

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CIVIL SERVICE AND LABOR

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March 22, 2013
Start: 10:52 a.m.
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HELD AT: Council Chambers
City Hall

B E F O R E:
MICHAEL C. NELSON
Chairperson

COUNCIL MEMBERS:
James F. Gennaro
Melissa Mark-Viverito
Domenic M. Recchia, Jr.
Eric A. Ulrich

A P P E A R A N C E S (CONTINUED)

Ruth Messinger
Concerned Citizen

Pablo Martinez
Make the Road New York

Dr. Manisha Sharma
Concerned Citizen

Vincent Alvarez
President
New York City Central Labor Council

Kevin Finnegan
Director of Politics and Legislation
1199 SEIU

Bill de Blasio
Public Advocate

Robert Bookman
New York City Hospitality Alliance

Linda Baran
Staten Island Chamber of Commerce

James Copeland
Manhattan Institute for Policy Research

Kathryn Wylde
Partnership for New York

Zeluma Wiscovitch
National Supermarket Association

Regina Smith
Harlem Business Alliance

Andrea X
Concerned Citizen

A P P E A R A N C E S (CONTINUED)

Ruben Diaz, Jr.
Borough President
Bronx

William Thompson
Concerned Citizen

Mark Gjonaj
Member
New York State Assembly

James Essey
New York Staffing Association

Jay Peltz
Food Industry Alliance of New York

Tom Minnick
Business Council of New York State

Richard McGahey
Professor
Milano School Urban Policy at the New School

Brett Garrett
Blue Bottle Coffee Company

Reverend Raymond Rivera
Chairman
National Evangelical Latino Coalition

Dr. Luella Toni Lewis
SEIU

Jorge Ortiz
SEIU 32 BJ

Selena Alvarez
Make the Road New York

A P P E A R A N C E S (CONTINUED)

Lawrence Mandelker
New York Metropolitan Retail Association

Andrew Mosall
Political Director
New York State Restaurant Association

Robert Sunshine
Executive Director
National Association of Theatre Owners in New York
State

Maria Castaneda
Secretary Treasurer
SEIU 1199

Sherry Leiwant
Co-President
A Better Balance

Anne Bove
Secretary
New York State Nurses' Association

Robyn Overman
Director of Human Resources
The Gay Men's Health Crisis

John Binizio
Five Borough Coalition

Rosina Ruben
Concerned Citizen

Joseph Leo
President
Atlantic Contracting

William Shuzman
Executive Director
Allied Building Metal Industries

A P P E A R A N C E S (CONTINUED)

Lewis Coletti
President
Building Trades Employers' Association

Monifa Bendelay
Moms Rising

Nancy Rankin
Vice President for Policy Research
Community Service Society New York

Phil Andrews
Director of Retail Organizing
Retail Wholesale Department Store Union

Dr. Frank Proscia
Executive Director
Doctors' Council SEIU

Jeff Hayes
Study Director
Institute for Women's Policy Research

Doreen Zayer
Relax on Cloud 9

Robert S. Altman
Queens and Bronx Building Association
The Building Association of New York City

Shane McMorrow
Assistant Vice President
Mechanical Contractors' Association

Denise Richardson
Managing Director
General Contractors' Association of New York

Lisa Davis
Concerned Citizen

A P P E A R A N C E S (CONTINUED)

Carol Saginaw
President of the Board
The Center for Children's Initiatives

Zayed Hamad
Member
Retail Action Project

Rabbi Michael Feinberg
The Greater New York Labor Religion Coalition

Dr. Heman Sindu
CIR SEIU Healthcare

Armando Uribe
New York Communities for Change Worker Committee

Nora Neilis
National Cleaners Association

Sasha Hooja
Planned Parenthood of New York City

Barbara Young
National Domestic Workers

Heidi Siegfried
Legislative Vice President
National Organization for Women

Ronald Regens
Gay Men's Health Crisis Action Center

Donna Dolan
Chair
New York Paid Leave Coalition

Jason Coates
National Hispanic Council on Aging

Tyi Jones
Retail Action Project

A P P E A R A N C E S (CONTINUED)

Socheatta Meng
Legislative Counsel
New York Civil Liberties Union

Derek Chandler
Housing Works

Shara Siegel
Policy Associate
New York Academy of Medicine

Debra Cooper
State Assembly Member
67th Assembly District

Dr. Susan Thersaleck
American Academy of Pediatrics

1 CHAIRPERSON NELSON: We can finally
2 get started I am glad to say. Good morning. I am
3 Council Member Mike Nelson. I am the chair of
4 this Committee on Civil Service and Labor. Today
5 the Committee will hold a hearing on proposed
6 Intro 97-A, a local law to amend the
7 administrative code of the city of New York in
8 relation to the provision of paid sick time earned
9 by employees commonly referred to as the paid sick
10 time bill. Today is the third hearing by this
11 Committee on paid sick time legislation. In
12 recent years, the subject of paid sick time has
13 been debated at the federal, state and local
14 levels. A few municipalities have even passed
15 paid sick time laws, including San Francisco,
16 Washington D.C., Seattle and most recently
17 Portland, Oregon. In addition, the state of
18 Connecticut also passed a paid sick time law for
19 service workers of employers with 50 or more
20 workers. Please if you can, and I have done the
21 same thing by accident, if you could turn your
22 phone onto vibrate. Whether or not to make
23 employers responsible providing a minimum amount
24 of paid sick time to their employees has both pros
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1 and cons. The Committee expects to hear from
2 individuals and organizations with a wide variety
3 of viewpoints--wide variety of viewpoints on this
4 legislation. I am a sponsor of this legislation.
5 I believe that paid sick time would improve the
6 overall health of the population of the city
7 because sick people will be able to stay home from
8 work or school preventing the spread of illness to
9 coworkers, customers, classmates or teachers, but
10 on the other hand there are legitimate arguments
11 on the other side, particularly that this bill
12 could hurt small businesses and potentially lead,
13 which would be ironic, to job losses or business
14 failures on a bad economy; therefore, I intend for
15 this hearing to be balanced and not favor either
16 side. Today we will be joined by Speaker Chris
17 Quinn and members of the Committee Council Members
18 are Mark-Viverito, Recchia, Gennaro, Ulrich. Is
19 Eric here? He's on the list here, but I guess he
20 is coming. Okay, he will be here soon. We have
21 also been joined by Council Members Brad Lander,
22 Crowley, Halloran, Brewer, Lappin, Gonzalez, King,
23 Chin and--Recchia I think I mentioned, and again,
24 I'll give Gonzalez another call out because we are
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1
2 close, and the public advocate Bill de Blasio is
3 here, and I'd like to also thank committee staff
4 Matthew Carlin to my right, our counsel, who has
5 done an incredible job. This is very difficult to
6 handle this. I will tell you. Thank you, Matt.
7 And Faith Corbett, our policy analyst, John
8 Lisansky [phonetic] our financial analyst, Justin
9 Goodman, our press officer. I will hold off for
10 Chris, of course to say a few words - - . I'd
11 just like to also say please rules. This is a
12 democracy, and people feel they can say whatever
13 they want, but you know what? On the other hand,
14 you be disruptive to democracy and others who want
15 to speak, so I would appreciate no applause,
16 shouting, no boos--not the liquid form, that we
17 know you don't have. You will be removed I am
18 sorry to say if you are disruptive to democracy.
19 Even staff should not be standing on the sides. -
20 - try to stay within the rules. Please, we can
21 have this really peaceful type of a meeting. I
22 believe the main sponsor of this legislation, the
23 prime, Gale Brewer.

24 COUNCIL MEMBER BREWER: Thank you
25 very much, Mr. Chair. I appreciate this hearing.

1 I appreciate the Speaker's staff and the Speaker
2 for holding it, and I really appreciate the 38, 37
3 other co-sponsors of paid sick time for all of
4 your many hours of readings and press conferences
5 and support, and making sure that workers get what
6 they deserve. As you know, as the Speaker
7 indicated, New York City had waited a long time
8 for a bill supporting paid sick days. During the
9 time that we have been requesting this legislation
10 as was indicated the state of Connecticut and the
11 cities of Seattle, Portland and Philadelphia have
12 passed paid sick time, and of course, San
13 Francisco and Washington D.C. have had it for
14 quite some time. I just want to indicate, we have
15 spoken to the city or state officials who monitor
16 each one of those cities or states, and I have to
17 be honest with you, we can give you phone numbers,
18 e-mails and every single case there have been few
19 if any violations. Every single discussion,
20 problem that has been brought to the officials has
21 been negotiated and settled without a violation.
22 Very, very few if any violations have taken place.
23 So right now in New York City I really do believe
24 that many women and men up to 1.3 million are
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1
2 being forced to choose between their jobs and
3 health, and that is not right in our city. We
4 have some highlights. As you know in the current
5 bill, 97-A, under five employees are exempted, but
6 they do have job protection. We have worked
7 really hard to make sure there is an
8 administrative - - in the city of New York, and we
9 have made it clear over and over again that
10 current paid time off policies whatever benefits
11 the business has meets the minimum requirements of
12 the bill, then you do not need to be part of this
13 legislation. There is a huge coalition. I want
14 to mention the amazing unions, the health
15 professionals, the school nurses, the Harlem
16 Business Alliance, and one particular company Blue
17 Bottle Coffee--it's a San Francisco based business
18 that is expanding in California and New York City,
19 and they have paid time off benefits in both city.
20 Worker advocate organizations and labor all agree,
21 and this company in particular that it is not a
22 problem in San Francisco, and it won't be a
23 problem in New York, and you will hear their
24 testimony later on. So without further ado, - -
25 we want to hear from the panelists, but I am here

1
2 to say thank you to the huge coalition. To the
3 workers, we will do our very, very best. I want
4 to say that Melissa Mark-Viverito gave me a lot of
5 hope the other day. She was filling up her car
6 with gas and the gas attendant in Queens said to
7 her, I don't know you, ma'am, but I heard
8 something about paid sick time. Maybe I'll get
9 it. Thank you very much.

10 CHAIRPERSON NELSON: And they put
11 sugar in her gas tank if she said she wasn't going
12 to go with it. Karen Koslowitz has joined us.
13 Thank you, Karen. Mark Weprin and Mathieu Eugene
14 and now we should have the first panel being
15 called. Please Vincent Alvarez, Kevin Finnegan,
16 former borough Manhattan president, Ruth
17 Messinger, Pablo Martinez, and - - Sharma
18 [phonetic]. I pronounced that right, I hope. By
19 the way, we will be setting the clock for obvious
20 reasons. We don't want to be here until Dave
21 Letterman comes on tonight, so there will be a two
22 minute clock. Perhaps if Ms. Messinger can go
23 first?

24 RUTH MESSINGER: Thank you very
25 much, Mr. Chairman, Mr. Public Advocate, members

1 of the Council. It's quite a challenge for me and
2 a lot of fun to be back here where I was
3 privileged to serve for 12 years. The security
4 guard at the front gate had no idea who I was, but
5 I am pleased to be back to testify in favor of an
6 important piece of legislation that will make a
7 difference for tens, hundreds, millions of New
8 Yorkers in many ways, and I want to say as
9 somebody who did live the legislative and
10 government process for 20 years that I am aware of
11 how much work has been done not only by the people
12 supporting this, but by those of you who have
13 sponsored it, and worked and looked at legislation
14 in other cities and worked carefully to modify and
15 amend the intros so that it speaks to many
16 different people's concerns. I think as Council
17 Members you all know the story. Paid sick leave
18 is a benefit that protects the health and safety
19 of the individual worker, her or his family, her
20 or his co-workers, and the broader community. It
21 is of course an employment benefit, but also an
22 important public health measure, particularly
23 because many of the uncovered employees in New
24 York City work with children and the elderly or
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1 work in the food service sector. Paid sick leave
2 is a benefit that would matter most to New York
3 City's lower income workers, and it is a benefit
4 as Council Member Brewer said that is increasingly
5 being made available elsewhere in the United
6 States. This is an opportunity for our city to
7 join with others, and help set the standard for
8 employment that will help workers and advance
9 public health without overburdening the city's
10 smallest businesses, all of which are protected in
11 the current version of the legislation. I want to
12 add only one thing, and that is in the 14 years,
13 Mr. Chairman, since I left public life, I have
14 been privileged to direct a not for profit, non-
15 governmental organization that has grown
16 substantially. I am absolutely certain that one
17 of the factors in our success as an employer is
18 that we stretch a limited budget judiciously to
19 provide benefits, including paid sick leave that
20 are responsive to the life realities of employees
21 who need to protect their own health and the
22 health of their families as well as to invest
23 their energies in their work. Thank you.

