that there are real costs associated with many of these provisions, such as requiring employers to provide a specific amount of leave time (paid or unpaid) or requiring the availability of more flexible work schedules. These provisions have real effects on a company or organizations' bottom line.

Consider the situation with leave benefits. Simply put, when employees take time out of the work force, businesses must replace those workers or shift their responsibilities to other employees, resulting in lost productivity. If employers are required to increase the amount of leave time we offer employees, our costs are going to go up. It will become more expensive to retain or hire workers. As a result, businesses will have an incentive to hire fewer workers or to outsource jobs. As of 2006, more than 30 percent of the average worker's total compensation was paid as benefits. If mandates drive costs up, that means there will be less money available to pay workers directly as compensation.

This isn't just economic theory, this is a fact. I can show you on my own balance sheet. As a non-profit organization, I don't have the option of passing new costs on to customers. We are funded through private donations. As a result, I have a set pool of money that can be used for compensation. If the costs of benefits go up, that means that there will be less for raises and for workers. That means that in tough economic times like these I may be forced to scale back. I may face the grim prospect of actually having to let someone go or reducing peoples' take-home pay. These are the difficult calculations being made at organizations and companies throughout the country, large and small. On a macro level, raising the cost of employment means a loss of job opportunities in the United States, particularly for employees whose job responsibilities can be fulfilled from alternative locations.

Indeed, low-income workers who tend to have the lowest skills are the most likely to be affected adversely by costly new mandates. Employers seeking to remain competitive and reduce their employment costs will seek ways to combine jobs. Low skill jobs are typically the easiest to combine. Those with the highest level of skills will be retained by employers, but those who most need those important skill-building, entry-level jobs will likely be left with fewer options and opportunities.

Sometimes the costs of proposals aren't obvious. Providing for more flexible schedules, for example, or work-at-home arrangements sound like a win-win for employers and employees. And I firmly believe that it certainly can be. But such arrangements can work well in particular situations, but wouldn't work so well for others. One of my employees, whose primary job is researching and writing, works almost entirely from home. This works for us: she has flexibility, but can easily be held accountable for her performance based on her output. Yet there are other positions where being physically in the office is a necessity.

Right now, I have the flexibility as an employer to negotiate flexible arrangements. Employees know that it is a responsibility. Once such flexibility becomes a right, I will have a lot less control of managing my employees' performance. It will become more difficult for me to reward positive performance and take action against those who aren't working as they should. It would open employers like me up to a new raft of lawsuits and administrative tasks, all of which are a real burden on

²U.S. Department of Labor Fact Sheet on "Leave Coverage and Usage for U.S. Workers," February 27, 2007, 2.

³U.S. Census Bureau, "Census 2000 PHC-T-35. Working at Home: 2000," Table 1-4, available at <http://www.census.gov/population/cen2000/phc-t35/tab01-4.xls>.

⁴Bureau of Labor Statistics Press Release, "Workers on Flexible and Shift Schedules in 2004 Summary," July 1, 2005.

business. I've focused thus far on the economic impact of government mandates, but I also want to highlight that at its core mandates are a loss of freedom for individuals. A law requiring employers to offer seven days of paid sick leave, for example, means that it has become illegal for two adults to create an employment contract without that provision. Why is this government's job? Isn't this a decision best left to individuals?

It is important to remember that, while some employees may want generous benefit packages, others may prefer more money in their wallets. Conversations about mandated benefits tend to focus on those who make the most use of those benefits, particularly women with children. Yet we can't forget that there are many workers without significant family obligations. They are much less likely to make use of these benefits and are more likely to have to pick up the slack when other workers do make use of them. Why should they not be able to negotiate a reduced benefit package that allows them to have more money in their pockets? I'm a big believer in family-friendly workplaces. But government mandates are the wrong way to get us there. The best way is to encourage a thriving economy that offers workers numerous job opportunities so that we can negotiate arrangements that make sense for our unique situations. Government can help women by encouraging more job creation and making it easier for women to start businesses of their own. Start by simplifying our tax code, which is a drag on everyone's time, but particularly on those who run small businesses. Lower taxes, particularly taxes directly related to job creation. Reduce regulations that drive up costs and make doing business more complicated and expensive. End the counterproductive taxes that discourage savings so that people are better able to provide for themselves in times of need. Remember that for every story you hear about someone who would benefit from a law mandating employer-provided benefits, there's another story about someone looking for a job whose prospects of finding work are reduced because of the high cost of employment. Particularly in economic times like these, new government mandates that raise the cost of employment are the wrong direction. Policymakers need to focus on job creation, not dictating the content of employment contracts. A thriving job market is the real key to providing women with the work opportunities that we crave. Thank you again for your time and I look forward to your questions.

Chairwoman WOOLSEY. Thank you.
Dr. Appelbaum?

**STATEMENT OF EILEEN APPELBAUM, DIRECTOR, CENTER
FOR WOMEN AND WORK, RUTGERS UNIVERSITY**

Ms. APPELBAUM. Thank you, Chairman Woolsey and Mr. Price, for inviting me to speak here today, and thank you, Congressman Holt, for that kind introduction.

These are challenging times for America, for our families, our workers, and our businesses. The double blow of a serious recession and a crisis in financial markets has undermined the profitability of American companies and threatened the incomes of America's working families.

Our values and character as a nation will be revealed in how we meet these challenges.

Today, with the economy struggling to gain traction, policies like paid sick days and family leave insurance are more important than ever. Especially during a recession, losing a job can be catastrophic.

Paid sick days and family leave insurance are effective job retention strategies that help workers and, at the same time, enable businesses to realize net savings where the lower cost of reduced turnover and presenteeism, which is coming to work sick, are balanced against the costs of absenteeism.

Most families, as you have heard, face a situation in which just about every available adult is in the paid workforce. Paid sick days, the family leave insurance, let everyone who works for pay be good family members and good employees. Research shows, and families

know, that the lack of paid time off to care for yourself, your children or other family members compromises health outcomes.

The American people get it. Polling data show that the public overwhelmingly supports both paid sick days and family leave insurance. A recent national poll found that 89 percent of voters, 83 percent of Republicans and 94 percent of Democrats, favor paid sick days as a basic employment standard.

A poll of New Jersey residents prior to passage of the state Family Leave Insurance Program, found that 78 percent of all residents, including a majority of Republicans, favored that policy. While the benefits of families and to public health may be familiar to many people, the benefits to businesses are less well known.

Access to paid sick days and to family leave insurance increases employee productivity and reduces turnover. Turnover is very costly for employers, and access to paid time to care for yourself or a family member significantly improves retention and reduces these costs.

An analysis of the 2003 survey of California establishments found that relatively few employees go on leave at any time. On average, 6.3 percent of workers took family or medical leave in a 1-year period, 8 percent in those companies that had more generous benefits than were required by law.

However, what we also found is that 88 percent of workers returned to their previous employer if there were more generous leave benefits. And in particular, small businesses with more generous leave benefits found that 95.4 percent of leave-takers returned to their jobs.

A cost-benefit analysis in California showed very high savings for both employers and for state government when people don't go on welfare or TANF or food stamps, so both employers and the state benefited. In Massachusetts, a cost-benefit analysis found that, while it is true that employers would pay \$218 million annually as a group as a result of paid sick days, the benefits mainly from reduction in turnover but also from preventing the rest of the staff from getting sick and so on, led to a savings of \$348 million annually. The weekly per-worker cost of paid sick days would be \$1.49 while savings per worker would be \$2.38 for a net savings to employers of 89 cents per employee per week. And this includes benefits that would have to be paid.

Employers are often concerned that providing employees with paid sick days or family leave insurance will lead to skyrocketing employee absences. The data suggests that this fear is unfounded.

Now, while it is true that many businesses offer their employees paid sick days, what we know is that these benefits apply mainly to full-time workers and mainly to the higher paid workforce. Seventy-one percent of full-time workers have paid sick days, only 27 percent of part-time workers, and access is very uneven, with those making \$15 an hour or less very unlikely to have access to paid sick days.

If we turn to family leave insurance, we see that California and New Jersey are the first states to implement, that Washington State has passed it but has not yet implemented. In both of these states, the benefit is the insurance premiums are fully paid by the employees. They pay into a state insurance fund.

When they require a family leave, they are able to take the time off. I think it is unreasonable—I am sure there are some good employers who do provide extensive family leave benefits, but it is unreasonable to ask employers to be able to do that. A state insurance fund is the way to go. And in the two states, there are no new mandates on employers, only that, if your kid gets hit by a car, your mother has a stroke, you need to take a few weeks off, you can collect.

And the question—I see I am out of time, so, in the question and answer, I am happy to talk a little bit about how we can look at family leave insurers, and especially paid sick days, in the current environment. I have some ideas of how to help employers.

I will just conclude by saying that difficult economic times like the present are the worst times for people to lose a job. And in addition, employers won't hire somebody to replace that person. Family leave insurance and paid sick days enable workers to maintain a stable stream of income and underpins consumption when workers must miss work.

Thank you very much.

[The statement of Ms. Appelbaum follows:]

Prepared Statement of Eileen Appelbaum, Professor, School of Management and Labor Relations, Director, Center for Women and Work, Rutgers University

Thank you Chairwoman Woolsey and Chairman Miller for inviting me to speak to you today. My name is Eileen Appelbaum and I am a professor in the School of Management and Labor Relations and Director of the Center for Women and Work at Rutgers University, and a Visiting Scholar at the Center for Economic and Policy Research.

These are challenging times for America—for our families, our workers, and our businesses. The double blow of a serious economic recession and a crisis in financial markets—unprecedented in the more than 60 years since the Second World War—has undermined the profitability of American companies and threatened the incomes of America's working families. Our values and our character as a nation will be revealed in how we meet these challenges. President Obama made clear in his remarks to the joint session of Congress last week that he is looking to all of us to work with him to take the bold steps necessary to build a sustainable economy to replace the now-deflated and thoroughly discredited stock and housing bubble economies. He has created a high-level White House Task Force on Middle-Class Working Families and charged it to act swiftly to develop legislative and policy proposals that can be of special importance to working families. Key among the 5 goals the President set for the task force is to improve work and family balance.

Today, with the economy struggling to gain traction, policies like paid sick days and family leave insurance are more important than ever. Especially during a recession, losing a job can be catastrophic for employees and their families and will place added demands on already strained state services. Paid sick days and family leave insurance reduce job loss. They are effective job retention strategies that help workers behave responsibly as employees and as family members and, at the same time, enable businesses to realize net savings when the lower costs of reduced turnover and presenteeism (coming to work sick) are balanced against the costs of absenteeism. Paid sick days policies and family leave insurance enable ill workers to take time off from work to care for themselves, reduce the spread of disease to co-workers and customers, and offer substantial savings to employers by reducing turnover and minimizing absenteeism.