24
25 CHAIRPERSON NELSON: Thank you, Ms.

1
2 Messinger. I appreciate you staying within the
3 guidelines. Pablo?

4 PABLO MARTINEZ: [foreign language]

5 FEMALE VOICE: Good morning. I'll
6 just be translating for Pablo.

7 PABLO MARTINEZ (through
8 interpreter): Good morning. My name is Pablo
9 Martinez. I am a member of Make the Road New
10 York. I am from Mexico. I am originally from
11 Veracruz, Mexico. I am 47 years old, and I have
12 three children, who live in Mexico, and two of
13 them are studying in the university. So I have
14 been living in this lovely nation for six years
15 now. During that time, I have been working at two
16 different car washes. I currently work at the LMC
17 carwash in Astoria. It's an honor for me to be
18 here with you today to share how important it is
19 for workers to have paid sick days. I have had
20 the sad or unfortunate experience of having to go
21 to work sick. I have health problems including
22 hypertension and arthritis.

23 CHAIRPERSON NELSON: Due to his
24 illness and the translation, give another 30 to 40
25 seconds.

1
2 FEMALE VOICE: Could we have an
3 extra two minutes just because of the Spanish,
4 English. I am so sorry.

5 CHAIRPERSON NELSON: Please nobody
6 cite case precedent when they speak after this.
7 Alright? Thank you.

8 FEMALE VOICE: I appreciate it.

9 PABLO MARTINEZ (through
10 interpreter): I have had to go to work sick, and
11 even with very intense pain had to work 12 hour
12 days. At one point because of kidney problems, I
13 had to be hospitalized for about ten days, and at
14 that point, I didn't receive any salary at all.
15 It was a very difficult time for me because I
16 could not pay my phone bills, the rent or even my
17 children's educational expenses. And the same
18 situation that I have been in many other workers
19 face the same situation because our employers do
20 not provide us with paid sick days. So that is
21 why I am here today to ask you as legislators to
22 please take into consideration how important this
23 issue is and to pass a law that would protect this
24 very basic right of workers. Thank you.

25 CHAIRPERSON NELSON: Thank you, Mr.

1
2 Martinez.

3 DR. MANISHA SHARMA: Good morning.

4 Thank you for the opportunity to testify this
5 morning My name is Dr. Manisha Sharma, and I am a
6 family physician in the Bronx, New York. As an
7 everyday doctor for everyday people of New York
8 City, I would like to share with you my
9 perspective on why the passage of the paid sick
10 time act is so important to New York. I'd like to
11 introduce you to one of my many patients, Mr. A.
12 Mr. A is a hardworking taxi driver in his 40s.
13 Unfortunately he doesn't have medical insurance
14 and sees me whenever he can afford to. One day he
15 called me telling me he had a cough and he had
16 been feeling rundown. He had a fever, took some
17 Tylenol, but it wasn't going away. I asked him to
18 come in to see me, but he couldn't because if he
19 didn't work, he doesn't get paid, and even gets
20 threatened to be fired. So he went to work sick
21 with a nasty cough and fever where again, he
22 interacts with hundreds of New Yorkers as a cab
23 driver and has the potential of becoming even more
24 ill and infecting the New Yorkers he comes into
25 contact with whatever illness he may have through

1 exchanging money, receipts, being in an enclosed
2 cab space, not to mention jeopardizing New Yorkers
3 by getting hurt in accidents because of him
4 driving ill. Mr. A did not get better. In fact,
5 he got worse, and I did end up getting to see him
6 about two weeks later in the ICU at the hospital
7 with a tube down his throat to help him breathe.
8 His cold became a costly one, not only to his life
9 and his family's livelihood, but also to hundreds
10 of people he came into contact with, and
11 ultimately to our healthcare system. Paid sick
12 leave is clearly a public health necessity. More
13 than one million workers in New York City we
14 depend on our cabdrivers, our caretakers, food
15 industry workers, retailers do not have paid sick
16 time to care for themselves, their children or
17 their loved ones. People become forced to choose
18 between working sick or not having enough money
19 to provide for their families or themselves. What
20 we aren't realizing is that forcing people to
21 choose their health or their livelihood is also
22 forcing New Yorkers to choose between their health
23 and their livelihood. Use the example of the
24 restaurant worker in North Carolina who without
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1
2 the option of paid sick leave continued to work as
3 a cook in a restaurant even when he was severely
4 ill with Hepatitis A, which causes violent bouts
5 of diarrhea and vomiting. Because he did not have
6 the option to stay home or to see a doctor and
7 because he did not have paid sick time, he spread
8 Hepatitis A virus through the food he prepared,
9 which spread to the people who ate it, causing a
10 public health crisis. I urge you as a doctor and
11 proud New Yorker to stand behind 83 percent of New
12 Yorkers who want a law that requires employers to
13 give workers paid sick time and act on what you
14 know is right. Pass the paid sick time act for
15 all New Yorkers. Thank you.

16 CHAIRPERSON NELSON: Thank you,
17 Doctor.

18 VINCENT ALVAREZ: Thank you, Mr.
19 Chairman. Good morning, and thank you for the
20 opportunity to testify at the hearing of the Civil
21 Service and Labor Committee of the Council and the
22 city of new York. I would like to thank Speaker
23 Quinn. I would like to thank the Committee Chair,
24 Member Nelson, as well as the members of the
25 Committee for convening this important hearing. I

1 sit before you today aligned with many others in
2 labor and communities across New York City,
3 parents, small businesses, all calling for the
4 establishment of paid sick time for workers to
5 care for themselves or their family members in the
6 event of illness. The health of New York City's
7 workforce is of paramount importance to the health
8 of the city's economy. As president--

10 CHAIRPERSON NELSON: [interposing]

11 I am sorry, sir. Can you please state your name
12 for the record?

13 VINCENT ALVAREZ: Vincent Alvarez,
14 president of New York City Central Labor Council.

15 CHAIRPERSON NELSON: Thank you.

16 VINCENT ALVAREZ: As president of
17 the New York City Central Labor Council, AFLCIL
18 [phonetic] I represent over 1.3 million workers
19 across many industries and professions in the
20 private sector, the public sector and the building
21 and construction trades. Many of these workers
22 have the benefit of collective bargaining
23 agreements that stipulate for time off with pay
24 during illness; however, there remain far too many
25 New Yorkers and far too many workers in this city

1 who cannot take time off of work, and who risk
2 disciplinary action or firing if they do. Low
3 wage workers represent the majority of those not
4 afforded paid sick time. In 2011, 66 percent of
5 low income parents of school aged children did not
6 have the access to paid sick time. The stress of
7 caring for a sick child is great enough without
8 having to worry about missing bill payments or
9 even losing your job for doing so. 56 percent of
10 workers who prepare and serve food do not have
11 access to paid sick time. This clearly represents
12 not only a hazard to others in the workplace, but
13 to the general public with whom they continue to
14 come into contact. Providing paid sick time to
15 workers particularly in food service industry
16 would curtail the spread of illness and would
17 present an overall benefit for the greater
18 workforce of our city. Additionally, healthy
19 workers are more productive workers. Giving
20 workers paid sick time has been shown to improve
21 worker productivity and would reduce employee
22 turnover resulting in a cost savings for
23 employers. Advertising open positions, taking the
24 time to interview and then training replacement
25

1 workers outweigh the cost of providing workers
2 with paid sick time. Paid sick time should not be
3 a privilege for a chosen few, but a basic right
4 pursued by private and public employees and to be
5 provided for as many workers as possible.

6 Historically New York City has been a leader in
7 workforce safety and worker protections. We
8 should continue to lead in providing paid sick
9 time to the hardworking men and women of New York
10 City and the New York City Central Labor Council
11 supports paid sick time act, and believes that it
12 deserves a vote. Thank you.

13
14 CHAIRPERSON NELSON: Thank you very
15 much.

16 KEVIN FINNEGAN: Good morning. I
17 am Kevin Finnegan. I am a director of politics
18 and legislation for 1199 SEIU. Mr. Chairman,
19 Council Member Brewer, Public Advocate de Blasio,
20 members of the Committee and other members who are
21 here, thank you for allowing me to come and
22 testify this morning. I testify on behalf of
23 200,000 healthcare workers in the city of New
24 York. Each one of our members will tell you that
25 viruses spread through contact and that the best

1 prevention is to stay home; however, in this
2 economy people go to work sick for fear of
3 termination and lost wages. They ride mass
4 transit and interact with the public exposing
5 millions of New Yorkers to viruses, resulting in
6 thousands of emergency room visits and hospital
7 admissions every year. If they can't take a day
8 off, they will send a sick child to school
9 exposing other children to illnesses. This
10 January New York State declared a public health
11 emergency due to a widespread influenza outbreak
12 with deaths reported at epidemic levels. Our
13 members described emergency rooms that were
14 overflowing 24 hours every day, mostly because
15 sick people that cannot take time off work end up
16 needing emergency care. Back in 2009, an outbreak
17 of the H1N1 virus results in over 400,000
18 hospitalizations and 18,000 fatalities. To
19 contain the outbreak, 200 schools were
20 systematically closed for at least a week, costing
21 New York millions of dollars. Healthcare
22 professions will testify today that providing paid
23 sick days is more cost effective than cost
24 associated with pandemics and hospital visits.
25

1
2 1199 concurs. Contagious illnesses are less
3 likely to spread or become chronic if medical
4 treatment is sought at the onset of symptoms. If
5 workers are able to take time off during regular
6 clinic or doctors' hours, they are less likely to
7 end up in an emergency room. When it comes to
8 public health and safety, it is imperative for the
9 City Council to take precautions and exercise its
10 power to set an established policy for the city of
11 New York. 1199 members are asking you to use your
12 power and enact this legislation. Thank you.

13 CHAIRPERSON NELSON: Thank you,
14 sir. We are not playing games with the time for
15 those of you who are checking that. We are just
16 having problems with setting the timer to begin
17 with. So don't want you to think we are letting
18 some people speak longer on purpose. Okay. We
19 have been joined by Council Members Rose and
20 Jackson. Welcome. We have some questions from
21 some of the members here. I think I mentioned
22 Mark Weprin before, but if I didn't, I'm sorry
23 Mark. Council Member Gale Brewer?

24 COUNCIL MEMBER BREWER: Very
25 quickly I want to thank Mr. Martinez for being

1
2 here, and my question is one of the complaints
3 that business sometimes make is that if you have
4 paid sick days, people would take advantage of it,
5 take off too much, take off when you are not sick,
6 so my question to you is if you have paid sick
7 days do you think you and your colleagues would
8 use them correctly, which is only when you are
9 sick?

10 PABLO MARTINEZ (through
11 interpreter): So first of all, I just wanted to
12 reiterate that I think is a very basic right that
13 all workers should have. I do have the hope that
14 you all will decree a law that will make this into
15 a basic right that all employers would have to
16 respect. With regards to your question, I think
17 that workers could prove that they are actually
18 sick very easily. Most workers when they have to
19 go to the doctor, they could bring in a doctor's
20 note. I have medical bills. I have proof of the
21 time that I was hospitalized. I would have no
22 problem showing that information to my employer if
23 he had any question for me about whether I was
24 actually sick or not. It would be very easy for
25 me to prove that I am only taking sick days off

1 when I am actually sick.

2
3 COUNCIL MEMBER BREWER: Thank you,
4 Mr. Martinez for being here. Thank you, Mr.
5 Chair.

6 CHAIRPERSON NELSON: You're
7 welcome, Council Member Brewer. Also, Councilman
8 Halloran has a question.

9 COUNCIL MEMBER HALLORAN: Thank
10 you, Mr. Chair. I'll start with Dr. Sharma. Are
11 you in private practice or public practice?

12 DR. MANISHA SHARMA: Public
13 practice.

14 COUNCIL MEMBER HALLORAN: Okay. So
15 paying - - if you were a medical office in a small
16 office with two, three, four, five, six employees,
17 that wouldn't be an issue for you because you have
18 a municipal corporation that is actually paying
19 for your paid sick time, which is very different.

20 DR. MANISHA SHARMA: Sure. I would
21 have to pay if I was in private practice, but
22 let's be real about this. If I had people in my
23 practice who were sick, I would not want them
24 there.

25 COUNCIL MEMBER HALLORAN: In your

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office?

DR. MANISHA SHARMA: Absolutely.

To make people who are coming to us who are sick even sicker.

COUNCIL MEMBER HALLORAN: But if

you had been in the private practice, you would be aware that New York City taxes our businesses higher than any municipality in the country. We pay a federal, a state, and a local income tax. We pay a commuter tax. We have a payroll tax. In addition to that, we have property tax, which is amongst the highest in the nation, and now our businesses are looking at not only an increase in their tax rates from the state, but apparently with the advent of the minimum wage increase, which I generally do support, the affordable healthcare act, which will tax those small businesses. Do you happen to know off the top of your head what the average margin for a business under 50 employees is, the profit margin is for a business under 50 employees in the city of New York?

DR. MANISHA SHARMA: I am an

everyday doctor for everyday people. I am not an

1
2 economist, but I can tell you this, it takes a
3 village to create a village.

4 COUNCIL MEMBER HALLORAN: Doctor,
5 respectfully, you answered my question and you
6 said you didn't know. Let me inform you that it
7 is about 12 percent as the profit margin, and even
8 the economists looking at this will conservatively
9 say it is about a four percent increase, which
10 means their profit margin has now become eight
11 percent. Are you worried that maybe employers
12 won't be there to employ people given the
13 onslaught of not just this one bill, but in
14 consolidation with the other issues going on like
15 the affordable care act, like the increase in the
16 minimum wage, those issues on top of that, that is
17 not a concern for you at all?

18 DR. MANISHA SHARMA: No, because my
19 concern is people's health.

20 COUNCIL MEMBER HALLORAN: The
21 gentleman who was working at the carwash. How
22 many employees are there at the carwash? Do you
23 know off the top of your head?

24 PABLO MARTINEZ (through
25 interpreter): Approximately 50 workers.

1 COUNCIL MEMBER HALLORAN: Okay, so
2
3 that is a very large carwash?

4 PABLO MARTINEZ (through
5 interpreter): Yes, it is a large carwash.

6 COUNCIL MEMBER HALLORAN: You are
7 aware under this bill you would not have been paid
8 for ten days being out in the hospital? This bill
9 will only cover you for five days of paid leave.

10 PABLO MARTINEZ (through
11 interpreter):

12 COUNCIL MEMBER HALLORAN:

13 PABLO MARTINEZ (through
14 interpreter):

15 COUNCIL MEMBER HALLORAN:

16 PABLO MARTINEZ (through
17 interpreter): So I think that all workers have
18 the basic right to have paid sick days regardless
19 of how many paid sick days they are. In my case
20 what I can tell you is that workers have the
21 right--nobody is free of getting sick. Everybody
22 gets sick sometimes. Nobody has like a free pass
23 never to be sick, and many times the employers
24 they want to use us when we are well, but then
25 when we are sick they are not there for us, and

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that is not fair either.

COUNCIL MEMBER HALLORAN: Fair enough. How long are--are you still at the carwash?

PABLO MARTINEZ (through interpreter): Yes, I still work there.

COUNCIL MEMBER HALLORAN: So the employer kept you even though you had missed over ten days of work and you were able to come back to that same job?

PABLO MARTINEZ (through interpreter): I didn't lose my job because I communicated with my boss and because I showed them the receipts from the hospital that I had been hospitalized at.

COUNCIL MEMBER HALLORAN: and that is a good thing, and I am very glad that you did that. That is a good employee to do that. I appreciate that as a former business owner. With regards to Mr. Finnegan at 1199, one of the things you said, and I understand the general premise of what we are talking about here, but it is certainly not your position that people don't just commute to work on the mass transit. If someone

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2 is sick, they are going to go to a doctor. They
3 also are going to be on mass transit. We are not
4 self-delusional enough to think that simply
5 because someone is ill that they are not going to
6 be out in the public, and that they are not going
7 to be communicable to the extent that they would
8 be communicable in any sense, right? I mean you
9 are not saying that.

10 KEVIN FINNEGAN: No, but obviously
11 if someone has to go to work, they are going to
12 come in contact with a lot more people than if
13 they stayed home.

14 COUNCIL MEMBER HALLORAN: Would any
15 of the people in the panel have any problems with
16 the fact that it's the Department of Health rather
17 than the Department of Consumer Affairs that is
18 the supervisor of this bill? Does anyone really
19 think that labor issues really belong in front of
20 the Department of Health of the city of New York
21 rather than the Department of Consumer Affairs of
22 the city of New York?

23 KEVIN FINNEGAN: Yes, labor issues
24 belong at the Department of Health when they
25 involve health, and in fact as part of my job I

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2 interact with the Department of Health virtually
3 on a daily basis. Obviously I represent health
4 workers, so a lot of that has to do with the
5 business of health, but it has to do with the
6 functioning of the Health Department in everything
7 that it does because as healthcare workers, we
8 understand how labor and health interact.

9 CHAIRPERSON NELSON: Thank you,
10 Councilman Halloran. We have been joined by the
11 Speaker of the City Council, Chris Quinn, who
12 would like to say an opening statement.

13 SPEAKER QUINN: No, I don't have an
14 opening statement. I just want to thank everyone
15 for being here, for organizing the hearing. I am
16 here to listen. I am sorry I was late. I was
17 actually at a chamber of commerce, so I got held
18 up there, but thank you all and I will make sure I
19 review the testimony of the first panel over the
20 weekend, and I apologize for missing it. Thank
21 you, Mr. Chair.

22 CHAIRPERSON NELSON: Thank you,
23 Madam Speaker. I want to mention that Council
24 Member James has been with us for a while. I
25 think I mentioned Koslowitz earlier I hope, and we

1
2 have a question now from the public advocate right
3 now.

4 BILL DE BLASIO: Thank you very
5 much, Mr. Chairman. Thank you to you, to Speaker
6 Quinn, to all my colleagues. It is good to be
7 back with you. The question I have is for Mr.
8 Finnegan and Mr. Alvarez, but just a quick preface
9 that I have the honor of serving in this body for
10 eight years now, four years as public advocate.
11 Over those 12 years, I can't remember a piece of
12 legislation as important as this, as well debated
13 as this with as many sponsors as this one has that
14 has waited so long for a vote. By my count it is
15 two years and 361 days we have been waiting for a
16 vote. So I am hoping that this additional
17 outpouring of interest we see before us today
18 means that we will soon have actual democratic
19 process in this town and get a vote on this
20 crucially important issue. Now by the estimate of
21 the New York Times this affects one million New
22 Yorkers. I believe fundamentally that we must
23 reach these one million people in need now. In
24 the midst of still a tough economy, it is exactly
25 the time when they need our help. You heard from

1 the testimony of our friend just what it means to
2 the average worker if they don't have this
3 protection, what it means to them, what it means
4 to their family, what it means for their health.
5 The question is based on the fact that in the last
6 week or so this city of Philadelphia, one of the
7 top five largest cities in the country, passed
8 paid sick days legislation with very similar
9 purview and reach to the current bill with the
10 current amendments--companies with five employees
11 and up. The city of Portland, Oregon also acted
12 in the last week with similar criteria, and I
13 think what is so striking is as our economic
14 crisis has lingered more and more localities
15 realize this is fundamentally necessary for the
16 economic stability of families, and again, thank
17 you, Doctor, for the health needs of families. So
18 my question is could you talk about since you both
19 represent organizations that have made it a point
20 to extend benefits to those who didn't have them.
21 That to me is one of the definitional realities of
22 the American labor movement, and when you do that,
23 you don't say, worker A, you get full benefits;
24 worker B, you don't. Worker C you get half. The
25

1 way you structure your agreements with management
2 is that every single worker is covered. How
3 important is it that this New York City bill reach
4 all one million New Yorkers in need? How
5 important is it that we amplify and follow the
6 pattern we now see around the country in places
7 like Philadelphia to reach the most New Yorkers
8 possible?
9

10 KEVIN FINNEGAN: Just as a labor
11 organization, it's a fundamental principle that we
12 try and treat all workers equally. That is where
13 we start, so there is no question from that
14 perspective, but from the health perspective, I
15 want to emphasize that we need to cover every
16 worker because every one of us becomes essentially
17 a danger to everyone else if we are out there
18 working, interacting with the public when we are
19 doing our jobs. That is particularly true in the
20 healthcare industry because the people we are
21 dealing with are a little bit more vulnerable
22 generally, but it is just as true with the public
23 in general, so on this issue, it is even more
24 fundamental I think to public policy that it apply
25 to everybody.

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2 VINCENT ALVAREZ: Most of the
3 municipalities that I have spoke to, my
4 counterparts throughout the country from San
5 Francisco, Philadelphia and other cities that we
6 have mentioned here have talked about the need to
7 embrace this legislation as well as other
8 legislative goals that we have to make sure we are
9 doing it in a way that is not driving wedges
10 between different groups of workers and
11 classifying workers differently, but pursuing a
12 goal, which we think universally is going to help
13 all workers within that jurisdiction, and they
14 have pursued that, and I know it is our hope that
15 this pursuit of this legislation is going to reach
16 all one million plus workers that need and are
17 entitled to we feel paid sick time legislation.

18 BILL DE BLASIO: One quick follow
19 up for Mr. Finnegan, because again as you said,
20 you have constant contact with the Department of
21 Health, I think we saw during the recent flu
22 epidemic that an unprecedented sort of fast growth
23 of flu in this city made worse of course by the
24 fact we had just come off of the effects of Sandy
25 in so many neighborhoods. Could you talk to us

1
2 about how much the spread of that kind of disease
3 happens in the workplace, and how this legislation
4 is part of trying to get ahead of that problem?

5 KEVIN FINNEGAN: The recent
6 epidemic moved at a speed that it was really
7 unprecedented, and we were asked as healthcare
8 workers to react to that and one of the things
9 that we did there was a whole of staffing issues
10 in moving things around. There was hotspots in
11 the state, both upstate and downstate where we
12 needed to react, but one of the things we were
13 asked to do was for everyone to get a flu shot,
14 which you can't mandate, but we urged our workers
15 to get flu shots to prevent them from getting the
16 flu from all of the people who were coming into
17 the emergency rooms, but we also agreed to the
18 extent we legally could was that every worker who
19 did not get a flu shot was required to wear a
20 mask, and that the Department of Health required
21 in every hospital and nursing home in the state
22 because of they are aware of how dangerous it is
23 for people to walk around who might have the virus
24 and not be sick yet or in order to prevent them
25 from getting sick because they are dealing with so

1
2 many people in the emergency rooms.

3 BILL DE BLASIO: So just a thank
4 you to the panel, thank you to the Chair and just
5 to say the obvious. This is yet another reason
6 why not only do we need to cover all the people we
7 can cover, but this is another reason why this
8 legislation needs to happen now because the health
9 dynamics here, and had we had this legislation six
10 months ago or a year ago, it actually could have
11 had a positive effect in terms of this recent flu
12 epidemic. The health dynamics alone suggest that
13 our constant delay is actually causing more people
14 to get sick in this city, is causing more families
15 to be unstable. It is hurting them economically,
16 but it is hurting their health as well, and that
17 is why we need this bill now. Thank you so much.

18 CHAIRPERSON NELSON: Thank you, Mr.
19 Public Advocate, Bill de Blasio. Councilman
20 Lander and then Lappin, and I respectfully
21 request, please keep it to two questions.

22 COUNCIL MEMBER LANDER: Thank you,
23 Mr. Chairman, and thank you, Council Member
24 Brewer, for the sponsorship. Thanks to all of you
25 for being here and special thanks to Mr. Martinez

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2 and to Dr. Sharma for coming and sharing your
3 stories with us. I guess I want to ask some
4 questions of Mr. Finnegan and Mr. Alvarez. Your
5 counterparts in San Francisco and in other
6 localities surely would care if there was job loss
7 as a result of paid sick days 'cause it's their
8 job to represent workers and the health of the
9 economy in those cities. Have you heard from your
10 colleagues in San Francisco or any other
11 localities where they have paid sick days that
12 there has been any job loss as a result of the
13 paid sick days legislation?

14 VINCENT ALVAREZ: The single
15 greatest pursuit for the labor movement since the
16 downturn in the economy has been the pursuit of
17 jobs and complementary legislation that we think
18 would help either incentivize or if you look at it
19 from the other perspective, we would not be
20 obviously supporting any legislation that would
21 create disincentives to job creation. From the
22 conversations that we have had from my
23 counterparts and my colleagues throughout the
24 country, jurisdictions that have paid sick time
25 legislation there has been no adverse economic

1 conditions. In fact, some of them have said that
2 this is actually been a stabilizing factor in the
3 economic communities from which they reside in and
4 work in.
5

6 COUNCIL MEMBER LANDER: My second
7 question, you both are in frequent negotiations or
8 your member in the case of Central Labor Council
9 are in frequent negotiations with employers on
10 contracts. While those employers tend to be
11 larger ones, their eyes are on the bottom line as
12 well. As you enter into negotiations how often is
13 paid sick days and the provision of paid sick days
14 by employers a top level thing that those
15 employers are fighting? Because in my experience
16 many, many, many other issues are what we hear
17 about in labor negotiations I can't remember
18 hearing when an employer really fought hard
19 against or really resisted providing paid sick
20 days, and I believe if they can - - .