Let me briefly describe what is meant by the terms “paid sick days” and “family leave insurance,” and clarify the difference between them.

Paid Sick Days: Employees accrue a certain number of paid sick days during a calendar year that they can use to recover from the flu or other routine illnesses or medical problems. For many employees, having paid sick days enables them to care for a child with a routine illness

Family Leave Insurance (FLI): Employees in a state pay a modest amount into a state insurance fund. These employees are then able to draw on the fund for par-

tial wage replacement when they need time off from work to care for new or seriously ill family members or to recover from their own serious illnesses. Employers gain from job stability.

Family-friendly policies at work

Most families face a situation in which every available adult is in the paid workforce. Family members must provide needed care for children, spouses and ill or elderly parents while being responsible employees at work and contributing to the financial well-being of the household. Employees need family-friendly policies at work to be able to do this. Paid sick days and family leave insurance let everyone who works for pay to be good family members and good employees. Research shows, and families know, that the lack of access to paid time off to care for yourself, your children, or other family members compromises health outcomes. Having to come to work sick or send a sick child to school increases contagion and spreads disease in the workplace, child care center, or school (Heymann, Earle and Egleston 1996). Not taking time off to get better can actually result in longer absences for employees since health may worsen and minor problems turn into major ones (Grinyer and Singleton 2000). Children recover from illness or surgery more quickly when their parents are there to care for them (Palmer 1993; Kristtensen-Hallstrom, Elanders and Malmfors 1997). The elderly recover more quickly and can live on their own longer if children are able to care for them when they fall ill.

The American people “get” it. Polling data show that the public overwhelming supports both paid sick days and family leave insurance. A recent national poll found that 89 percent of voters—83 percent of Republicans and 94 percent of Democrats—favor paid sick days as a basic employment standard (National Partnership for Women and Families 2007). It is easy to understand this high level of support across the political spectrum. In addition to the loss of wages when an employee misses work, unapproved absences may also be punished with temporary unpaid suspensions or even with job loss (Dodson, Manuel, and Bravo 2002). In the poll mentioned above, 1 in 8 voters reported that they or a worker in their family had been fired or penalized for taking time off from work to care for a sick family member. A poll of New Jersey residents in Fall 2006, prior to passage of the state’s FLI program, found that 78 percent of all residents, including a clear majority (59 percent) of Republicans, favored the policy. About three-quarters of residents favored the policy even at a cost to themselves that was double what the program actually cost (Eagleton Institute 2006). Polls conducted in California and in Washington State prior to passage of family leave insurance in those states found similar high levels of support across the income and political spectrums. Activity at the state and local level is at its highest, involving broad and diverse coalitions including school nurses and educators, labor and progressive business owners, advocates for children and for seniors.

While the benefits to families and to public health from paid time off to care for yourself or a family member may be familiar to many people, the benefits to businesses are less well known. Access to paid sick days and to family leave insurance increases employee productivity and reduces turnover. Turnover is costly for employers, and access to paid time off to care for yourself or a family member significantly improves retention and reduces these costs. In addition, letting employees stay home and recuperate reduces the costs to businesses of illnesses that spread among the workforce when employees come to work sick. The cost savings are considerable and far outweigh any additional expenses associated with these workplace policies. Indeed, many businesses recognize the value of these cost savings, and already provide employees with paid sick days and other paid leave benefits.

An analysis of the 2003 Survey of California Establishments, a survey of California employers conducted prior to the implementation of family leave insurance (called paid family leave or PFL in that state) found that over a third of these employers (35.5%) provided family and medical leave benefits beyond what was then required by law. This was especially true in unionized workplaces. The survey of employers also found that relatively few employees go on leave at any time. On average, 6.3% of workers took family or medical leave in a one-year period; 8.0% in establishments with more generous leave benefits. However, the survey indicated that leave takers were more likely to return to their jobs in establishments with more generous leave benefits—87.7% compared with only 75.8% in establishments that did not provide benefits beyond those required by law. Small businesses with more extensive leave benefits did even better—95.4% of leave takers returned to their jobs (Milkman and Appelbaum 2004).

A cost-benefit study of paid family leave in California found that providing all employees with partial wage replacement for up to 6 weeks of family leave through a state insurance fund would result in significant savings for both employers and

for the state. Employers would realize a net saving of \$89 billion a year due to increased retention and decreased turnover. In addition, the State of California could save \$25 million annually, due to decreased reliance on assistance programs, including TANF and Food Stamps (Dube and Kaplan 2002).

In Massachusetts, 693,000 workers—a quarter of the private sector workforce—have no paid leave whatsoever and would receive new paid sick days if legislation introduced in that state were passed. A cost-benefit analysis of this proposed legislation found that Massachusetts employers would pay \$218 million annually for wages, payroll taxes and payroll-based employment benefits, and administrative costs to provide employees with paid sick days. However benefits for employers, mainly from reduced costs of turnover, would amount to \$348 million annually. Overall, employers in the state would save \$130 million annually as a result of the paid sick days legislation. The weekly per worker cost of the Massachusetts paid sick days policy would be \$1.49 while savings per work would be \$2.38, for a net savings to employers of \$0.89. In addition, the paid sick days policy would improve public health by reducing the spread of serious contagious diseases such as the flu and norovirus, and would save workers \$1.5 million annually in health care expenditures. Getting medical care when it is needed would improve patient outcomes and reduce costs for providers and patients (Lovell, Miller and Williams 2009).

Employers are often concerned that providing employees with paid sick days or family leave insurance will lead to skyrocketing employee absences. The data suggest that this fear is unfounded. National data show that employed adults 18 years of age and older lost, on average, 4 work days due to illness or injury in the 12 months preceding the data collection (National Center for Health Statistics 2007). Employees with paid sick days at their workplace had an average of 4.6 days of work loss due to illness; those with no paid sick days at work had an average of 3.8 lost work days due to illness. Fully 48 percent of employees with paid sick days at work used none of their sick days in the prior 12 months (CEPR analysis of the 2007 National Health Interview Survey).¹

Similarly, usage of family leave insurance in California—the only state with actual experience with such leaves—is reassuring. While family and medical leaves are essential supports to employees welcoming a new child or facing the challenges of caring for a seriously ill child or parent, these are relatively rare events in a worker's life. Several hundred thousand California working families have benefitted from access to this insurance in the four-and-a-half years since it was implemented in July 2004. But this represents a relatively small fraction of the California workforce.

Who gets paid sick days

Many businesses already offer their employees paid sick days. According to the latest data (National Compensation Survey, March 2008),² 61 percent of private sector workers—71 percent of full-time and 27 percent of part-time workers—had access to paid sick days. This means that two fifths of all private sector workers and nearly three-quarters of part-time employees—had no paid sick days at all (Kramer and Zilberman 2008). A serious problem is that more than half of the workforce does not have or cannot use paid sick days to care for sick children (Galinsky, Bond and Hill 2004). Moreover, access to paid sick days is uneven—higher-paid workers are far more likely than lower-paid workers to be able to take paid time off when they have a bad cold or the flu. In 2008, only 23 percent of employees in the bottom 10 percent of the income distribution had any paid sick days, compared with 83 percent of employees in the top 10 percent. For these low wage workers, any illness—even a sore throat and fever—can be a health crisis. Only 47 percent of workers earning less than \$15 an hour have any paid sick days, while 75 percent of those earning \$15 or more have such access. By occupation, 83 percent of managers and professionals but only 66 percent of sales and service workers, 51 percent of production workers, and 42 percent of service workers have access to paid sick days (Kramer and Zilberman 2008). As a result, children in low-income families are far less likely than other children to have a parent with paid sick days (Clemens-Cope et al. 2008; Earle and Heymann 2002).

¹The analysis is based on the methodology developed by Vicky Lovell and the Institute for Women's Policy Research (Lovell 2004).

²A new definition of paid sick days access was introduced in the March 2008 survey. It now includes previously excluded plans for which no worker had made use of the benefit. As a result, the latest numbers for access to paid sick days are higher than, and not strictly comparable to, earlier numbers from this source that have been widely used in previous publications.

Family leave insurance in California and New Jersey

In 2004 California became the first state in the nation to implement family leave insurance. Employees began contributing to this fund in January of 2004 and, once the fund was established, were able to collect benefits beginning in July of that year. California employees who need to take family leave to bond with a new child or to care for a seriously ill child, parent, spouse or domestic partner are able to collect partial wage replacement from a state-administered insurance fund that is fully funded by employee contributions. Employees are able to collect 55% of their weekly earnings up to a maximum that rises each year along with the average wage paid in the state. The maximum benefit was \$728 in 2004 rising to \$882 in 2007 and \$917 in 2008. The average weekly benefit actually paid out was \$406 in 2004, \$405 in 2007 and \$421 in 2008. While income replacement under the paid family leave program has been very important to the well-being of families that have received it—and a total of about 740,000 claims have been paid, only a very small fraction of employees has taken paid family leave in any year. The percentage that has taken paid family leave in each year of the program's existence has been between 1.2% and 1.4% of eligible employees.

A large majority of the claims (88%) are for bonding with a new child. While women still do the majority of care work in the home, by 2008 a fifth of all bonding leaves were taken by men. The remaining claims (12% of the total) are for care of a seriously ill family member, most often a spouse or parent; more than a third of these leaves were taken by men as has been the case since 2004. The average length of leave has been about 5.4 weeks each year, reflecting the fact that most of these leaves are for bonding. Leaves to care for a seriously ill family member are substantially shorter. (All California data are from the Employment Development Department of the State of California.)

In 2008 New Jersey became the second state to pass family leave insurance and put a mechanism in place to fund it (the third state after Washington to pass such a program). Like the California family leave insurance program, it is fully worker funded and provides up to 6 weeks of partial wage replacement. Employees began contributing to this insurance fund on January 1, 2009 and will be able to begin collecting from it on July 1 of this year. Employees will be able to collect two-thirds of their weekly wage up to a maximum in 2009 of \$548. This formula is a bit more generous to low-wage employees than the California program, but it is capped at a much lower level. The cost of this benefit is 25 cents a week (\$13 a year) for a worker earning \$7.25 an hour and is capped in 2009 for all employees at \$26.01 a year or 50 cents a week.

Federal measures to promote family-friendly policies in the workplace

Family-friendly policies take many forms. Some, like minimum wage and paid sick days, establish employment standards and can reasonably be expected to be provided by employers. Others, like unemployment insurance and family leave insurance, are paid for through a payroll deduction to cover the premium.