21 KEVIN FINNEGAN: It is generally
22 one of the first things negotiated and conceded to
23 by management, particularly the larger employers.
24 I would say two things on that. The Council
25 Member Halloran, and maybe I misunderstood you, I

1 thought you said this would raise the cost by four
2 percent. We negotiate contracts and in some areas
3 we don't have very many paid sick days,
4 particularly in the lowest wage areas like
5 homecare. This would actually expand the number
6 of paid sick days for about 35,000 homecare
7 workers that I represent. We price out the cost
8 of stuff. If we have to increase the paid sick
9 days by two days because this is a Medicaid closed
10 system, the employers don't have any more money,
11 we have to cost out those two days, and
12 essentially give it up in another way. We cost
13 out a paid sick day if my memory serves me
14 correctly at a little over a quarter of a percent,
15 so we have to sort of find that--of pay, of the
16 yearly cost, and we would have to find that
17 somewhere else for those two days. Other than
18 that, this is not going to impact--as I
19 understand--most large employers generally, but
20 certainly most large employers on the collective
21 bargaining arena.
22

23 CHAIRPERSON NELSON: If you could
24 just repeat your name for the record, so they have
25 a good record.

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2 KEVIN FINNEGAN: Kevin Finnegan
3 from 1199.

4 CHAIRPERSON NELSON: I'm sorry?

5 KEVIN FINNEGAN: Kevin Finnegan
6 from 1199.

7 CHAIRPERSON NELSON: Thank you.

8 COUNCIL MEMBER LANDER: I would
9 just add it is not a question, but the economic
10 research that we have, says it would cost about 18
11 cents an hour to enable workers to have paid sick
12 leave, and I think that is why employers don't
13 fight against it when you are negotiating with
14 them in contracting, and it's why employers in new
15 York City will be just fine when they are
16 providing paid sick days to all of their workers.
17 Thank you very much. Thanks, Mr. Chairman.

18 CHAIRPERSON NELSON: You're
19 welcome. We will have Council Members Lappin and
20 James before we go to the next panel. Jessica?

21 COUNCIL MEMBER LAPPIN: Thank you,
22 Mr. Chair, and I want to thank you, Mr. Martinez,
23 for having the courage to come today to the
24 people's house and to share your personal story
25 with us, and say that I agree with you that

1 workers should have paid sick time in the city.
2 My question is for Mr. Alvarez or Mr. Finnegan,
3 and one of the things opponents have raised is
4 that this would supersede collective bargaining or
5 be five days on top of what has been added for
6 collective bargaining. I wanted you to address
7 that if you could.
8

9 KEVIN FINNEGAN: As I understand
10 it, first of all it would not be on top of
11 anything. This is a minimum that you are setting.
12 So if there are five paid sick or four paid sick
13 days - - no impact on most contracts. Like I said
14 earlier where you have a contract that has less
15 than whatever number you land on, the five days,
16 we would have to change our contract to reflect
17 what the prevailing law is, and we would have to
18 figure out a way to pay for it, but we met with
19 our workers, met with the leadership in our
20 homecare division which could have some impact and
21 the decision was made that that was fine that it
22 would affect our collective bargaining, but we
23 were willing to do it because as healthcare
24 workers we saw the value in having paid sick days
25 for the entire city.

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2 VINCENT ALVARADO: I would just say
3 we have 300 unions that are affiliated with the
4 Central Labor Council, literally thousands of
5 contracts, many of them--several thousand actually
6 collective bargaining agreements, some of them
7 have stipulations and agreements on paid sick
8 time. Others don't. We have had extensive
9 conversations within the Central Labor Council,
10 within our executive board, - - our delegates, we
11 passed a resolution several years ago in support
12 of it, and I have not heard of any direct problems
13 within the collective bargaining process of each
14 one of our respective unions or any opposition to
15 it or issues that they think could not be either
16 overcome or addressed at the bargaining table.

17 COUNCIL MEMBER LAPPIN: Thank you.

18 CHAIRPERSON NELSON: We have been
19 also joined by Council Member Steve Levin and Dan
20 Dromm, and Council Member James.

21 COUNCIL MEMBER JAMES: So obviously
22 I want to thank this panel for coming in to
23 testify. I also want to thank Mr. Finnegan for
24 that great rally yesterday to enact responsible
25 gun laws in our city as well as in the battle to

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2 keep open Long Island College Hospital in downtown
3 Brooklyn. Thank you and your members for all that
4 you are doing. Mr. Alvarez, thank you for
5 standing up for working families in the city of
6 New York and for all that you are doing to protect
7 the labor movement, which is under attack in this
8 city. Thank you, Dr. Sharma, for all that you are
9 doing obviously, and Mr. Martinez. My question is
10 it is my understanding that this piece of
11 legislation will primarily benefit low wage
12 workers. Is that a true statement, and any one
13 can answer that question on the panel, and if so,
14 what is the demographics of those low wage
15 workers?

16 DR. MANISHA SHARMA: I think it
17 will benefit all wage workers, and with the
18 economics being what it is today everybody can
19 find themselves in different precarious
20 situations. As a physician I can tell you that
21 even folks who have insurance benefits that I see
22 also are threatened by this concept when they
23 don't have sick days accrued, and so I think it is
24 going to affect every New Yorker. Remember, if
25 one New Yorker gets sick, potentially all New

1
2 Yorkers get sick, so it is something to think in
3 regards to this being a public health crisis.

4 VINCENT ALVAREZ: I'd like to just
5 follow up on that. As you know many of our
6 workers throughout the Central Labor Council Union
7 have the benefit of having paid sick time, but in
8 particular we are concerned obviously with many of
9 the economic issues that face low wage workers,
10 and we feel that if we can provide them with the
11 minimum basic protection of protection when they
12 are sick on the - - that they can provide them
13 with paid sick time, that this would provide
14 obviously a tremendous level of economic benefit
15 for them, and that is why we obviously want to
16 make sure that we are standing up for them because
17 it is going to have a disproportionate positive
18 effect we have on low wage workers as well.

19 COUNCIL MEMBER JAMES: Thank you.
20 It is my position that this sick bill will ensure
21 a healthier and more productive workforce in the
22 city of New York, and I would hope that we can
23 reach a consensus on this bill, and we can move
24 this bill forward to a vote, and I thank the
25 chairman, and I thank the speaker for this

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hearing. Thank you.

CHAIRPERSON NELSON: Very welcome.
Council Member Jackson?

COUNCIL MEMBER JACKSON: Well,
thank you, Mr. Chair, and first I am so happy that
a first hearing is being held on this particular
matter because--the third--but it is important to
hear everyone's opinions on this particular matter
and to read all of the documentation that is being
submitted on behalf of all of the parties. For
the record I am a sponsor of this bill, but I have
a couple of questions for the panel. I guess my
question is you have heard some of the arguments
from the other side. Knowing that for example,
that some businesses will be hurt by this, they
say that some employees will be let go. What do
you say to that type of argument with respects to
understanding that this has been a very
controversial issue for many people?

VINCENT ALVAREZ: I think I will
visit that question with the same way I responded
to the other one. We in the labor movement have
been concerned, remain concerned with job creation
throughout all sectors, not just unionized

1 workers, but all workers. We would never pursue
2 in all of the economic research that the labor
3 movement 'cause this is supported by the labor
4 movement throughout the country, we would never
5 pursue a policy that we felt is going to have an
6 level of detrimental impact on local economics,
7 which is the source of economic growth of city,
8 state and our national economy. We wouldn't
9 pursue that if we thought that that would be the
10 case. We understand the other side and people in
11 opposition to this, and we respect that they have
12 a viewpoint, but we simply just don't agree with
13 it. We have been faced with many other issues in
14 the workplace over the history of this country and
15 quite often we are told that they are going to be
16 job killers, and that we should be very cautious
17 about this, and we have felt that as we pursue
18 those and address those over our nation and our
19 city's history that we just haven't necessarily
20 seen that borne out, and we have seen a positive
21 effect that can be felt and is felt for
22 generations, and as we feel that this would be as
23 well with this legislation.

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25 COUNCIL MEMBER JACKSON: Anyone

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else?

KEVIN FINNEGAN: I'll just add one thing. As I said earlier, if we have to increase the amount of sick days under our contracts, we are going to have to figure out a way to pay for that or our employer will go out of business or whatever the situation may be, lay off workers. You make adjustments. This is a public health issue, and you have to get it done, and you have to do it right because it is the best thing for the city of New York and you figure out how to do it, and you don't have to lay off workers to do it; you make adjustments elsewhere.

COUNCIL MEMBER JACKSON: I was reading a document that I received some time ago by a group called a Better Balance, and I don't know whether or not that is part of the coalition, but it talked about the fact that--

CHAIRPERSON NELSON: [interposing]
They are here.

COUNCIL MEMBER JACKSON: --the fact that it doesn't necessarily have to be paid sick leave as long as an employee is able to use the leave that they have--vacation or anything else

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2 that they have in order to take off sick. Do you
3 have a position on that?

4 DR. MANISHA SHARMA: A lot of
5 people don't actually have that option, so this is
6 a way to protect people who don't have that option
7 of having vacation time. I'll give you an example
8 of one of my patients who is a nurse who takes
9 care of--she is a CNA, but she is home--take care
10 of people who are sick at home. She gets paid per
11 diem. So she doesn't have vacation.

12 COUNCIL MEMBER JACKSON: So if she
13 doesn't work, she doesn't get paid?

14 DR. MANISHA SHARMA: Right.
15 Absolutely. So I mean she doesn't have time to
16 borrow from, so this is just a way to be able to--
17 if she takes care of somebody who is sick, if she
18 is sick, she will make them sicker. This is not
19 healthy for anybody involved, so this is
20 definitely like he said, the gentleman over there,
21 this is a public health initiative. This is all
22 of us to create a healthy village. We all have a
23 stake at this.

24 COUNCIL MEMBER JACKSON: Anyone
25 else? My final comment is I have stood with Gale

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2 Brewer at press conferences, and I have physically
3 gave the example of having a napkin in front of me
4 where I am sneezing, and in essence when you do
5 that, you are spreading your germs over everyone,
6 and I truly believe that no employer in New York
7 City wants to force an employee to come to work
8 sick and spread a cold or a flu or other type of
9 disease to any other employees. I don't believe
10 that to be the case, and you know one thing? When
11 they come up, I am going to ask them those tough
12 questions too because quite frankly, I believe we
13 are going to have to reach a balance and so I am
14 very happy to see all of you testify, give your
15 reasoning and logic in support of it, and I am
16 going to challenge the other side to give their
17 reasoning and logic also so that we can come
18 together and honestly and realistically discuss
19 this issue for the betterment of the people of New
20 York City. Thank you very much, Mr. Chair.

21 CHAIRPERSON NELSON: Thank you,
22 Council Member Jackson. We thank the panel very
23 much for their time and very good information and
24 help. Thank you. I'd like to call the next panel
25 please. Robert Bookman, Linda Baran--Robert as we

1 know is with the New York City Hospitality
2 Alliance. Ms. Baran, the Staten Island Chamber of
3 Commerce, James Copeland [phonetic], the Manhattan
4 Institute for Policy Research, Kathryn Wylde, the
5 Partnership for New York and Zeluma Wiscovitch
6 with National Supermarket Association. Who would
7 like to go first? Who would like that person not
8 to go first? How about if we start from my right,
9 and then go to Mr. Bookman and on? How's that?
10 Ms. Baran, are you ready to go?
11

12 LINDA BARAN: Chair Nelson, Speaker
13 Quinn, Debbie Rose from Staten Island, Public
14 Advocate, all Council Members, thank you for the
15 opportunity for allowing us to express our
16 concerns today. My name is Linda Baran, and I am
17 president/CEO of the Staten Island Chamber of
18 Commerce. On behalf of the five borough chambers
19 of commerce and the 5,000 businesses we represent,
20 I would like to voice our strong opposition to
21 Intro 97-A. A paid sick leave mandate is not
22 healthy for New York City businesses. Many of the
23 most affected small businesses are not here today
24 for they are running their businesses and they are
25 also hesitant to testify for fear of retaliation,

1 which has happened when several spoke out in the
2 past. So we are here representing their voice.

3
4 In a survey conducted by thumbtack.com in
5 partnership with the Kauffman Foundation, New York
6 City's overall grade for its friendliness to small
7 businesses was a D+, ranking it amongst the least
8 friendly cities nationwide in 2012 because of its
9 tax code and burdensome regulations. You will
10 hear today from many organizations representing
11 business industries and from small businesses
12 themselves about many of the onerous details in
13 this bill which will be costly and require
14 additional time consuming - - paperwork. Although
15 the proponents believe this version of the bill is
16 a better version, lightening the load for small
17 businesses it is absolutely not, and in fact, it
18 effects all businesses large or small with regards
19 to reporting structure, private right of action,
20 and the ability to claim a hardship exemption.
21 Access to paid sick leave varies by size of the
22 firm with larger firms more financially able to
23 support providing benefit. In companies with more
24 than 500 employees, 88 percent of the workers have
25 paid sick leave, but for businesses with less than

1 50 employees, that drops to 62 percent and these
2 small businesses are much more vulnerable than
3 their larger counterparts. Between 2007 and 2010
4 the national economy lost 288,000 small businesses
5 with less than 50 employees. Over that same
6 period, it gained 175,000 businesses with more
7 than 50 employees. The death rate of small
8 businesses over the last four years is 30.8
9 percent. That means that approximately three out
10 of every ten businesses are not surviving, and the
11 National Federation of Independent Businesses
12 report that small businesses are still in
13 recessionary stages today leaving them in a
14 vulnerable financial state, and now faced with
15 minimum wage increases and who knows what with the
16 affordable healthcare act, you want to add even
17 more costs. Mandated benefits like Intro 97-A
18 affects small businesses disproportionately. They
19 do not have the infrastructure to support such
20 measures from time consuming reporting regulations
21 to the financial capacity to comply. Small
22 businesses do not have their own human resources
23 departments, and they certainly don't have
24 attorneys on retainer. Even the Connecticut bill
25

1 exempts small businesses with less than 50
2 employees understanding the burdens and even the
3 affordable healthcare act exempts businesses with
4 less than 50 employees, and the ability to manage
5 a business with workers out is dramatically
6 different for small businesses versus larger
7 businesses. In a ten person small business if one
8 worker is out that means they are operating with
9 ten percent of their workforce missing, the chance
10 in the business of a 100 employees that ten
11 percent of your workforce is out is zero. I just
12 really want to just--the one thing I want to
13 mention is the most - - aspect of this bill is
14 that the Health Department will have full
15 authority over it as the enforcement agency. What
16 does the Health Department have to do with
17 regulating labor issues? This is a Department who
18 many of our Council Members claim overregulating
19 and charging exorbitant fees at restaurants to the
20 tune of \$52 million in 2012. Business will be
21 subject to audits, inspections, onsite
22 investigations by the Health Department and this
23 bill will provide costly penalties up to \$5,000
24 and we have a Department of Labor, and it is at
25

1
2 the state level. - - I just want to make one last
3 statement. In a recent Cranes [phonetic] article,
4 Meet the Sick Day Police, I have to say there is
5 no council member or candidate for higher office
6 in this city who claims to care about businesses
7 and the jobs they create to want to pass this
8 bill. This bill is not a good bill.

9 CHAIRPERSON NELSON: You put a lot
10 of time and effort into this, so with all respect,
11 I don't want to rush you at all, but we will have
12 that to review as will the Council itself. Thank
13 you very much. Mr. Bookman?

14 ROBERT BOOKMAN: Robert Bookman,
15 counsel for New York City Hospitality Alliance.
16 My good friends here on the Council, I am not here
17 today to debate the idea or merits of paid sick
18 leave. Like the Speaker, we think it is a
19 wonderful idea. What we are here today in this
20 legislative body is to debate and discuss this
21 particular bill, and as Jim Gennaro said in his
22 wonderful op-ed piece today, this bill version is
23 the worst by far. I have attached a copy of his
24 op-ed piece as well as one in Cranes, which I
25 would like to read a short piece from. "Guess

1 which city agency will be responsible for
2 enforcing the city's proposed paid sick days law?
3 That is right. The DOH, which under the latest
4 rewrite of the sick days legislation is given
5 incredible policing powers over any city business
6 with five or more employees. Family shop or
7 Fortune 500 HQ, it matters not. The bureaucrats
8 who brought you the beverage ban would have the
9 power to subpoena and examine your employment
10 records. Has anyone outside the union hall
11 actually read this law?" Jim Gennaro's excellent
12 piece today says "for three years now, proponents
13 of paid sick leave have pressed for a one-sided
14 mandate on already overburdened business owners.
15 Since then the backers of the bill have touted
16 amendments that they say address the concerns of
17 business interests still struggling after the
18 longest and deepest economic downturn in recent
19 memory; however, this latest amended version of
20 the bill is by far the worst." He goes on to
21 explain giving powers to the Health Department,
22 you think you folks have seen a lot of complaints
23 from your members now about the Health Department
24 fines? Wait until they have jurisdiction over
25

1 every business in the city of New York. He
2 discusses how New York City does not have a
3 Department of Labor, which is why ideally - -
4 legislation should be discussed at the state
5 level; however, proponents are trying to fit a
6 square peg into a round hole by granting the
7 Department of Health unprecedented legal powers
8 over every business in the city of New York.
9 Furthermore, he says, the current amended bill is
10 a litigator's dream as it also provides an 18
11 month private right of action for any claim
12 against an employer. We call it the labor
13 plaintiff's council full employment act. In
14 summary, there are limits to the power of local
15 governments. New York City has no agency capable
16 of handling this new massive mandate, and no legal
17 infrastructures to enforce it. It may be a nice
18 idea, but all of us adults in the room need to
19 acknowledge that it will be a disaster to expand
20 these powers to the Department of Health of all
21 agencies. As a matter of fact, this is probably
22 the only issue that our industry agrees with the
23 Department of Health. We don't think they should
24 have the power, and they don't want the power.
25

1 San Francisco--I mean I am out of time, and I
2 don't want to burden--it's in my testimony. It is
3 not true that in San Francisco this does not have
4 a negative impact on employment. What is true is
5 that what San Francisco passed this bill,
6 approximately 75 to 80 percent of the employees in
7 San Francisco already had paid sick leave, and by
8 the way, we have more businesses in New York, than
9 they have people. And the sector that for the
10 most part did not have paid sick leave was the
11 sector that I represent, and according to federal
12 data, and I have attached it to my testimony, in
13 the quick service industry, employment went down
14 7.8 percent while in the five surrounding counties
15 without paid sick leave during the same period of
16 time, employment went up 2.5 percent, so it
17 clearly had a negative impact on employment for
18 those low wage earners and low skilled workers
19 that are employed by the food industry. This is
20 an issue that calls for federal or state action,
21 not a different for White Plains, for Whitestone
22 or Cortland or Canarsie or from the dozens of
23 other localities around the state from New York
24 City. Let's put this bill aside, work together in
25

1
2 Albany where there is a Department of Labor, there
3 is the authority to pass a fair law with
4 contributions from workers and employers,
5 administered by the state without placing more
6 expenses on New York City businesses as compared
7 to similar businesses outside. Thank you.

8 CHAIRPERSON NELSON: Thank you, Bob
9 and to you and Gennaro for bringing a modicum of
10 esoteric levity to the proceedings, appreciate
11 that, some interesting stuff, and we want to hear
12 more about San Francisco as well. I want to
13 mention that Council Member Donovan and Richards
14 have joined us as well, and having said that I
15 think we can move on to Kathryn Wylde. Hi
16 Kathryn.

17 KATHRYN WYLDE: Thank you, Council
18 Member Nelson. The partnership for New York City
19 represents the city's largest employers, all of
20 whom provide paid discretionary leave to their
21 employees, so this is not in that respect our
22 issue. I think New York City's employers--I know
23 New York City's employers overwhelmingly support
24 the idea that when somebody is sick or their kids
25 are sick they should have the opportunity to take

1 care of themselves and them, so this is not a
2 debate over the virtues of paid sick leave. This
3 is a debate over the role of city government, what
4 it can or cannot effectively accomplish with
5 regard to dealing with this situation, and how it
6 deals with it. I think the fact that we have
7 spent three years now debating various terms of
8 potential legislation demonstrates how difficult
9 this issue is because one size simply does not fit
10 all no matter what you legislate and so far in
11 terms of what we have been able to discover is
12 that any legislation is going to have a
13 disproportionate impact on the most marginal
14 businesses and employers in our community. We
15 commissioned Ernst and Young [phonetic] to do a
16 survey across the board of employers, and what we
17 found is there isn't a problem with large
18 employers. There isn't a problem in many
19 industries. The problem is restricted to a
20 relatively few industries, and I would point out
21 that those include an estimated one million
22 freelance workers in the city, who will not be
23 covered by this bill, and will still be going to
24 work sick, and freelancers and contract employees,
25

1 et cetera potentially. The question is really
2 whether or not and how the city can enforce,
3 regulate and undertake this bill without creating
4 damage to the most vulnerable businesses, which
5 are small neighborhood retail, small non-profits,
6 the construction industry and the hospitality and
7 restaurant industry. The point that was made paid
8 sick leave is not a standalone issue. It is
9 cumulative. New York City we handed out a chart,
10 has the highest costs in every category on small
11 business and on general cost of living in the
12 country, and so every time something is added, it
13 adds to that basic cost. You look at it as
14 legislators and the state legislators look at one
15 issue at a time, and it is easy to rationalize any
16 of these good thoughts about how to help people.
17 When you add them all up; however, they make New
18 York non-competitive, and they make it a place
19 where people can't create jobs. If you look at
20 the second chart we provided, you will see that
21 New York City doesn't have one more company with
22 50 employees or more than it had in 2000. That is
23 a sad commentary on the ability of business to
24 grow in our highly regulated, overtaxed, high cost
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1
2 city. This is what you need to keep in mind. We
3 are all for paid sick leave. The employers of
4 this city, anyone who can afford to do it provides
5 it. As the union representatives pointed out
6 earlier, this is not a high controversial issue
7 with employers. If they have got the money, they
8 provide paid leave when people are sick.

9 CHAIRPERSON NELSON: Thank you, Ms.
10 Wylde.

11 ZELUMA WISCOVITCH: Good morning.
12 Thank you for the opportunity to share our
13 position on the paid sick leave proposal. My name
14 is Zeluma Wiscovitch. I am the executive director
15 of the National Supermarket Association, a non-
16 profit trade association that represents the
17 interests of independent supermarket owners. Our
18 members are mostly Hispanic entrepreneurs, many of
19 them in the late '70s opened supermarkets in areas
20 surrounded by the big chains. Our largest
21 footprint is in New York City with more than 200
22 stores in the boroughs of the Bronx, Manhattan,
23 Brooklyn and Queens. We are very concerned with
24 this proposed legislation, but not so much because
25 of the five paid sick days because most of our

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2 members already give paid sick days to their
3 employees, but because of the enormous tracking
4 and paperwork documenting our work and sick time
5 accumulated and taking by each employer that will
6 be required to be in compliance no matter if the
7 employee is part, full time or seasonal. Our
8 members are predominantly small supermarket
9 operators without a large back office
10 infrastructure. Fines and penalties are way too
11 high--1,000 for the first violation, 2,000 for the
12 second and 3,000 for a third. Other jurisdictions
13 have penalties ranging from 100 to \$500. In
14 addition penalties have implications beyond
15 monetary ones. Violating the law is considered
16 evidence of bad moral character. Because of
17 numerous licenses under the administrative record
18 require the applicant--because under this law
19 could potentially cause a business to lose or be
20 unable to obtain a license. For one minor
21 mistake, more often an honest mistake a small
22 business owner will be deemed immoral, and the
23 private right of action would create costly
24 litigation, which against small business cannot
25 afford. In addition, the documentation and notice

1 requirements are meaningless. While this bill
2 purports to allow employers to require
3 documentation if any employee is absent for more
4 than three days, the bill effectively negates this
5 by requiring an employer to provide sick days even
6 if they don't have the documentation, and with
7 this retaliation prohibition small business owners
8 will not be able to legitimately discipline or
9 fire bad employees because the provisions are so
10 broad, and also this does not encourage
11 professional or good behavior. - -

13 CHAIRPERSON NELSON: Almost
14 finished? Ms. Wiscovitch, are you getting close?

15 ZELUMA WISCOVITCH: Almost
16 finished. ...on the hands of the Health Department
17 will have broad powers over businesses as it is
18 not the appropriate agency to administer this type
19 of legislation. The independent supermarket
20 owners right now confront many challenges
21 including increased competition by big box stores,
22 pharmacies and discount stores just to name a few.
23 These operators want to continue providing health
24 foods to many underprivileged communities. The
25 legislation like the paid sick leave could hinder

1
2 the ability of many supermarkets to survive with
3 all these pressures. Along with other business
4 associations, the NSA supports the idea of a paid
5 sick fund - - share contributions from the
6 employers, employees and the government. We need
7 a compromise. We urge the City Council Members to
8 reconsider this bill as it will have a seriously
9 damaging effect on small businesses in the city,
10 thus having a negative impact on the creation of
11 jobs and the economy as a whole. In closing, the
12 National Supermarket Association opposes the bill
13 as it is written. Thank you for your time and
14 consideration.