Family leave insurance is still in its infancy in the U.S. For California and New Jersey, which have long-standing state temporary disability insurance funds, adding family leave insurance to temporary disability insurance made a lot of sense. Washington State, which needed to create the program from scratch, took another route of charging a fixed amount per hour and paying out a fixed weekly benefit. As other states begin to implement a state insurance fund to provide income to families when a wage earner must miss work for a family or medical leave, we are likely to see—and will want to encourage—a wide diversity of approaches. This will be important for providing us with important information about the best way to make this insurance universally available. An important role for the federal government is to provide states with incentives and support to develop their own family leave insurance initiatives. The federal government can do this by providing grants to states to implement programs that provide partial or full wage replacement to those taking the types of leaves defined by the Family and Medical Leave Act. The grants might be used to develop and implement the program, to cover administrative costs, for outreach and education, or to provide incentives to small businesses to provide job protection. In particular, the grants might be used to enable states to begin paying benefits during the initial 6-month period between the time employees begin paying into the fund and the time the fund has built up sufficient assets to begin accepting claims for payment. In order to not penalize states that have already implemented such a program, a similar one-time grant could be made to them as well.

Paid sick days should be a universal employment standard in the U.S. It is in no one's best interest to have employees come to work when they have a bad cold or the flu. And, indeed, a majority of employers do provide their workers with paid sick days. It can, however, be difficult to implement paid sick days if the companies

with which you compete do not do likewise. Requiring employers to provide workers with a minimum of seven job protected paid sick days, levels the playing field for good employers who want to meet this standard. Employees would accrue the paid sick days at a rate of one hour of paid sick time for every X hours of time worked up to 7 or more days. As with the minimum wage, national legislation could provide a universal floor for all workers, with states free to set higher standards. In the absence of national legislation requiring paid sick days as a workplace standard, some states and localities have begun to introduce local ordinances. Measures have passed in San Francisco, Milwaukee and DC; the San Francisco and Milwaukee ordinances require 9 paid sick days.

Paid sick days are even more important now, in the midst of the current severe recession and accelerating job loss. Without access to this basic standard, workers lose income and may even lose their jobs if they miss work to care for their own health or that of a child. For the employee, this would be a terrible time to lose a job. And employers are not likely to hire a replacement, with negative impacts on the local community and the macroeconomy. Yet, the business community's lack of confidence during the current recession could make companies fearful of making changes or adopting new policies, however beneficial. This is especially true of smaller employers. And it is employees of smaller companies, especially those who are low-paid, that are most likely to lack paid sick days. Only about half of companies with less than 100 employees offer any paid sick days compared with nearly three-quarters of companies with 100 or more employees (Kramer and Zilberman 2008).

One way to address this is to provide a temporary subsidy, say for two years, to small employers that introduce and/or increase the number of days of job protected sick days. The full subsidy would be available to all employers with less than 50 employees and would phase out as the number of employees increased, up to 100 employees. The subsidy would be capped at 3% of annual pay not to exceed a \$750 credit per worker.

Conclusion

Difficult economic times like the present are the worst times for people to lose a job. Family leave insurance and paid sick days enable workers to maintain a stable stream of income and underpins consumption when workers must miss work to deal with their own health needs or those of a family member. These measures are important during the current recession. They are also essential to building a sustainable economy for the long run that works for working families.

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Chairwoman WOOLSEY. Thank you.

Ms. CLAY, I can't help but think that it would be a good learning experience for all of us if you would tell us what it took for you—leave your brother and get down here today.

Ms. CLAY. Well, thank you.

I am fortunate—unfortunately, my son does not have a job because—

Chairwoman WOOLSEY. The bad news and the good news, I guess.

Ms. CLAY. Yes, so he is helping me to take care of my brother, along with my daughter—she is a nurse and she is in school, and she needed a place to stay, so we compromised. She is at my house with my brother also.

Chairwoman WOOLSEY. So two family members—

Ms. CLAY. Yes.

Chairwoman WOOLSEY [continuing]. Filling in for you.

Ms. CLAY. Yes.

Chairwoman WOOLSEY. Are you still getting your pay?

Ms. CLAY. No.

Chairwoman WOOLSEY. Oh, because it is not you. They don't get paid, and so—okay. Today is a day without pay for you.

Ms. CLAY. Yes, it is.

Chairwoman WOOLSEY. Okay. Go ahead.

Ms. CLAY. I guess what I would like to say is that paid time off and paid sick days, they would help me so much. I would be able to go to the doctor, you know? That little bit of money—I don't make much, as I told you, but that little bit of money could make me a healthier person, if I am on top of making sure that I am healthy, if I go to the doctors and take care of myself.

There are so many people like me out there, and I am just asking you to have some compassion for those of us that can't afford the time off.

Chairwoman WOOLSEY. Okay. Thank you.

Ms. CLAY. Thank you.

Chairwoman WOOLSEY. Okay.

Dr. Appelbaum, I am going to be your shill, so go ahead. Tell us how you think that—I mean, what your—

Ms. APPELBAUM. I want to—

Chairwoman WOOLSEY [continuing]. How this would work in this economy.

Ms. APPELBAUM. Yes.

I want to talk about paid sick days, which I think are even more important now in the midst of a severe recession. But I understand that the business community has a lack of confidence in what the future holds and would be very unwilling to make changes.

And it is also very difficult for one employer to offer paid sick days if their competitors don't. So the big companies all do it, and the small companies all find it difficult to do.

So one way to address this problem, I think, would be to provide a temporary subsidy from the federal government, say for 2 years, for up to 2 years, to small employers that introduce or increase the number of days of paid sick leave that they provide to their employees. The subsidy could be fully available to employers with 50 or fewer employees and phase out up to 100, because it is really all the way up to 100 employees that we find this lack of paid sick days.

And we could cap the—at 3 percent of annual pay and not to exceed a credit of \$750 per worker. That would be enough to enable an employer to provide 7 paid sick days to an employee making up to \$25,000 a year and having the costs covered.

So I think something targeted to small employers, something that was temporary, lasting for the 2 years. I am hoping to God that the recession is not longer than that. Some say 2011, where things are looking up in this country. I am confident, with the policies we have in place now, that this will happen.

But I do understand that this could be difficult times to provide paid sick days, especially for small employers. So something temporary and targeted to them in that way I think would make sense.

Chairwoman WOOLSEY. So, Dr. Boushey, Family and Medical Leave Act. Why isn't that good enough?

Ms. BOUSHEY. That is a great question.

If I could just add to one thing that Dr. Appelbaum said about paid sick days, what we are seeing in this recession right now is that folks who have lost their job are having a very, very difficult time getting back to work. Like, we are seeing a lot of job loss, but we are seeing very little job creation.

So giving people job-protected paid sick days could help ensure that fewer folks lose those jobs and get out into the pools of unemployed people as well. So there is a potential macro effect and importance of making sure people have job-protected leave.

Chairwoman WOOLSEY. Okay. You have 1 minute to talk to me about Family Medical Leave.

Ms. BOUSHEY. Yes.

So Family Medical Leave Act, it is not enough for two reasons. First of all, it doesn't cover everyone, covers—just a little bit over half the labor force is actually both eligible and working for a covered employer. So there are a lot of folks who simply don't have access to it. Anyone who works at a small firm doesn't have access.

The second problem, of course, is that it is not paid. So while people can take some time off, many people who don't take leave report that the reason that they don't do it is because they can't afford to take the time off. Many of the things that Ms. Clay here

was talking about earlier today, that it is hard for families to afford it.

So we need to both make it paid, like they did in New Jersey and many other states. We also make sure that we are covering everyone so that every worker has the right to job protected leave.

Chairwoman WOOLSEY. Thank you.
Congressman Price?

Dr. PRICE. Thank you, Madam Chair, and I want to thank the witnesses today for their testimony.

Ms. Clay, as a physician, I took care of many patients who had CP, and I know the special challenges that you face, and God bless you for the work that you are doing for your brother.

I was struck by, Dr. Appelbaum, your comment I think that you said that, "It was unfair to ask employers" to cover this cost, and then you talked about the importance of insurance and the way that that can work, which I think may hold, in fact, some promise.

Would it be correct to say that you would not support, without that type of program, mandating this for employers?

Ms. APPELBAUM. No. If we are talking about family leave insurance, I don't think it should be mandated to employers.

Dr. PRICE. Thank you.

Ms. APPELBAUM. I think it should be—I think, like, unemployment insurance, Social Security, worker's comp, it has to be a social insurance fund.

Dr. PRICE. Because there are consequences for mandating it.

Ms. APPELBAUM. For everybody. But I think—I mean, if a person needs a leave of up to 6 weeks, that could be devastating to an employer.

Dr. PRICE. Sure.

Ms. APPELBAUM. And the other thing is that it is unbalanced. If you are a—steel mill, you don't have to worry that too many of your employees are going to take time off to have a baby, but if it is a hospital, it is another story, obviously.

Dr. PRICE. Ms. Bernard, I was struck by your testimony and the experience that you have as an employer, and the consequences of having the federal government determine exactly what employers ought to do. Would you expand more on the consequences of a federal mandate and the lack of flexibility that that would have for the workplace and the consequences for employers being able to hire workers?

Ms. BERNARD. Absolutely.

I would like to start by giving you an example, because this is—it is a matter of compassion for all of us. And it really boils down to what is the proper role of government.

Two years ago, one of our employees had a sister who was murdered her first week of college at the University of Vermont. It was an absolutely horrific experience for her and for the entire IWF family.

I don't know what we would have done if we had the government mandating what kind of leave we gave her. We allowed her to take all of her paid sick leave, all of her paid vacation leave. And then, rather than the government mandate when she needed more time, all of the employees voluntarily put their own paid and sick days

into a sort of piggybank and gave her as much time as possible with paid leave.

People were willing to do that on a voluntary basis. I know that not all people are able to do that, but those are the kind of things that I think we should be looking at, rather than government mandates.

I just got a notice yesterday that our health insurance premium is going up 33 percent this year. I don't know how we are going to afford that. I don't want to lay people off. I don't want to reduce salaries. I don't want to cut benefits.

If there were to be a federal government mandate added in addition to what I am paying voluntarily for health insurance benefits, more women will lose their jobs. That is the unintended consequences of federal mandates, including the expansion of the Family Medical Leave Act.

Dr. PRICE. I know that here in Washington, some folks think that it is just a bottomless pit, that money just—that you just keep printing money and printing money and printing money, and there is no end to it.

I wonder if you would expand—the issue that you raise about health insurance, employers don't have a printing press in their garage like the federal government. So when they are forced to do something by the federal government that costs more, then where do they find that money?

Ms. BERNARD. Well, I mean, it is a great question. For example, in the nonprofit sector, nonprofit organizations are funded by donations that people make to that organization out of the goodness of their heart. I am not producing goods. I am not in the manufacturing business. I cannot go out to someone and say, "My healthcare benefits are going up 33 percent. Would you please donate more money to IWF so that we can continue to fight the good fight?" It just doesn't work that way, particularly in the current economic climate that we are in.

So what happens, whether you are a nonprofit or a for-profit business, you look at your bottom line. You say, if this is the mandate and this is what it is going to cost me, what I am going to have to do is cut other things from my budget.