15 CHAIRPERSON NELSON: Thank you, Ms.
16 Wiscovitch. Mr. Copeland?

17 JAMES COPELAND: Thank you, Mr.
18 Chairman, Madam Speaker. I am James R. Copeland.
19 I am the director of the Center for Legal Policy
20 at the Manhattan Institute. At the outset I want
21 to stress that my opinions are my own and should
22 not be attributed to my organization, and I want
23 to focus on a specific part of my written
24 submission, which talks more broadly about the
25 economic costs of this proposed legislation along

1 the lines of some of the other commenters here,
2 and that is the inclusion in this legislation of a
3 private right of action. It is not the case that
4 most of the longstanding type paid sick leave
5 proposals such as the one in Washington D.C. have
6 a private right of action. Many of these others
7 as the Public Advocate noted are of very recent
8 origin--Philadelphia, Portland, and what have you.
9 San Francisco has had a private right of action
10 since 2006. It is largely superfluous given a
11 comparable private right of action under
12 California law in 2004, the labor code private
13 attorneys general act, which I talk about in more
14 detail in my written submission. It is
15 interesting that when that piece of legislation
16 creating a private right of action to enforce
17 labor code violations in California was enacted
18 and went into effect in 2004. Within six months
19 the California general assembly went back to amend
20 it after there was a flurry of lawsuits under the
21 provision. They amended that provision--they kept
22 a private right of action, but they amended it to
23 exempt notice posting requirements and to require
24 employees to notify the state and the employer to
25

1 try to remedy the defect before filing suit.
2 Neither of those protections are in this draft
3 legislation. It is also worth noting that those
4 changes did not stop what has been called a wage
5 an hour class action epidemic in California that
6 it expanded to joint federal causes of action an
7 increase of 400 percent in the filings of these
8 causes of action since 2000. I talk in more
9 detail with where New York stands 48th out of 50
10 states as a state driven by the city in my written
11 submission. I'll leave the rest to the written
12 submission. I can certainly answer questions on
13 this point as we go forward. Thanks.

14
15 CHAIRPERSON NELSON: I appreciate
16 the stats with that and the information. We will
17 follow up of course with those. We want success.
18 We don't just want to have something for the sake
19 of doing something. Thank you so much. We have a
20 few of my colleagues also will be asking
21 questions. Again, I would like to reiterate,
22 please keep it to two questions, colleagues. We
23 appreciate it. Council Member Halloran?

24 COUNCIL MEMBER HALLORAN: Thank
25 you, Mr. Chairman. I think everyone agrees

1 something needs to be done. The question is what
2 needs to be done, and it is my opinion that this
3 bill is not there yet. It's gotten significantly
4 better, but you have raised several of the issues.
5 Let me just quickly start with the last thing that
6 was brought up. Mr. Copeland, I am a trial
7 attorney in my prior life, and I can only imagine
8 the door that we are opening here. Let me just
9 highlight some of my concerns, and you can tell me
10 whether or not my fears are justified. First of
11 all, we have created an 18 month window, an
12 unprecedented large period of time for which these
13 actions can be brought. The city for example has
14 a 90 day notice of claim curtailment because we
15 want to protect the city from lawsuits, so if you
16 don't make it in the 90 days you are not in to
17 sue. This one is an 18 month window. The
18 documentation requirements negate each other in
19 two sections of this bill. In one case it says
20 that the employer can require an employee to
21 submit documentation after three days of
22 consecutive sick leave, but then there is another
23 section of the bill which actually says
24 documentation is basically not necessary. You
25

1
2 have an issue of the lawsuit drive that you have
3 talked about. Traditionally labor claims are done
4 in binding arbitration methods. This is opening
5 up this private arena to litigation and far be it
6 for me to take money out of the hands of attorneys
7 that are struggling for business, but doesn't this
8 open the Pandora's box, doesn't this properly
9 belong with DCA if any agency is going to run it
10 in New York City--the Department of Consumer
11 Affairs rather than the Health Department, who I
12 think every one of my colleagues seems to hate
13 when it comes to their small businesses getting
14 fined by them, especially in the wake of some of
15 the recent inspection issues, but that now wants
16 to hand them carte blanche to hand out \$1,000
17 fines and \$5,000 fines when every other
18 jurisdiction to my knowledge uses a fine under
19 \$500, the average being \$200, yet we are doing ten
20 times that. Can you speak to those issues of the
21 legislation in front of us?

22 JAMES COPELAND: Yes. Absolutely,
23 Councilman. I may defer to some of my colleagues
24 on the Departmental question, which I discuss
25 briefly in my comments, but on the litigation

1 front this is particularly--what we have seen in
2 California, we have seen this. We have seen this
3 happen in the state of California, and these sorts
4 of private rights of action are particularly
5 susceptible to abuse. First of all for a small
6 business, if you are a small business you don't
7 have the ability really to create a concerted
8 repeat play offense if you are threatened with a
9 suit. This therefore generates the sort of
10 shakedown suits potentially. There certainly
11 would be legitimate claimants. There certainly
12 would be workers with legitimate beefs. There
13 also would be attorneys that would actively seek
14 plaintiffs to go after small businesses who
15 because we don't have a loser pays rule in the
16 United States unlike Europe and most of the rest
17 of the developed world, the defense cost, the
18 discovery cost would be sufficiently high that
19 there would be a settlement value even for a bogus
20 claim. A large business because this doesn't
21 forbid class actions, you could expect large
22 business employers, most of whom by the way
23 already have paid sick leave. An Ernst and Young
24 study that was done through the partnership showed
25

1
2 that 88 percent of employees in the city have paid
3 leave of a least five days, on average seven to
4 eight days, but that these employers nevertheless
5 could be subject to class action lawsuits, and
6 that is what we have seen in California where
7 there is a similar private right of action, and
8 this legislation is in fact actually so broad that
9 it applies to domestic workers, single domestic
10 workers for families. I know as an individual who
11 hires domestic workers, I have young children at
12 home, we have people that help clean our homes et
13 cetera, the potential to be sued under a statute
14 for a sick leave violation if you have a falling
15 out with an employee would be a significant
16 impediment to that type of hiring, and what I
17 would suggest is that it would drive more
18 employees in that type of arrangement off the
19 books, off the tax rolls. There is already I am
20 sure a good bit of that that goes on in the city.
21 I think it would exacerbate that problem.

22 COUNCIL MEMBER HALLORAN: I
23 appreciate that. I only have one more question -
24 - just to point out in New York, you are required
25 if you are a corporation to have an attorney

1
2 appear for you, so you can't even appear for
3 yourself, so you are incurring a legal cost from
4 the moment that suit is started regardless of
5 whether there is merit to the case.

6 ROBERT BOOKMAN: Council, can I
7 address the agency question?

8 COUNCIL MEMBER HALLORAN: Sure.
9 Sure. Absolutely.

10 ROBERT BOOKMAN: I am former
11 counsel of DCA and my last position there was
12 director of adjudication.

13 COUNCIL MEMBER HALLORAN: Sorry to
14 hear that.

15 ROBERT BOOKMAN: Well, it was 26
16 years ago. I've done alright. I'm not
17 complaining. The Health Department is clearly the
18 inappropriate agency. Their part time, per diem
19 hearing officers are used to dealing with such
20 serious issues as a fruit fly or a cracked tile.
21 These labor issues are way beyond them, but
22 frankly so are the ALJs at Department of Consumer
23 Affairs, who deal with whether a sidewalk café and
24 an extra table or not or an advertising violation-
25 -you have this potential here where since we are

1 not allowing them in this bill to ask for
2 documentation where an employee calls in sick and
3 we find out 'cause another employee saw them, they
4 were really on the beach that Monday or they were
5 for an audition more likely in our industry, and
6 if we choose not to pay them for that sick day, we
7 are going to have a hearing a city agency or a
8 private lawsuit a year and a half later as whether
9 or not we appropriately asked for documentation--
10 even if we do pay them--the asking for the
11 documentation is a violation. I mean we have
12 businesses that provide unlimited sick leave in
13 the city of New York, but they require
14 documentation. This bill puts them in violation
15 of the law, so this bill is not just reaching the
16 one million workers who don't have paid sick
17 leave. This bill impacts the three million people
18 who work in the city of New York every single one
19 of them now has a cause of action or can go to
20 some city agency that is not set up for it.

22 COUNCIL MEMBER HALLORAN: I
23 appreciate that, and just to the panel itself, and
24 I know you made allusions to this, especially Ms.
25 Wylde. We are not San Francisco, Washington,

1
2 Seattle, Portland, Philadelphia, Connecticut. We
3 are New York City, so we are a very different
4 create both in size and scope, but I would like to
5 point out that New York is a 9.4 percent
6 employment rate. Connecticut, which passed this
7 bill, has an 8.1 percent unemployment--all above
8 the national average. San Francisco had a 4.6
9 unemployment rate when they passed the law in
10 2007. Now I know there was that little economic
11 crisis that got in the way, but their unemployment
12 rate today is 7.7 percent, so they are above the
13 national average. Washington D.C. is always
14 above the national average, and is at 8.6 percent,
15 despite having this law. Seattle to its credit,
16 and I will be honest in report has actually
17 experienced a negative situation. They are
18 actually down .2 percent in unemployment, but
19 every other jurisdiction--Philadelphia--10.6
20 percent up from 9.8 when they passed this
21 legislation, so anybody who tells us that we don't
22 have any data to work with is obfuscating the
23 truth.

24 CHAIRPERSON NELSON: Council Member
25 Jackson?

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[background conversation]

COUNCIL MEMBER JACKSON: Mike, do I have the floor?

CHAIRPERSON NELSON: Go right ahead.

COUNCIL MEMBER JACKSON: Thank you. Thank you, panel, and I clearly wanted to hear what you had to say also. First let me just, Mr. Copeland, you indicated you are here, and you are not in your capacity as the director of - - legal policy at Manhattan Institute for Policy Research, but clearly that is your testimony. It's listed all here, so when I picked it up, and I am saying, wait a minute? You are here personally? You have given all your labels, so clearly anyone as a member of the City Council you are submitting this on behalf of the Manhattan Institute for Policy Research.

JAMES COPELAND: Let me clarify - - statement. Yes, I am the director of the center for legal policy at the Manhattan Institute for Policy Research, and have been for over ten years. Manhattan Institute for Policy Research does not take organizational positions on pieces of

1
2 legislation and has no organizational position on
3 this piece of legislation, but I am confident in
4 what I am saying, and my affiliation with
5 Manhattan Institute should be viewed as what it
6 is, an employment relationship where I am paid to
7 manage a center and to write and think about
8 issues of the intersection of law and economics.

9 COUNCIL MEMBER JACKSON: I hear
10 what you are saying, but clearly even if you read
11 the bottom, the views expressed here are the
12 author's alone--you're clearly in my opinion
13 saying this is Manhattan Institute's position even
14 though I am saying it as an individual. I'm
15 telling you.

16 [crosstalk]

17 COUNCIL MEMBER JACKSON: You can
18 differ with that, but clearly that is the clear
19 vision of what it presents. Let me ask a question
20 of all of you, just like I said, I am asking them
21 questions. I am going to ask you questions also.
22 I hope all of you believe that no employee should
23 come to work when they feel that they are too sick
24 to come to work. Am I correct in saying that all
25 of you truly believe that? Does anyone disagree

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2 with that? Okay. I didn't think so. If we have
3 a million people that are possibly will be
4 positively receive some sort of leave so that they
5 don't have to stay home and not get paid
6 considering the fact that we are dealing with the
7 lowest paid workers, I would think that all of you
8 think that we need to reach a compromise on this.
9 Am I right or wrong?