And more often than not, that is human resources. Benefits are incredibly expensive when you have got payroll taxes, Social Security taxes, every kind of tax you can possibly imagine, and then you add other things onto it, particularly if you are a company that provides voluntary benefits, such as paid sick leave and paid sick days off and maternity leave, and you have to hire employees to replace the people who are out on leave. It really can have a very devastating impact on women.

Dr. PRICE. So when the numbers add up, then at some point you decrease the number of workers that you are able to hire.

Ms. BERNARD. Yes. You don't have a choice, not only that you are able to hire, but they are even able to keep on staff.

Dr. PRICE. Thank you.

Chairwoman WOOLSEY. I guess, because I am the chair, I get to say something if I want to.

We all absolutely know that healthcare is the elephant in the room.

Dr. PRICE. Reserving the right to object, Madam Chair, if I may. If you would like to speak, I am happy to have you do that, as long as there is appropriate time for rebuttal, as we are keeping things equal.

Chairwoman WOOLSEY. Well, there is always time for rebuttal.

Dr. PRICE. Thank you.

Chairwoman WOOLSEY. But healthcare is the elephant in the room, and by fixing healthcare, it is not going to make it more expensive. It is going to become more efficient and more effective and less expensive if we do it right. If we don't do it right, shame on us.

Dr. PRICE. If I may?

Chairwoman WOOLSEY. You may.

Dr. PRICE. You know, well, you are absolutely right. We fix healthcare, it makes it less expensive. The question that we are addressing here, though, is whether or not mandates for businesses result in the ability for employers to hire more workers or fewer workers, and to treat their workers with greater flexibility.

Chairwoman WOOLSEY. Congressman Holt?

Mr. HOLT. Thank you, Madam Chair.

And I thank the witnesses for addressing, really quite specifically, what is in front of us here, and quite clearly.

And Ms. Clay, I must say you are a very admirable person.

Ms. CLAY. Thank you.

Mr. HOLT. And we thank you for coming today.

Dr. Appelbaum, I would like to pursue and put in kind of larger context what you have had to say about family leave insurance and paid sick days. You are arguing, at least indirectly, and I would like you to speak more specifically, about the effect that extending these policies would have on the productivity in the economy. There has been a lot of attention to the cost to individual companies, or to individuals if they don't have these things.

From the larger societal point of view, what is the benefit? Do you end up with a better economy if these things are provided?

Ms. APPELBAUM. You are right. That is a very good question, and there are numerous benefits.

One of the big problems of not having leave is that you have two different kinds of things that happen. One is that people come to work even when they are concerned about a sick child. They leave the child. Child himself had surgery, is in the hospital.

As the parent, you want to be with them. You have no paid time off. Not only that you have no paid time off, but, in many workplaces, unlike the one that has just been described here, which sounds like a fabulous place to work, people not only lose pay, but they can be fired for not having shown up.

There are cases that we have seen where an employee is told, "No, you cannot leave to go to the hospital," and the child has to wait until the workday is over so the parent can be there so the hospital can do what it has to do with the parents there to approve it.

Those workers are not very productive. They may be in the workplace, but they are not very productive. You come to work with the flu, not only are you not productive, but you infect the rest of the workers. And as we know, the people who are least likely to have

paid sick days work in food, restaurants and so on, and in nursing homes, in home healthcare and so on.

So it is us. It is us that they are making sick.

The point is that, in the workplace, if you have workers who can't focus on their jobs and who are making your fellow workers sick, of course this has a productivity impact. But the other piece of it is that, if this worker loses their job, either gets disgusted—I couldn't—"What do you mean, I can't go be with my kid," and walked out, or the employer fires them because of it, it takes a long time to hire a new employee and get them up to speed.

And that is the other thing. That is a major loss in productivity during that entire period when you are looking for the new worker, when you are getting them up to speed. And so there are very serious productivity implications of all this. And a lot of employers know it, especially small employers know it.

But I have been told when I go out and talk—I do a lot of talking to companies, and what they tell me is, if I have an employee and they need to take time off, first of all, turnover in small businesses are very high. If they want to come back, I am happy to take them back, and I know that there will be a job opening somewhere in the near future because turnover is so high.

But what small businesses really regret is, if it is an extended leave, that they don't have the ability to actually cover that person's pay or provide them with partial wage replacement. They don't even have the paid sick days or paid vacation days that people could combine together.

So if there is a state fund that they can pull from that the employees have contributed to and can take the money from, this means that you don't lose that employee. You don't lose the investment in your human capital that you have made. You don't have to do the search for a new employee. You don't have to do the training.

Even in low-wage jobs, it is many, many thousands of dollars per worker every time this happens, and that is just a net loss to the economy.

Mr. HOLT. Dr. Boushey, would you care to comment on that same question, and perhaps more specifically whether the effect is greater with the lower wage workers than higher wage workers, or the other way around.

Ms. BOUSHEY. Well, I think that there are a couple of things. I mean, as Dr. Appelbaum has said, this issue of turnover is very important. One thing that we know about turnover is that it is just—it is—that the costs are relatively the same across the wage distribution.

So until you get to the very highest paid workers, it costs about a fifth of an employee's salary to actually replace them, training somebody, the time you spend hiring. These are very significant costs across the wage distribution. It is not just the very special people at the top that it is expensive to do this for.

So firms can save a lot of money if they are able to keep people at work. And of course, there are also social costs that come with unemployment for people who lose their jobs because they can't afford a paid sick day or they don't have job-protected leave.

I think it is important, too, that we are distinguishing between paid sick days and family leave insurance that we have been talking about here. When we are talking about paid sick days, we are thinking that that is something that firms would provide, that they would cover the cost of an employee taking a day—they have the flu or a relatively minor illness, something short-term and small, which is distinguished from the family leave insurance, where we think that that is something that needs to be—either at the state level or at the federal level, but not by an individual firm, sort of more of the long-term kinds of leave there.

Mr. HOLT. Well, I see my time has expired, so maybe you will have time to expand on that in further questioning.

Thank you.

Chairwoman WOOLSEY. Congressman Kline?

Mr. KLINE. Thank you, Madam Chair, and thank you to the witnesses. And apologies. We are in that sort of time of the year where there are multiple hearings going on as we scoot back and forth, trying to do due diligence and respect to the witnesses that are coming in other committees.

And so I apologize for not being here for your testimony. Clearly, a very important subject, and it can have an impact sometimes in ways that are unintended.

Let me start by noting that it appears that, in concerns that imposing a family leave law such as we have been discussing here today, might have an adverse impact on jobs in the large—in industries in particular and economies.

I note here—I have got a little note sheet that says that in New Jersey, for example, there are some noises being made about postponing implementation of the paid family leave law, which is due to take effect July 1st, and we see actions—things being discussed in Ohio and other places because there might be an adverse effect on jobs and the economy if you were to impose these sorts of mandates.

Ms. Bernard, have you got some thought about that impact on the economy that these sort of mandates might have?

Ms. BERNARD. Yes.

I have not specifically looked in depth at what is going on in New Jersey, but I can tell you that, in looking at studies that have been done, for example, by the Department of Labor, there are a lot of problems with FMLA as it currently exists. We have had some—by employers, employees, for example, how one defines the definition of a serious health condition.

Some employees, for example, are seeing across the country that someone who has a cold might define that as a serious health condition under the Family Medical Leave Act and take off work for 2 or 3 days. How do you notify your employer that—there are people who will take off work, and under the Family Medical Leave Act, they don't have to tell their employer that they are taking FMLA days off until after the fact rather than before the fact.

So when you have problems with how you define a serious medical condition, when you have problems with notification, problems with the timing of leave, what we see is that it gives an incentive for employers to not intentionally do so, but to maybe even discriminate against who they hire.

For example, somebody might think, for example, that maybe they don't want to hire women in the workforce because they have children to take care of. They might be taking maternity leave. Women are more inclined to use their time under FMLA than men, for example. It is an unintended consequence. It could be an unintended consequence of mandating these type of things, or even expanding FMLA on employers of any size across the country.

Mr. KLINE. Yes, thank you.

I think that those concerns, in fact, that you just suggested, this illegal and inappropriate discrimination—but unofficial, of course, and that is the problem—is one of those unintended consequences you don't want to see happen. And it is one of the reasons many of us have been looking at the idea that Mrs. Morris Rogers has put forward, and I understand that was brought up earlier.

But this idea of ensuring that employees—and it would seem to be particularly important to women employees, but employees across the board—that they be able to take comp time, time off to spend with their families, which is a little bit different than the medical leave but, nevertheless, an important piece of the quality of life for these employees, that this would be a positive step in order to give the kind of flexibility which we are sort of talking about here today.

Thank you, Madam Chair. I yield back.

Chairwoman WOOLSEY. Thank you.

Congresswoman Shea-Porter?

Ms. SHEA-PORTER. Thank you.

And thank you to the witnesses for being here today.

Ms. Bernard, I listened to your comments with great interest. I grew up with parents who had small businesses, and certainly saw the struggle at times, and recognized the pressures that they feel.

But on the other hand, our job here is to make sure that we take care of more than just your group who work for you, and you sound like you have a very good workplace. But we have Ms. Clay, who struggles every single day, and millions more like her. And so we can't just look at one group. We have to look at the impact across the country.

So I wanted to ask you, first of all, is there any floor for you? Like, do you think that we should at least have a minimum number of paid sick days, for example, knowing people like Ms. Clay desperately need a sick day so that they can take care of themselves? Do you have a floor where you say, okay, the federal government at least has a right to impose this?

Ms. BERNARD. Actually, no. I am somebody who believes that it is improper for the federal government to intervene in the type of contract between an employer and an employee that we are talking about. I think that employers and employees should be left to negotiate those terms themselves.

I think that the unintended consequences and the potential to have a negative impact on women and low-wage workers is really something that we have to be very concerned with. And when you mandate that, particularly when we believe that many companies do so voluntarily, that you could actually be harming the people that you are trying to help the most.

Ms. SHEA-PORTER. Okay.

So if we don't mandate that, do you think that, if people are unable to work—say Ms. Clay simply can't deal with this stress anymore and she becomes ill. Does the federal government or anybody have responsibility to care for her? I am just trying to figure out where the floor is for you.

Ms. BERNARD. I would actually advocate that the federal government do something similar to what we have seen with 401(k) plans and IRAs, and actually mandate some sort of tax advantage status where people could set up, similar to a 401(k) plan, a paid leave plan, and even give employers incentive to match employee contributions so that when—

Ms. SHEA-PORTER. Okay, which sounds really good, but I am sure you just heard Ms. Clay talk about her financial situation.

So again, since she is unable to save, she has got people depending on her—and I hope, Ms. Clay, that you don't mind me using you as an example, but I think you are a perfect example of people who work very hard in this country and play by the rules and still can't make it.

So we can forget the 401(k), I assume. You are just hoping to get a mammogram. Then what?

Ms. BERNARD. I am sorry. I don't understand the question.

Ms. SHEA-PORTER. She can't afford a 401(k). Your suggestion was to set up a 401(k) to help with all these problems that might come from health problems, et cetera. But if they can't afford a 401(k), where do you think the government should come in on these issues of either paid leave or sick leave or any kind of benefits?

Ms. BERNARD. I think that people would need to begin to rely more on civil society than on the federal government. The federal government nowadays seems as if it is paying for everything.

Ms. SHEA-PORTER. Did you say civil society?

Ms. BERNARD. Yes, I did.

Ms. SHEA-PORTER. Okay. All right. So, yes, what do you mean? Like, Ms. Clay should go where, or people like Ms. Clay?

Ms. BERNARD. Ms. Clay I think should continue to do what she is doing. I was listening to her testimony and, frankly, was going to speak to her about where she can go and get a free mammogram.

Ms. SHEA-PORTER. All right, which is wonderful, and that is—I saw that when you were talking about your business. But the point that I am making is that, if we don't do anything, then we have millions of people who will fall through the safety net. So there has to be some floor. Whether we do it in the FMLA or whether we do it mandating sick days or something, we have to do something.

Now, you talked about some employees should be allowed to negotiate reduced benefit because they have reduced risk.

Ms. BERNARD. Yes.

Ms. SHEA-PORTER. But everybody who gets out of bed in the morning has risk. So I wanted to ask you, if you could negotiate a reduced benefit because somebody decided that they were low risk, and then something happened to that person, who would step in? Would it be the employer, or would it be the government?

Ms. BERNARD. If we were to reduce the cost—

Ms. SHEA-PORTER. Right. You want to allow them to be able to negotiate a package because they determined that they have re-

duced risk. That is what I read in your testimony. Am I getting that right?

Ms. BERNARD. No. Actually, what I was saying was that I believe that employers and employees should be able to negotiate what your benefits package is.

I think that I should be able to sit down and talk with my employees and say, "Here is how much our health insurance is increasing this year. It is a 33 percent increase. Here are the options available. What would you like to do?" I think that that is my job as the employer, and I should be able to have the right to negotiate it and discuss it with my employees without the federal government saying, "You must pick up the additional 33 percent cost to pay for health insurance for your employees."

Ms. SHEA-PORTER. Well, this is where I connect the dots because, if we do that—and I am not making a statement one way or the other on your position.

But if we do that, and people opt for a lower standard and then become ill and need more help, you didn't pay for it, and that employee didn't pay for it, but somebody is going to pay for it. And I guess that somebody would be the state or the federal government.

So what would you say to that person, then? "Sorry. You gambled, got it wrong, and I got it wrong also. Let us leave the government out, because I don't think the government should be involved."

Ms. BERNARD. No. I am not—there is a proper role for government. I think it is finding the balancing act. Nobody that I know of wants the government to make them bankrupt. I would say that—

Ms. SHEA-PORTER. But they want them to pay their medical care if they have a problem.

I have run out of time. Thank you.

Chairwoman WOOLSEY. Congressman Hare?

Mr. HARE. Thank you, Madam Chair.

It is interesting that the ranking member mentioned we seem to—we talk about the bottomless pit. We just are spending enough money on AIG to—per second to put a person through Harvard for 4 years, \$10 billion a month on a war and tax breaks to the richest 1 percent of the people in this nation. And we are going to have to figure out a way to get Ms. Clay a free mammogram. I think we completely have our priorities here upside-down.

I would say—to be honest, Ms. Bernard, I am troubled by a few things. Last year, President Bush signed into law the expanded FMLA for workers with family members who have been seriously injured in a war. Do you oppose leave for those workers as well?

Ms. BERNARD. No, I don't.

Mr. HARE. And do you think that they should be paid?

Ms. BERNARD. I do think they should be paid.

Mr. HARE. You do? Okay.

You have written that, if forced to provide paid leave, companies will not hire women of childbearing ages. Do you have—first of all, is that not discriminatory? And do you have any evidence to substantiate that?

Ms. BERNARD. It is discriminatory. And as you will see with the reasoning, I think, behind the Lilly Ledbetter Act that was passed, women have a quite—very difficult time proving paid discrimination when it does, in fact, exist.

I think it is a natural assumption to believe that sometimes people are not moved by the most moral reasons for acting in certain ways. And I would tell you that most women feel in fear of telling an employer when they are pregnant or whether or not they want to have a family out of fear that somebody may not hire them out of fear that they are going to have to pay maternity leave benefits.

Mr. HARE. Your colleague, Carrie Lucas, in 2008, wrote that it was really up to individuals to pay for circumstances that might be needed for leave. And you mentioned this a few minutes ago, that families—in my district, I don't know, particularly for the 1,600 people who just lost their job at Maytag—families are scraping by, two million homes ready to go into foreclosure.

How in heaven's name do you really think that people are going to be able to sit and come up with a 401(k) plan to be able to give them paid leave? Let me just say, it is not going to happen.

Second of all, you also talk about this—gosh forbid that we would have the federal government intervene, that this could be negotiated between the employee and the employer. What if the employer doesn't feel like negotiating, and they tell Ms. Clay, "Well, that is just too bad?"

So it just seemed to me—let me just say that I understand where you are coming from, but I could not disagree with you more on this. I think we have a moral obligation here. When I keep hearing about the federal government and the evils of what the federal government does, we provide healthcare for veterans, we provide Social Security, we provide Medicare. I hear sometimes we don't do it perfectly, but I don't hear about the evils of that.

But heaven forbid that we would want to have somebody like Ms. Clay or other people have the opportunity, or—and in your case, and I really applaud the people that pooled their resources together to help the young person out who had the tragedy in their family.

But is that really honestly the way we want to treat employees? I mean, I used to work in a clothing factory where you had no paid sick days, where women were told, "6-week maternity leave, and if you are not back on the following day, you are out of work." This is in a unionized factory.

So I guess my point being I sit and listen to all of these arguments about the evils of government intervention, and woe is us, woe be to us if we err on the side of Ms. Clay. You see, my viewpoint is I don't think you should be trying to find a place for Ms. Clay to get a free mammogram.

We ought to be providing those for people like Ms. Clay. We ought to be providing the type of paid leave so that she can spend time with her brother and not arguing over whether or not percentages.

And I am troubled when I see—for example, you have testified that it is not the government's job to provide sick leave for employees. What if somebody works at a school cafeteria? Do you want that person coming in and serving food to the kids who has the flu,

who has—who is very, very ill? I mean, I don't want my kid being served lunch by someone who is sicker than a dog.

So shouldn't we—don't we have a moral obligation to, A, keep our kids safe and allow that person the opportunity to be home and get paid for being sick?

Ms. BERNARD. Sir, I am a firm believer in that biblical phrase that, "I am my brother's keeper." I do think we have a moral obligation to help one another. I think this is a matter of finding the correct balance.

When you say, "Don't we have an obligation to pay for this," the question is, who actually is paying for it? The government is made up of the people.

Mr. HARE. I agree.

Let me just leave you with one biblical phrase, too, since you brought it up. I believe someone a couple-thousand years ago said that, "Whatsoever you do to the least of My people, that you do unto Me."

I would yield back, Madam Chair.

Thank you very much.

Chairwoman WOOLSEY. And in conclusion, Congressman Price is going to provide his closing remarks.

Dr. PRICE. Thank you, Madam Chair. I want to thank you for holding this hearing, and I want to thank all of the witnesses. I think this has actually been very enlightening about the different views that we hold and that the witnesses hold about the role of government.

We have heard about the imperative from at least two of the witnesses of not mandating these types of programs to employers because of the consequences that can occur, and will occur, if that happens, and that is that, in fact, we would decrease the number of jobs available.

There are wonderful options, positive options, available to us as a nation, and I would just echo some of the comments of Ms. Bernard about the imperative of charity in the community. We all know and understand that charity in the community is paramount, is important, is necessary, and is more broad when government is not involved in mandating charity. When government mandates charity, then, in fact, what people do is contract their charitable activity.

So yes, we do have a moral obligation to help, but the question is what help ought be provided. Is the help a construct of a system that makes it so that employers and employees have greater opportunity to succeed, each of them have greater opportunity for more economic activity, have greater opportunity for realizing their own dreams, or is the obligation to increase the role of government, and thereby decrease the ability of individuals and businesses across this nation to have greater opportunity for success.

So thank you, Madam Chair. I appreciate the opportunity to have these witnesses testify today, and look forward to our continuing work together.

Chairwoman WOOLSEY. Well, thank you, sir, Ranking Member. Is that—if I am Madam Chair, you are Sir, right?

Dr. PRICE. I am just your buddy, Tom.

Chairwoman WOOLSEY. Well, thank you all for attending this hearing today. It has been a good one. And I want to thank all of you for being available, and I have to say particularly you, Ms. Clay. I mean, thank you for getting down here and making this effort, getting your family to help you so that you could testify on this more than an important subject.

What we have heard today makes it even clearer that, during good times and bad times, employees and employers benefit from family-friendly policies. And over time, it is proven that good employment practices that are fair and that are helpful to the employee proves out to be more positive than negative, period.

If you have an employee who needs to take care of their family, if you help them in that regard, they become a more productive worker. They are a more loyal employee, in the long run. And when they are back to work, they are paying attention.

I will tell you, I have four kids, work. And if something was going wrong with one of my children, my head was home. I mean, I was, too, actually. I happened to be very lucky.

But if I couldn't be, I mean, I was just absolutely torn to pieces, and every single working parent is the same. And it is not just female workers. It is the male workers, too. If they are lucky enough to have a partner where they can take turns—I watch my kids.

I have—three of our four children have families, and they are all professionals. All three have six professional workers. And they work so hard. They travel long distances. They work long hours. They are always juggling. But in this day and age, the dad is just as helpful as the mom. But not all families have two-parent families.

So it is so important that we do the right thing for these families because it is the kids that lose out in the end. And we have a society that says, if you can, everybody needs to be in the workforce. Therefore, somebody has to care about who takes care of these children.

And I don't mean just daycare. I mean, having parents available not only for sick days. How about for going to the school play and the teacher conference? Those are the kinds of things that say to our children, "Guess what? We care for you and value you in our society."

And I will be working with all of you on this. We are going to make it happen. We are going to balance work and family so that parents don't have to choose between their job and their kids. What an impossible choice is that? So let us fix it so that doesn't have to happen.

Thank you very, very much.

Okay. As previously ordered, members will have 14 days to submit additional materials for the hearing record. If any members who wish to submit follow-up questions in writing to the witnesses want to, they should coordinate with majority staff within 14 days.

So, without objection, the hearing is adjourned. Thank you very, very much.