10 KATHRYN WYLDE: There is no
11 documentation that we have a million workers who
12 are not covered, except we have a million
13 freelance workers who will not be covered by this
14 bill anyhow. There was a study done by Community
15 Service Society a couple of years ago, which
16 surveyed 1,000 low income and moderate income
17 workers, did not ask them about paid time off,
18 only asked them about paid sick leave, and many
19 people are covered by time off that isn't
20 specifically for sick leave, but taken for sick
21 leave purposes, and they extrapolated to get that
22 number. Our survey that we commissioned Ernst and
23 Young to do came up with an estimate that was
24 closer to 300,000 as a number of likely employees
25 who were not covered and many of those, most of

1
2 those as I indicated before were in small retail
3 and restaurant businesses and small non-profits
4 that operate kind of as a family business and
5 while they don't have a formal paid sick leave
6 policy, they generally are empathetic with their
7 workers and let them take time off, so I think
8 that the one--

9 COUNCIL MEMBER JACKSON:

10 [interposing] Time off with pay or without pay? I
11 guess that is a big question.

12 KATHRYN WYLDE: Well, it depends
13 because Washington found out and discovered they
14 left tipped employees out of their bill because
15 what is pay? In many jobs if you are a
16 hairdresser and you don't show up and you don't
17 get your tips, who is supposed to make that up?
18 There is no income coming from the chair, so these
19 are just very complicated issues, and it is
20 because we represent for the most part the
21 business community, we are used to hearing from
22 their side after a bill that sounds good passes
23 what goes wrong, and usually what can go wrong
24 does go wrong. That is what we are concerned
25 about in this highly prescriptive legislation. I

1
2 represent big employers. We just finished
3 testifying, providing a Supreme Court amicus brief
4 on the case that is trying to get rid of the DOMA
5 - - and in doing that, our argument was the states
6 have individual rights, but when you take a
7 national employer trying to reconcile benefits for
8 different couples based on different community
9 laws, different state laws is just impossible. I
10 think that makes the point for large employers too
11 that this kind of legislation is very difficult.

12 COUNCIL MEMBER JACKSON: So you are
13 saying that your survey indicates about 300,000
14 and not a million as--

15 KATHRYN WYLDE: Yes, but these are
16 extrapolations. They are estimates, and it
17 doesn't mean that somebody doesn't get to take
18 time off when they are sick; it means there is no
19 formal paid sick leave policy.

20 COUNCIL MEMBER JACKSON: Let me
21 turn to the representative from Staten Island
22 Chamber of Commerce. I believe you said in your
23 testimony that some of the small business people
24 may be not here or you were speaking on their
25 behalf, and you were saying--I believe you said

1
2 that for fear of retaliation?

3 LINDA BARAN: I was speaking on
4 behalf of the five borough chambers because we
5 have actually had members, not specifically in
6 Staten Island, in some of the other boroughs where
7 people boycotted out in front of their store
8 because they opposed the bill, and not because
9 they didn't feel that people didn't deserve a sick
10 day off. It was basically because it was a bad
11 bill, so they have had issues, so when they come
12 out and they testify or they make a statement,
13 they are getting some negative feedback from the
14 community.

15 COUNCIL MEMBER JACKSON: Okay. You
16 mean there may be a demonstration--

17 [crosstalk]

18 COUNCIL MEMBER JACKSON: And I
19 guess that is the tough part of life when you take
20 a position. Just like you said that any elected
21 official that supports this bill--I think you said
22 something to the effect that they don't really
23 care about small business.

24 LINDA BARAN: I have to be honest.
25 You asked about a compromise, right? I don't

1 think that this should be handled at City Council
2 level. I think this needs to be a state issue.
3 We have a Department of Labor. There is no
4 discussion of shared cost here. The gentleman in
5 the previous panel said the business should make
6 an adjustment. Why should the business make an
7 adjustment? It should be shared. If it's for
8 everybody and the City Council truly believes that
9 this needs to happen, then everybody needs to
10 share the pain. It is not fair that the business
11 owner who is strapped with eight percent profit
12 margin, and some even lower than that are getting
13 straddled with these costs, and then it's not even
14 just the cost, they have to worry about getting
15 sued. They have to worry about HR, tracking. You
16 say that it's easy to track this? It's not. If
17 you are calculating part time employees every 30
18 hours, there was a thing about swapping shifts in
19 there, and said, you know what? You can swap
20 shifts within the pay period, but if somebody
21 doesn't use the amount of hours you have got to
22 pay the difference. Who is going to calculate
23 that?
24

25 COUNCIL MEMBER JACKSON: I hear

1
2 you, and that is why I said that I am hoping that
3 agreement can be reached on this bill, and that is
4 what negotiations is about--

5 [crosstalk]

6 COUNCIL MEMBER JACKSON: I think
7 you said that any elected official that supports
8 this bill doesn't really care about business.

9 [crosstalk]

10 COUNCIL MEMBER JACKSON: Can I just
11 finish, and I will hear your response. Let me
12 just say I disagree with you because I do care
13 about this city and about the economic situation
14 of this city understanding that this is my city
15 just like it is your city. I may be a legislator
16 and you may be a business owner, but I do care. I
17 do know the industries that drive this city, and
18 believe me I do. I want to continue to be a part
19 of it, but let me just say, when you make a
20 statement that because I am a legislator and I
21 support this bill that I don't care about
22 business--if you said that, you are absolutely
23 wrong.

24 LINDA BARAN: Well, I implore you
25 then to really look closely at this bill because

1
2 it is bad for business, and if you support the
3 bill, it is going to hurt business.

4 COUNCIL MEMBER JACKSON: Are you
5 willing to compromise on this bill?

6 LINDA BARAN: At a state level?

7 COUNCIL MEMBER JACKSON: Not at the
8 local level.

9 LINDA BARAN: I don't believe this
10 conversation should be had here.

11 COUNCIL MEMBER JACKSON: But in
12 essence you are saying that you are not willing to
13 compromise on this bill at the local level?

14 LINDA BARAN: No, I am not saying
15 that. I am saying people deserve time off. 80
16 percent of my businesses already offer it. It's
17 the way the bill is written, and in terms of
18 compromise I feel that this bill needs to be
19 addressed on a state level.

20 COUNCIL MEMBER JACKSON: Okay.

21 ROBERT BOOKMAN: We have offered a
22 compromise for three years--

23 COUNCIL MEMBER JACKSON:
24 [interposing] Say that again, Bob.

25 ROBERT BOOKMAN: We have offered a

1 compromise for three years now. It has been on
2 the table for three years. If there is no law it
3 is because the advocates of this bill have gone
4 for an all or nothing approach and have rejected
5 the compromise. Three years ago we said pass a
6 bill today that we will support, which will make
7 it illegal in the city of New York if it is not
8 already illegal to fire or discipline any employee
9 who takes time off because they are sick or they
10 have to care for somebody at home. We completely
11 agree with that. As far as creating a new social
12 safety net program, we said that belongs at the
13 state. Let's go to the state together. Let's
14 take Councilman Lander's \$0.18 an hour, his
15 statistic. Let's figure out a way where we could
16 between employees and employers like we do in
17 unemployment and worker's comp create a program
18 where we split that \$0.18 an hour where when an
19 employee is sick, they don't apply to their
20 employer to get paid, they apply to the state
21 insurance fund, and they give them a check, but
22 they are going to want documentation by the way.
23 And we are willing to discuss that today, and it
24 will be statewide, not just for New York City. We
25

1
2 could lead the nation in it, but you guys don't
3 want that. You want a political came.

4 COUNCIL MEMBER JACKSON: I strongly
5 suggest that there be continuous discussions to
6 try to reach agreement on the bill here in the
7 City Council of New York because clearly if there
8 is no discussions taking place in the state the
9 bottom line is the reality is that there is a bill
10 here in the City Council, and you can say all you
11 want, it should be dealt with at the state, but
12 it's being dealt here right now today, March 22nd
13 at 12:25 p.m. That is the reality of the
14 situation. I thank you because these are tough
15 questions and realities that we all are going to
16 have to face.

17 CHAIRPERSON NELSON: You promised
18 to ask the tough questions to the other side.
19 Exhibit A. Council Member Gennaro?

20 COUNCIL MEMBER GENNARO: Thank you,
21 Mr. Chairman. I want to thank my colleagues for
22 being here, for this panel, all the panels that
23 are going to come before us today, and I have a
24 question for Ms. Baran from Staten Island. Much
25 has been said today of the plight of workers, and

1
2 that is what this is all about, but I was very
3 taken with your statistic in the first page of
4 your statement regarding the death rate of small
5 businesses over the last four years as 30.8
6 percent. That is kind of alarming, and I just
7 would like you to talk about the reasons why you
8 think this so-called business death rate--this is
9 the rate that we have and what you believe this
10 bill will do to this rate? I just want to give
11 you a chance to say some of your concerns about
12 that because if we have small businesses dying, we
13 have got a bigger problem than paid sick leave.
14 We have more of a problem with overall employment.
15 So thank you.

16 LINDA BARAN: As you know, the
17 economy has been very difficult on small
18 businesses since 2007. Even at my chamber of
19 commerce we lost close to 200 members in the last
20 couple of years, and basically the reason that
21 they cannot continue, and we charge a minimal fee
22 of \$390 a year for somebody to be a member of my
23 organization for a full year, they say that they
24 can't afford that, and basically what has happened
25 is over the last couple of years, their profit

1 margins have gotten thinner and thinner. They
2 have really been struggling with whether they can
3 hold onto their employees or not. There is a
4 limited amount of customers and a limited amount
5 of businesses out there with everything that has
6 happened in the economy, so they have pulled back
7 any which way they can. They have tried to keep
8 their employees. We have sent them to these work
9 share programs, whatever we could do so they could
10 hold onto their good employees. They have been
11 struggling constantly. On top of that as you
12 know, there has been a lot of issues with city's
13 fines and fees, registration fees for vehicles on
14 Staten Island specifically. We have a huge toll
15 issue. If you looked they had a report last week
16 that came out that we have a dip in new startups
17 in Staten Island over the last number of years,
18 and I think that since 2007, it has just gotten--
19 what happened was it was getting worse and worse.
20 The first quarter of last year we saw a little bit
21 of a spark, and it has gone back flat again. Also
22 in the boroughs we didn't even get to the fact
23 that we have got a hit with Sandy, and when you
24 walk down the streets of Midland and South Beach,
25

1 there are businesses that are not there. They
2 don't even have a clue because they don't have
3 access to cash to figure out what they want to do
4 to get started back up again. I think it is a
5 combination of things--it's the economy, it's the
6 fines, the fees, all the regulations that are put
7 on these businesses. You have got the affordable
8 healthcare act. A lot of my businesses aren't
9 primarily affected. They pay more than minimum
10 wage, but there are all of these factors that are
11 all added up that really are causing businesses to
12 struggle, and what we see is we see less
13 businesses opening up and when they do, the
14 failure rate as I have said, they don't survive,
15 and I think people go into business a lot of
16 times, and they have this great idea, and they
17 want to really produce and then when they realize
18 what it takes to run that business--I mean I have
19 had companies that have worked in the chamber for
20 over 30 years, and they are like, you know what?
21 I have had it. I have had it with the city. I
22 have had it with the state. It is so difficult to
23 do business. I am going to pack it in and I am
24 out of here. We have all of these border states.
25

1
2 We have Connecticut, we have New Jersey. We have
3 three bridges to New Jersey on Staten Island.
4 Many of our businesses are just packing it up and
5 leaving and saying, I just can't deal with the
6 bureaucracy anymore. We really need to change
7 things.

8 COUNCIL MEMBER GENNARO: Thank you.
9 Thank you very much for your statement, for being
10 here today, and for being a great advocate for
11 small business in New York City. My next question
12 I guess would be go to Ms. Wylde and to Mr.
13 Bookman. Let me just kind of throw in for you I
14 posed a question that much has been said about the
15 city of Philadelphia recently moving forward on
16 this. My understanding that the mayor of that
17 good city is going to veto this bill, so we don't
18 really know what its fate is. That is not a
19 question. I just want to sort of put that out
20 there. People are citing Philadelphia, but it is
21 not a done deal there. For Ms. Wylde and Mr.
22 Bookman, based on what you know about San
23 Francisco certainly it has happened in San
24 Francisco, and based on what you know about what
25 happened there and feel free to talk a little bit

1
2 about some of the points that have happened out
3 there--even though it has already been said,
4 perhaps, there is some kind of nuances that
5 haven't been brought forward. Based on what has
6 happened there, what would be your prediction for
7 what would happen if this bill were done in New
8 York City as is? I know Kathy, you had a chart
9 that talked about the growth of businesses of a
10 certain size, and the last part of that question
11 if this bill doesn't work for New York City what
12 should we do about this? I mean I know you
13 mentioned the bill that you just mentioned, so
14 that can be part of your answer as well and that
15 question is for Kathy and Rob.