[Statement of Mrs. McMorris Rodgers, submitted by Mr. Price, follows:]

**Prepared Statement of Hon. Cathy McMorris Rodgers, a Representative in
Congress from the State of Washington**

Thank you Chairwoman Woolsey for holding a hearing on such an important issue. I want to also thank our witnesses for taking the time to join us here today to share their perspectives of how Americans can better balance work and family in today's economy.

Without a doubt the biggest concern for people in this struggling economy is job security. We see headlines everyday about employers who have been forced to scale back production and let employees go because of our economy. Employers such as KPMG and Toyota are doing everything possible to hold onto their employees through these tough times. In light of these circumstances, there is no question that now is not the time to mandate new costs on employers through enhanced vacation and paid family time policies. Such costs only make efforts to hold onto employees more difficult and I will not support policies that will encourage further layoffs.

One of the biggest struggles parents face is how to balance work and family. Being a new mom myself, I struggle with balancing these aspects every day. Employees are looking for flexibility so they can put in the time they need to get the job done, but also make sure they can make the school play, stay home with a sick child or care for an elderly parent. Of course, none of this matters if the company goes out of business. We must balance the costs and benefits that workplace flexibility policies have on both employees and employers.

The perception is that mothers and parents have a greater desire for workplace flexibility than other people; the reality is that men and women, parents and non-parents, young and old alike place a high priority on increased flexibility at work.

For many employers, flexible work arrangements are necessary to attract and retain quality employees. In return for offering employees alternative work arrangements and greater flexibility in work schedules, employers gain a workforce that is more productive, committed and focused. For example, an insurance company in my home state of Washington saw per-employee revenue increase 70 percent over five years after implementing flexible work options.

Our labor force isn't what it used to be. Between 1950 and 2000, the labor force participation rate of women between 25 and 55 years of age more than doubled. Today, more than 75 percent of these women are in the labor market. Less than 12 percent of mothers with children under the age of six were in the labor force in 1950. Today, more than 60 percent work outside the home.

One of the obstacles to flexibility in the workplace is the 1938 Fair Labor Standards Act (known as the "FLSA"), which governs the work schedules and pay of millions of hourly workers. While the law may have been a good fit for the workforce in the 1930s, a lot has changed in 70 years and FLSA is simply not relevant to the needs of modern families.

The FLSA unfortunately fails to address the needs and preferences of employees in the area of flexible work schedules. Although salaried employees typically have greater flexibility in their day-to-day schedules, hourly employees are much more restricted—due in large part to the outdated FLSA—in their ability to gain greater flexibility in their work schedules.

This is why I introduced the Family-Friendly Workplace Act that would update the FLSA and allow private sector employers the option to offer employees additional time off in lieu of overtime pay. A study by the Employment Family Foundation found that 75 percent of people prefer time off instead of overtime pay and more than eight in ten women prefer to have that benefit as well.

I believe the Family-Friendly Workplace Act would complement the Family Medical Leave Act (FMLA) by providing employees with an option to accrue paid time off, which could then be taken by the employee at a later date. Under the Family-Friendly Workplace Act, compensatory time (known as "comp time") belongs to the employee, and the employee can use it for any purpose, at any time. It is often more difficult for hourly paid employees to take unpaid leave under the FMLA. By contrast, comp time is directed specifically at hourly employees, giving them the opportunity to have the same flexibility that salaried employees (as well as people in the public sector) already enjoy.

To be clear, the Family-Friendly Workplace Act would not change the employer's obligation under the FLSA to pay overtime at the rate of one-and-one-half times an employee's regular rate of pay for any hours worked over 40 in a seven day period. The bill would simply allow overtime compensation to be given—at the employee's request—as paid comp time off, at the rate of one-and-one-half hours of comp time for each hour of overtime worked, provided the employee and the employer agree on that form of overtime compensation. The bill contains numerous protections to ensure that the choice and use of comp time is a decision made by the employee.

One of the best features of my legislation is that it provides greater choice and flexibility to employees without the costly mandates. My bill would give private sector employees an opportunity to spend the time they need with their family or to receive the overtime pay they have earned just like many public sector employees do today.

Most of the witnesses here today advocate for proposals to create costly one-size fits all employer mandates. As our nation faces the most severe economic downturn it has seen in decades, increasing labor costs by way of employer mandates for expanded leave policies is likely to hinder economic recovery, if not lead to more layoffs.

Instead, we must respond to the growing needs of people who want to better integrate work and family. Women and men should be able to decide for themselves whether paid time off or extra pay best fits their needs and that of their families.

It's a matter of helping people focus on doing what's best for families, small businesses and the next generation, or future.

[Questions submitted to Ms. Clay from Mr. Price follow:]

U.S. CONGRESS,
Washington, DC, March 17, 2009.

Ms. REIBA MIXON CLAY,
South Laporte Avenue, Chicago, IL.

DEAR MS. CLAY: Thank you for testifying at the March 3, 2009, Committee on Education and Labor Subcommittee on Workforce Protections Hearing on "Encouraging Family-Friendly Workplace Policies."

Committee Members had additional questions for which they would like written responses from you for the hearing record.

Congressman Price asks the following questions:

1. Are you currently, or have you at any time in the past, acted as a "member lobbyist" for the Service Employees International Union (SEIU)? For purposes of these questions, the term "member lobbyist" refers to participation in any lobbying or advocacy efforts on behalf of SEIU or any of its affiliates.

2. Please describe how you were selected to be a "member lobbyist" for the SEIU, and detail your activities and duties as an SEIU "member lobbyist."

3. Do you receive any compensation from SEIU for your service as a "member lobbyist?" For purposes of this question, "compensation" includes wages (whether hourly, salaried, per diem, contract, or in any other form), travel expenses, lodging, meals, the reimbursement of expenses, or any other benefit provided to you by SEIU.

4. If the answer to question 3 is "yes," please provide the nature and amount of any and all such compensation you have received or expect to receive for your service as a "member lobbyist."

5. On what date did you begin your service as a "member lobbyist" and on what date do you anticipate ending that service?

6. Where have you resided during your tenure as a "member lobbyist?"

7. You testified at the hearing that your employer was the State of Illinois. Have you received, or do you anticipate receiving, any compensation from the State of Illinois by virtue of your employment during your tenure as a "member lobbyist?" If so, please provide the nature and amount of any such compensation.

8. Please provide the names, employer(s), and job titles of any person or persons who assisted you in the preparation of your written testimony before the Subcommittee on Workforce Protections on March 3, 2009.

9. Please provide the names, employer(s), and job titles of any person or persons who assisted you in the preparation of your responses to these questions.

Please send your written response to the Subcommittee staff by COB on Tuesday, March 17th—the date on which the hearing record will close. If you have any questions, please contact the committee 202-225-3725. Once again, we greatly appreciate your testimony at this hearing.

Sincerely,

GEORGE MILLER, *Chairman,*
Committee on Education and Labor.

[Responses from Ms. Clay follow:]

March 20, 2009.

Hon. GEORGE MILLER, *Chairman,*
Committee on Education and Labor, U.S. House of Representatives, 2181 Rayburn
House Office Building, Washington, DC.

DEAR CHAIRMAN MILLER: Below find the responses to the additional questions from the Committee regarding my testimony at the March 3, 2009, Committee on Education and Labor Subcommittee on Workforce Protections hearing on “Encouraging Family-Friendly Workplace Policies.”

Question 1. Are you currently, or have you at any time in the past, acted as a “member lobbyist” for the Service Employees International Union (SEIU)? For purposes of these questions, the term “member lobbyist” refers to participation in any lobbying or advocacy efforts on behalf of SEIU or any of its affiliates.

Answer 1: Yes, I am currently a member lobbyist for the Service Employees International Union.

Question 2. Please describe how you were selected to be a “member lobbyist” for the SEIU, and detail your activities and duties as an SEIU “member lobbyist.”

Answer 2: I was identified and recommended for this program by the leadership of my Union Local, and selected by SEIU.

My activities have entailed educating federal elected officials and constituents on health care and employee free choice. My duties include attending Congressional hearings and meetings, engaging in voter education outreach, public speaking, distributing information to Congressional offices, and SEIU member to member training and education.

Question 3. Do you receive any compensation from SEIU for your service as a “member lobbyist?” For purposes of this question, “compensation” includes wages (whether hourly, salaried, per diem, contract, or in any other form), travel expenses, lodging, meals, the reimbursement of expenses, or any other benefit provided to you by SEIU.

Answer 3: Yes

Question 4. If the answer to question 3 is “yes,” please provide the nature and amount of any and all such compensation you have received or expect to receive for your service as a “member lobbyist.”

Answer 4: I receive for my service as a member lobbyist \$500 per week before taxes, \$35 per diem for meals and incidental expenses, as well as lodging, and airfare for two trips to and from Washington—one at the outset of my service and one visit home during my service.

Question 5. On what date did you begin your service as a “member lobbyist” and on what date do you anticipate ending that service?

Answer 5: My service as a “member lobbyist” for SEIU began on February 2, 2009, and it ends on April 3, 2009.

Question 6. Where have you resided during your tenure as a “member lobbyist”?

Answer 6: While in Washington, I am residing in Crystal City, Virginia.

Question 7. You testified at the hearing that your employer was the State of Illinois. Have you received, or do you anticipate receiving, any compensation from the State of Illinois by virtue of your employment during your tenure as a “member lobbyist?” If so, please provide the nature and amount of any such compensation.

Answer 7: I wish to correct and amplify my answer. The State of Illinois is not technically my employer. My client is my employer. I am an independent worker who receives payments from the State of Illinois for my services as a personal assistant to my client. I found a substitute to provide services to my client during my absence, and continued to receive payments for these services from the state of Illinois during this time. As a member lobbyist, I received the compensation described in my response to question 3.

Question 8. Please provide the names, employer(s), and job titles of any person or person who assisted you in the preparation of your written testimony before the Subcommittee on Workforce Protections on March 3, 2009.

Answer 8: Allicyn Wilde; Employer: SEIU Healthcare 775 NW; Title: Policy and Research Analyst.

Mark McCullough; Employer: Service Employees International Union; Title: Senior Campaign Communications Specialist.

Desiree Hoffman; Employer: Service Employees International Union; Title: Senior Legislative Advocate.

Question 9. Please provide the names, employer(s), and job titles of any person or persons who assisted you in the preparation of your responses to these questions.

Answer 9: Melody R. Webb; Employer: Service Employees International Union; Title: Associate General Counsel.

John J. Sullivan; Employer: Service Employees International Union; Title: Associate General Counsel.

[Additional submissions for the record from Ms. Woolsey follow:]

Prepared Statement of the National Partnership for Women & Families

The National Partnership for Women & Families commends Chairwoman Lynn Woolsey and Ranking Member Tom Price for convening a series of hearings to examine workplace policies that help workers meet their responsibilities on the job and to their families. The National Partnership is a non-profit, non-partisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care, and policies that help workers in the United States meet the dual responsibilities of work and family.

Now more than ever—workers need workplace policies that meet their work and family responsibilities

The economic crisis our country is currently facing has been devastating for working families. More than 11.6 million workers have lost their jobs, and millions more are underemployed. In February 2009, the unemployment rate was 8.1 percent—the highest level since December 1983. The unemployment rate for African Americans was 13.4 percent, the rate for Hispanics was 10.9 percent and the rate for whites was 7.3 percent in January 2009. For many families that once relied on two incomes, this crisis has meant managing on one income, or no income at all. As a result, families are not only losing their economic stability, but their homes too: one in nine mortgages is delinquent or in foreclosure.¹

Especially in this economic crisis, when workers are stretched thin, having to take time off for a single common illness or a serious medical condition shouldn't lead to financial disaster for families. Workers have always needed to care for their children, families and elderly relatives, and at the same time, be productive, responsible employees. But today, when workplaces don't provide the basic labor standards of paid family and medical leave or paid sick days, families' economic security is at risk. In this economic climate, these basic workplace standards help prevent workers from being forced to choose between their health or the health of their family, and their paycheck or even their job.

Our nation has a history of passing laws to help workers in times of economic crisis. Social Security and Unemployment Insurance became law in 1935; the Fair Labor Standards Act and the National Labor Relations Act became law in 1938, all in response to the crisis the nation faced during the Great Depression. Working people should not have to risk their financial health when they do what all of us agree is the right thing—take care of a family member who needs them. Now is the time to put family values to work by adopting policies that expand the FMLA, guarantee a basic workplace standard of paid sick days and establish a national paid family and medical leave program.

The FMLA is a first step—and needs to be expanded

The Family and Medical Leave Act (FMLA) is the only federal law that helps our nation's workers meet the dual demands of work and family. It provides unpaid, job-protected leave for up to 12 weeks a year to care for a newborn, newly adopted or foster child, to care for a seriously ill family member, or to recover from an employee's own serious illness. The FMLA means essential job protections that can allow workers to take time off without losing their jobs.

Laws like the FMLA could not be more important in times of economic downturn, and more workers need access to the protections afforded by the law. The federal FMLA does not cover all the workers and family members who need to take time off to recover from illness or care for a family member, especially as the population ages and more people in this country have chronic diseases. It does not cover domestic partners and the children of domestic partners and that is intolerable discrimination. And many more workers are not covered by the FMLA because they work for businesses with fewer than 50 employees or work part-time as growing numbers of workers are being forced to do in this economic downturn as businesses cut hours.

The FMLA also does not address many workers' day-to-day health needs. FMLA coverage for illnesses is limited to serious, longer-term illnesses and the effects of long term chronic conditions. The law does not offer time off to workers to deal with common illnesses that do not meet the FMLA standard of "serious" or for routine medical visits for themselves and their families. In addition, millions of workers cannot afford to take advantage of the protections the FMLA provides because the leave is not paid.

Workers need paid sick days

Nearly half of all private-sector workers do not have access to paid, job-protected sick days.² Seventy-nine percent of low-income workers—the majority of whom are women—do not have a single paid sick day.³ The problem is particularly acute for working women—the very people who predominantly remain responsible for meeting family care giving needs. In fact, almost half of working mothers report that they must miss work when a child is sick. And of these mothers, 49 percent do not get paid when they miss work to care for a sick child.⁴ Women also are disproportionately affected by the lack of a standard of paid sick days because they are more likely to work part-time (or cobble together full-time hours by working more than one part-time position) than men. Only 16 percent of part-time workers have paid sick days, compared to 60 percent of full-time workers.⁵

As our population ages, more working families are providing care for elderly parents—and needing paid sick days to do so. Caregiving takes a financial toll on working people, especially when they have to take unpaid time off from work. Over 34 million caregivers provide assistance at the weekly equivalent of a part time job (more than 21 hours), and the estimated economic value of this support is roughly equal to \$350 billion.⁶ Among caregivers, 98 percent reported spending on average \$5,531 a year, or one-tenth of their salary, for out-of-pocket expenses.

The lack of paid sick days is also a public health concern. Workers who interact with the public every day are much less likely to have paid sick days.⁷ Only 22 percent of food and public accommodation workers have any paid sick days, for example. Workers in child care centers, retail clerks, and nursing homes also disproportionately lack paid sick days.⁸

No state requires private employees to provide paid sick days. San Francisco, the District of Columbia and Milwaukee have passed ordinances requiring that private-employers provide paid sick days. Over a dozen cities and states are working to pass paid sick days laws to ensure this basic labor standard becomes a right for all workers. But illness knows no geographic boundaries, and access to paid sick days should not be dependent on where you happen to work. Paid sick days is a basic labor standard like the minimum wage—and as with the minimum wage, there should be a federal minimum standard of paid sick days that protects all employees, with states free to go above the federal standard as needed to address particular needs of their residents.

Workers need paid family and medical leave

Without some form of wage replacement, the FMLA's promise of job-protected leave is unrealistic for millions of women and men. In fact, 78 percent of employees who qualified for FMLA leave and needed to take the leave did not do so because they could not afford to go without a paycheck.⁹ More than one-third (34 percent) of the men and women who take FMLA receive no pay during leave, and another large share of the population have a very limited amount of paid leave available to them.¹⁰

When a personal or family medical crisis strikes, workers frequently have no choice but to take unpaid leave or quit their jobs. As a result, for many workers, the birth of a child or an illness in the family forces them into a cycle of economic distress. Twenty-five percent of all poverty spells begin with the birth of a child.¹¹ The lack of paid family and medical leave hits low-income workers hardest: almost three in four low-income employees who take family and medical leave receive no pay, compared to between one in three and one in four middle-and upper-income employees, respectively.

Providing paid family and medical leave helps ensure workers can perform essential caretaking responsibilities for newborns and newly-adopted children. Parents who are financially able to take leave are able to give new babies the critical care they need in the early weeks of life, laying a strong foundation for later development. Paid family and medical leave may even reduce health care costs. Studies have shown that when parents are able to be involved in their children's health care, children recover faster.¹² Paid family and medical leave also would help the exponentially growing number of workers who are caring for older family members. Thirty-five percent of workers, both women and men, report they have cared for an older relative in the past year.¹³ Roughly half of Americans 65 years of age and older participate in the labor force. Many require time away from work to care for their own health and the health of a family member.¹⁴

Businesses benefit from paid leave policies

Research confirms what working families and responsible employers already know: when businesses take care of their workers, they are better able to retain them, and when workers have the security of paid time off, they experience in-

creased commitment, productivity, and morale, and their employers reap the benefits of lower turnover and training costs. Furthermore, studies show that the costs of losing an employee (advertising for, interviewing and training a replacement) is often far greater than the cost of providing short-term leave to retain existing employees. The average cost of turnover is 25 percent of an employee's total annual compensation.¹⁵

Paid sick days policies also help reduce the spread of illness in workplaces, schools and child care facilities. In this economy, businesses cannot afford "presenteeism," when sick workers come to work rather than stay at home. "Presenteeism" costs our national economy \$180 billion annually in lost productivity. For employers, this costs an average of \$255 per employee per year and exceeds the cost of absenteeism and medical and disability benefits.¹⁶ In addition, establishing a national paid family and medical leave program will help small business owners because it will allow them to offer a benefit that they could not afford to provide on their own. This will help level the playing field with larger businesses, making it easier for small businesses to compete for the best workers.

Now more than ever, when families are struggling and jobs are scarce, workers need workplace policies like paid family and medical leave and paid sick days. Working families should not have to risk their financial well-being to care for their health or a family member who needs them. We must put family values to work by adopting policies that expand the FMLA, guarantee a basic workplace standard of paid sick days and establish a national paid family and medical leave program.

ENDNOTES

¹ Center for American Progress, *www.americanprogress.org/issues/2009/03/econ—snapshot—0309.html*, March 2009.

² Vicky Lovell, Institute for Women's Policy Research, *Women and Paid Sick Days: Crucial for Family Well-Being*, 2007.

³ Economic Policy Institute, *Minimum Wage Issue Guide, 2007*, *www.epi.org/content.cfm/issueguides—minwage*.

⁴ Kaiser Family Foundation, "Women, Work and Family Health: A Balancing Act," Issue Brief, April 2003.

⁵ Vicky Lovell, Institute for Women's Policy Research, *No Time to be Sick*, 2004.

⁶ Gibson, Mary Jo and Houser, Ari, "Valuing the Invaluable: A New Look at the Economic Value of Family Caregiving," AARP, June 2007.

⁷ Jane Gross, "Study Finds Higher Costs for Caregivers of Elderly," *New York Times*, 11/19/07.

⁸ Vicky Lovell, Institute of Women's Policy Research, *Valuing Good Health: An Estimate of Costs and Savings for the Healthy Families Act*, 2005.

⁹ Department of Labor 2000 Report at 2-16.

¹⁰ *Id.* at 4-5—4-6.

¹¹ The David and Lucile Packard Foundation, 2001. *The Future of Children: Caring for Infants and Toddlers*. Richard Behrman, ed. Los Altos, California:11(1).

¹² Palmer S.J., *Care of sick children by parents: A meaningful role*. *J Adv Nurs*. 18:185, 1993.

¹³ Families and Work Institute, *Highlights of the 2002 National Study of the Changing Workforce*, 2002.

¹⁴ AARP Public Policy Institute, *Update on the Aged 55+ Worker*, 2005.

¹⁵ Employment Policy Foundation 2002. "Employee Turnover—A Critical Human Resource Benchmark." *HR Benchmarks* (December 3): 1-5 (*www.epf.org*, accessed January 3, 2005).

¹⁶ Ron Goetzal, et al, *Health Absence, Disability, and Presenteeism Cost Estimates of Certain Physical and Mental Health Conditions Affecting U.S. Employers*, *Journal of Occupational and Environmental Medicine*, April 2004.

Prepared Statement of Joe Solmonese, President, Human Rights Campaign

Chairwoman Woolsey and Ranking Member Price: On behalf of the Human Rights Campaign, America's largest civil rights organization working to achieve lesbian, gay, bisexual and transgender (LGBT) equality and our over 750,000 members and supporters nationwide, I submit this statement in support of family-friendly workplace policies. We encourage the Committee and Congress to ensure such legislation covers all families, including those headed by lesbian and gay couples and people that are functioning in a parental role.

Access to the Family and Medical Leave Act (FMLA), paid leave, and the ability to enroll family members in employer provided health insurance plans are crucial to the well-being of families headed by lesbian and gay couples. All families, including those headed by lesbian and gay couples, should have equal access to employer benefits. Workers with same-sex partners and children need health insurance coverage and the ability to take paid time off to care for themselves and their families without losing a paycheck and compromising their economic stability.

I. The Family and Medical Leave Act should be revised to include all families

For millions of workers, the FMLA has been an unmitigated success. It has proven essential in achieving greater employee retention and reducing turnover.¹ However, because lesbian and gay employees are not guaranteed up to twelve weeks of family or medical leave to care for a partner or partner's child without fear of losing their job, the FMLA does not fulfill its purpose of protecting working families.

Some states and private employers have filled the gap in FMLA coverage by offering family medical leave for workers to care for a domestic partner.² However, an expansion of the FMLA is needed in order to cover millions more of America's families.

Congress should seek ways to expand the law and to extend coverage to all workers and their families, including those led by same-sex couples. Lesbian, gay and bisexual workers experience the same levels of stress, lack of productivity, distraction and fear of job loss as do others when their domestic partners become ill, are hospitalized or cared for by others. The FMLA does not, however, guarantee these employees the same leave opportunities to care for their loved ones.

One option to remedy this glaring inequity would be for Congress to pass the Family and Medical Leave Inclusion Act,³ introduced in the 110th Congress by Representative Carolyn Maloney, (D-NY) and soon to be introduced in the 111th Congress. The legislation expands the FMLA to permit an employee to take up to twelve weeks of unpaid leave from work if his or her domestic partner or same-sex spouse has a serious health condition. It would also permit employees to take unpaid leave to care for a "parent-in-law, adult child, sibling or grandparent."

II. Paid sick leave legislation should include all families

Legislation that would provide paid sick leave to American workers should cover all American families equally, including those headed by lesbian and gay couples. Paid sick leave legislation such as the Healthy Families Act⁴ introduced in the 110th Congress by Representative DeLauro (D-NY) and soon to be introduced in the 111th Congress, would provide great relief for millions of American families. The Act would provide most workers with seven paid sick days each year to care for certain close family members or to address serious personal health concerns.

Far too few of those working in America have a single day of paid sick leave—and low-wage workers are hit the hardest. Providing paid sick days is essential for working Americans and their families to ensure they can take time for regular preventive medical check-ups or to care for a sick family member without risking their job.

Failure to address this problem puts our public health and economy at risk. Nationally, nearly half of private sector workers have no paid sick leave.⁵ When one worker has no alternative but to go to work sick, all workers are at increased risk of contagion and lowered productivity.

Workers with same-sex partners and children need the ability to take paid time off to care for themselves and their families without losing a paycheck and compromising their economic stability. Due to the inherent inequity in access to federal benefits for same-sex couples and their children, including the benefits provided by the FMLA, using an employer's paid leave structure is often the only option when tending to the long-term illness of a partner or other family member. For those families whose employers do not provide paid leave, there are no options beyond missing work, as well as a paycheck, or losing a job entirely.

Many employers have already included families headed by lesbian and gay couples for purposes of family sick leave. The HRC Foundation tracks employers that provide domestic partner-inclusive health benefits. Since 2006, a majority of Fortune 500 companies have offered benefits to same-sex partners of employees. Today, 57

¹ Westat, *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys* Table § 6.2.3, Table 6.5 (2001), <http://www.dol.gov/esa/whd/fmla/fmla/toc.htm>.

² The following states under their respective state FMLAs extend benefits that include same-sex couples: Massachusetts extend benefits to spouses; Connecticut extends benefits to spouses and parties in a civil union; California and the District of Columbia extend benefits to registered domestic partners; New Jersey, and Vermont provide benefits to parties in a civil union; Hawaii provides benefits to reciprocal beneficiaries; and Oregon and Rhode Island provide benefits to family members which includes same-sex domestic partners; New Mexico provides benefits to same-sex spouses so long as they were married out-of-state in a state that recognizes marriage for same-sex couples.

³ H.R. 2792, 110th Cong. (2007).

⁴ H.R. 1542, 110th Cong. (2007).

⁵ Vicky Lovell, Ph.D., *No Time to be Sick: Why Everyone Suffers When Workers Don't Have Paid Sick Leave*, Institute for Women's Policy Research, May 2004, citing U.S. Department of Labor statistics from 1996, 1997 and 1998.

percent—a total of 286—of the Fortune 500 companies offer domestic partner benefits. These employers and state governments realize that not providing health benefits to these workers greatly limits their ability to maintain a stable and continuous workforce by helping employees retain their jobs when a family emergency strikes. We encourage Congress to follow their lead.

III. Paid leave should include families headed by lesbian and gay couples

To further ensure families are able to take the time they need while maintaining their financial security, we support legislation that would provide paid leave under the FMLA. Legislation such as the Family Leave Insurance Act,⁶ introduced in the 110th Congress by Representative Stark (D-CA) and soon to be introduced in the 111th Congress, provides for paid FMLA leave and explicitly includes families headed by lesbian and gay couples. Such legislation is a necessary and welcome improvement to the FMLA.

The Act provides essential benefits to employees seeking to take leave to care for a domestic partner and their children. The Act gives access not only to crucial FMLA leave benefits for families headed by lesbian and gay couples, but also ensures this leave will be paid. Such leave will allow all working families the opportunity to provide care when it is needed most.

This benefit will also provide relief to low income workers, considerably improving their lives, the health of their families, and their ability to spend vital time with new children.

The wage replacement offered through the Act guarantees that those who need paid leave most have access to it.

IV. Congress should act to extend domestic partner benefits to Federal employees

In addition to expanding FMLA leave and providing paid sick leave, the federal government, as the nation's largest employer, must guarantee access to the full scope of benefits to its employees with same-sex partners. The Domestic Partnership Benefits and Obligations Act (DPBO)⁷ introduced in the 110th Congress and soon to be introduced in the 111th Congress by Representative Baldwin (D-WI) will ensure families headed by lesbian and gay couples have access to such benefits.

The Act would provide domestic partnership benefits to the same-sex partners of federal civilian employees on the same basis as spousal benefits. These benefits would include participation in applicable retirement programs, compensation for work injuries, and long-term care and life insurance benefits.

These benefits, provided through DPBO, would also ensure that the partners of lesbian, gay and bisexual federal employees will be able to access important health care benefits, like prenatal care, and to ensure that their families stay healthy.

V. Corporate America and the States are leading the way

Traditionally the federal government has been a leader in providing benefits, but now it lags behind the majority of Fortune 500 companies with regard to crucial benefits for its employees. Corporate America recognizes that one key to remaining competitive is to have an inclusive workforce. State and local governments have begun adopting this view as well. Currently, 16 states and over 200 local governments offer their public employees domestic partnership benefits.

By offering the full range benefits to the domestic partners of federal employees, Congress can bring the employment practices of the federal government in line with those of America's largest and most successful corporations. Extending these benefits will allow the federal government to recruit and retain a qualified and diverse workforce. It is time for the federal government to follow the lead of these employers and extend all employment related benefits to families headed by same-sex couples.

VI. Conclusion

We encourage this Committee to consider legislation that expands the FMLA, provides paid leave and offers domestic partnership benefits. Benefits comprise a significant portion of all employee compensation and failing to provide them to all employees results in unequal pay for equal work. The public supports these principles. A December 2008 survey conducted by Princeton Survey Research Associates International for Newsweek found that 73% of Americans favor extending "health insurance and other employee benefits for gay and lesbian domestic partners." A May 2000 poll conducted by the Associated Press found that a majority of Americans favor the extension of health insurance coverage to same-sex partners.

⁶H.R. 5873, 110th Cong. (2008).

⁷H.R. 4838, 110th Cong. (2007).

Such legislation would not only improve the quality of our nation's workforce, but also demonstrate a commitment to fairness and equality for all Americans. Thank you.

[Additional information submitted by Ms. Boushey follows:]

Additional Remarks Submitted by Ms. Boushey

There were a number of issues brought up during the question and answer period of the hearing on March 3, 2009 that I would like to elaborate on.

1. Michelle Bernard said that if the government required firms to provide benefits for families, such as paid sick days or paid family and medical leave, then firms would refuse to hire female workers.

There is evidence that ill-designed policies will encourage only women to use leaves for caregiving, which could affect women's employment and upward mobility. On the other hand, however, the lack of family-friendly workplace policies is already hurting women's employment and upward mobility as those who need time off to provide care often have to choose between a job and their families.¹

The right answer is for policymakers to design policies that encourage both men and women to make use of caregiving leaves. Research shows that when leaves are available, but are unpaid, it is harder for families to allow male workers to make use of the leave time because the family cannot go without his, typically higher, earnings.² Paying all workers for sick days and family and medical leave would make it more likely that families could make use of leave time.

2. Michelle Bernard proposed that rather than setting up an insurance fund to provide paid family and medical leaves, the government introduce a 401(k)-type savings plan so that families could save up income for when they needed it during a family and medical leave. This idea would not be effective in solving most family's need for paid leave for the birth of a child. The average age for a woman to have her first child is 25.³ It would be virtually impossible for young families to save up enough in a fund to pay for their leave time. An insurance fund allows the costs to be spread across a worker's lifetime, such as Social Security, thus helping workers afford time off when they are young and need it to care for and bond with a new child.

3. Michelle Bernard suggested that every worker in the United States should negotiate individually over access to family friendly benefits. That is, for the most part, the system we currently have and we can clearly see the results. Currently, higher-waged workers are far more likely than lower-waged workers to have access to paid time off and workplace flexibility.⁴ Allowing "the market" to dictate who has access to these benefits disproportionately burdens the least-paid workers, who are often younger, as they do not have the power to negotiate for these benefits.

4. Dr. Eileen Appelbaum noted that mandating all firms to provide family leave insurance may be "unfair to employers." The point of that remark was not to imply that family-friendly benefits are inappropriate for a recession, but rather that setting up these kinds of programs involves initial administrative and other costs for state governments. Using federal funds as an incentive to states to set up these programs would serve the public interest by encouraging the states to act as innovators in providing family leave insurance to workers who must care for their own or a family member's serious illness, recover from childbirth, or bond with a new child. This is an excellent way to encourage good business practices and make it easier for workers to support their families.

5. When the government regulates the labor market (or any market), it levels the playing field. The good actors who are now providing paid sick days or other family-friendly benefits now do have to compete with firms that do not offer those benefits.⁵ The government mandate thus helps the good firms most.

[Whereupon, at 11:22 a.m., the subcommittee was adjourned.]

¹E. Bravo, "Taking on The Big Boys" (New York, NY: The Feminist Press at the City University of New York, 2007)

²J.C. Gornick and M.K. Meyers, "Families That Work" (New York, NY: Russell Sage Foundation, p.120, 2003)

³Matthews, T. J. and B. E. Hamilton, "Mean Age of Mother, 1970—2000" (Hyattsville, MD: National Center for Health Statistics, National Vital Statistics Reports; Vol. 51, No. 1., 2002)

⁴Bureau of Labor Statistics, "Workers on Flexible and Shift Schedules" (<http://www.bls.gov/news.release/pdf/flex.pdf>, May 2004)

⁵Appelbaum and Milkman (2007)