16 CHAIRPERSON NELSON: Council Member
17 Gennaro and people, please, I think it is only
18 right right now we are honored and happy to be
19 hosting students from the Rockaway Park High
20 School on Beach Channel Drive offsite civics.

21 [applause]

22 CHAIRPERSON NELSON: There is about
23 30 to 35 tenth graders up there with four to five
24 chaperones, so thank you so much for coming to
25 City Hall. We appreciate it. Thank you.

[applause]

ROBERT BOOKMAN: Let me try to quickly address your question. I think first of all it is important to point out last I checked my history lesson, social studies, there are fifty states in the United States and there are thousands of counties and municipalities. One state has passed mandatory paid sick leave bill, and I think four or five municipalities. This is hardly a tsunami of movement and clearly other people other than New York City are worried about the issue of public health. So there is a disconnect. As far as some of the other cities that have passed it, again, we are not debating the value of expanding the social safety net, and I will get to how we think that should be done in a moment, but these other cities like San Francisco and like DC have local labor departments. They are set up to handle labor issues. Municipalities as you know have whatever legal standing that their states give them so different municipalities in different states have done differently. State of New York has very limited authority to municipalities, and they have

1 maintained for themselves the Department of Labor
2 and labor issues. Every county in the city of New
3 York, every municipality in the city of New York
4 can't be its own Department of Labor, it can't be
5 its own HR department and Portland by the way,
6 which recently passed this bill, my understanding
7 is having the same problem that you would have in
8 New York is they have no mechanism to enforce it,
9 so they are requesting that their state be the
10 enforcement agency, and it is unclear yet whether
11 the state is going to agree to that, so that is
12 really the problem you have and there is not data
13 because there aren't hundreds of municipalities
14 and dozens of states who have done this. Now
15 expanding the social safety net. I am a liberal
16 democrat my entire life, and I don't like being
17 painted in the position well, we are anti-labor or
18 anti-health. Our employers who don't offer paid
19 sick leave now, don't offer it because they can't
20 afford it. They are the thousands of small
21 businesses around the city. They can't afford it.
22 To conclude otherwise would be to say that they
23 can afford it and they are greedy owners or they
24 don't care about their employees. There is nobody
25

1 that cares more about their employees than
2 employers, especially in the retail business.
3 That is who we are. That is who faces the public,
4 so we can't wave a magic wand, and say it is
5 affordable simply because we want it to be
6 affordable. Large employers do it because they
7 can afford it. Small employers don't do it
8 because they can't or they offer some other
9 benefit like they are paying for even though they
10 won't be covered under a federal law, they offer
11 50 percent, 80 percent, 100 percent of healthcare.
12 Well, okay, if I got to do this, well, now I can't
13 afford that insurance anymore, so go out after
14 January 1st, go out on your own and go get health
15 insurance. It is going to have to come from
16 somewhere and like Councilman Halloran said, there
17 is a very thin bottom line, so what historically
18 we have done in this country when we want to
19 expand the social safety net is not just say okay,
20 we are going to expand it and you employer, go pay
21 100 percent of it. We have come up with programs
22 that are either co-funded and/or administered by
23 the government in an insurance policy type of
24 situation, that this is the compromise and that is
25

1
2 what we should have been spending the last three
3 years looking into how we can expand for example,
4 the unemployment insurance program in the state of
5 New York to include paid sick leave. That would
6 be a way to go forward in a positive way on this
7 kind of concept.

8 [crosstalk]

9 ROBERT BOOKMAN: One last thing, my
10 senior citizens--I can't even think of the words
11 anymore. It is slipping. I have been meaning to
12 say from the first part of my testimony, it is
13 interesting that the largest employer in the city
14 of New York was exempted from this bill, and that
15 is the city of New York. I don't blame you from
16 exempting yourself. I wouldn't want to have to
17 deal with this bill either, but it's a little bit
18 ironic and not more than a little hypocritical to
19 exempt yourself.

20 CHAIRPERSON NELSON: We still have
21 a couple of members who want to ask questions.
22 Please because we have the borough president of
23 Bronx, we have Bill Thompson, an assemblyman, to
24 go after this so please if - - King, and Levin and
25 Brewer. King left? So it's three, please just

1 ask one question. I appreciate it thanks. I
2 think it's Levin.

3
4 COUNCIL MEMBER LEVIN: Thank you,
5 Mr. Chairman. Thank you all for your testimony.
6 I appreciate you being here. First off, just to
7 that last point, New York City as an employer does
8 provide paid sick leave I believe. You said that
9 they are exempt. It's not that they are exempt
10 from providing paid sick leave.

11 ROBERT BOOKMAN: No, they are
12 exempt from the bill.

13 COUNCIL MEMBER LEVIN: I know, but
14 the implication was that they are exempt from
15 providing paid sick leave, so that is just the
16 point. I wanted to ask everybody at this table
17 agreed earlier to Council Member Jackson's point
18 that you all would not want somebody to come into
19 work sick. Right? So we all--and Ms. Wylde, you
20 said philosophically, you don't have a problem
21 with paid sick leave. I don't think anybody here
22 philosophically has a problem with paid sick
23 leave. Over the last three years, what I have
24 seen happen is that you have one side, the
25 advocates for the bill, you have another side, the

1
2 advocates against the bill. Those two sides have
3 not sat down to my understanding in quite some
4 time to discuss a lot of these issues that you are
5 bringing up, a lot of issues that they brought up,
6 the previous panel. When is the last time you all
7 at this table sat down with the folks at the
8 previous table? When is the last time you sat
9 down to discuss these issues and try to hammer
10 something out because I think philosophically if I
11 understand it correctly, we are not very far
12 apart, but in order to get around or to get
13 through some of these issues, which are
14 complicated issues--I agree. I hear you. They're
15 complicated, but in order to do that you have to
16 have a dialogue and that as far as I can tell has
17 not happened. So when is the last--are you
18 willing to sit down anytime, name the date, that
19 type of thing?

20 FEMALE VOICE: I don't think that
21 number one, we raised the question as to whether
22 city government can up with a good bill because we
23 have wracked our brain to try and think of what
24 are possibilities, and it is very tough. It's
25 much easier at the state level than at the city

1
2 level to think of things that could work for
3 employers as well as employees and not burden the
4 city with this. So that is a whole different
5 playing field.

6 COUNCIL MEMBER LEVIN: Well then
7 that seems like it would be a non-started and I am
8 going to take issue with that point in a second,
9 but if you are saying that this body and the city
10 government does not have the jurisdiction or does
11 not have--

12 FEMALE VOICE: [interposing] - - .

13 COUNCIL MEMBER LEVIN: You are
14 saying that you don't think it should be debated
15 or legislated from this body. That is where we
16 are. It is in this body. It is not in the state
17 legislature. So this is where we are. That's a
18 given. If that is a deal breaker, if that is a
19 non-starter that it is in this body, then we are
20 never going to get anywhere.

21 FEMALE VOICE: The second part of
22 what I was going to say is that our conversations
23 have been ongoing with Council Members on this
24 topic, and that is where I think those should be.
25 I don't think it's our job to negotiate with

2 advocates on the other side of the issue. The
3 legislation is being written by people who aren't
4 members of the Council? That doesn't make much
5 sense to me.

6 COUNCIL MEMBER LEVIN: No, no, no.
7 That is not we are saying. We are saying is that-
8 -

9 FEMALE VOICE: [interposing] We
10 have been in regular conversations with the
11 Council on this issue and Council Members on this
12 issue. Absolutely.

13 COUNCIL MEMBER LEVIN: I think we
14 need to kind of come together I think as members
15 of this legislature and as advocates on both sides
16 of the issue to--what I am saying is that clearly
17 there has not been the type of movement over the
18 last three years that would be required to get to
19 a compromise position, and what I want to know is
20 are the people at this panel willing to advocate
21 for a compromise position.

22 FEMALE VOICE: I think that people
23 on this panel are willing to work with the City
24 Council on coming up with a solution that people
25 feel comfortable with that can work for the city.

1
2 Absolutely. I think asking us to go off and
3 negotiate with the advocates for a bill that we
4 would not have suggested be brought in the first
5 place doesn't make a lot of sense.

6 COUNCIL MEMBER LEVIN: Alright.

7 Fine. So you are not going to negotiate with
8 other advocates. My point is that there has been
9 no movement because are shouting past one another,
10 and the debate is--it hasn't been a conversation--
11 it might be a debate being played out in the op-ed
12 pages and on New York One, but it is not a
13 conversation being had as an advocacy community,
14 and that I think is contributing to the stall
15 here.

16 FEMALE VOICE: Well, talk to the
17 advocacy community about that. We are
18 representing the business community.

19 COUNCIL MEMBER LEVIN: You are
20 advocates as well for the business.

21 FEMALE VOICE: We are representing
22 the business community. We are not advocates for
23 the bill.

24 COUNCIL MEMBER LEVIN: They are
25 advocates for. You are advocates against. To the

1 jurisdiction, this is where we are in New York
2 City Council. We are not at the state
3 legislation, so I do believe that if you are
4 saying that you are not going to be in support of
5 any proposal that is within the jurisdiction of
6 New York City then what I am hearing from you is
7 that you are not going to be willing to negotiate.
8

9 ROBERT BOOKMAN: My industry would
10 not be in favor and would not support any new 100
11 percent employer funded mandate, and as an
12 attorney who specialized for over a quarter
13 century of municipal law, you do not have the
14 authority in the City Council any more than the
15 council of White Plains does to order employees to
16 pay into any sort of special fund; therefore, it
17 is a non-starter to a certain extent when you say
18 you want a new social safety net and guess what?
19 Our creative method to pay for it is you go pay
20 100 percent. That is a non-starter.

21 COUNCIL MEMBER LEVIN: So as long
22 as this bill is in this body and the jurisdiction
23 is the city of New York then there is no way in
24 which the members of this panel would support a
25 compromised bill. Is that what you are saying?

1
2 ROBERT BOOKMAN: I am saying you
3 have to come up with a different funding
4 mechanism. Can you do that?

5 COUNCIL MEMBER LEVIN: Thank you,
6 Mr. Chairman.

7 [crosstalk]

8 MALE VOICE: I don't represent the
9 business community, and I wouldn't necessarily--
10 there is no bill I could support here.

11 [crosstalk]

12 FEMALE VOICE: We did not say that.
13 You said that.

14 COUNCIL MEMBER LEVIN: I was asking
15 if that was correct.

16 CHAIRPERSON NELSON: We are not
17 going to reach Camelot here today.

18 ZELUMA WISCOVITCH: I think all of
19 us mentioned the word compromise.

20 CHAIRPERSON NELSON: I think I do
21 have another member, if they would to - - or just
22 ask one question I appreciate it. Council Member
23 Brewer and Lander, could you really ask a quick
24 question?

25 COUNCIL MEMBER BREWER: Thank you

1 very much, Mr. Chair. Eileen Fisher [phonetic]
2 was here, the clothing designer, she had to leave.
3 She left her testimony. She is very, very
4 supportive. Just quickly, she says, I, Eileen
5 Fisher, believe it is important to support our
6 employees with policies that help them be
7 productive contributors to our workplace as well
8 as healthy and engaged family members. We at
9 Eileen Fisher have a paid sick days policy for all
10 of our employees, including our retail store
11 associates that provides personal or sick days
12 after the first 30 days. She gives six personal
13 or sick days after the first 30 days of
14 employment. This policy allows employees to stay
15 home for their own self-care as well as that of
16 their family members. Why do you oppose that
17 notion of paid time off bucket approach that would
18 give people personal days, vacation days, paid
19 sick days, whatever the combination is? Why is
20 that something that is so reprehensible? I know
21 how hard you work, but you heard Mr. Martinez
22 earlier. 50 employees at the carwash. Yes, he
23 has his job, but he also lost pay and I will
24 maintain that if it wasn't for a wonderful
25

1
2 organization, Make the Road, he might not have
3 been able to keep his rent and stayed in his
4 apartment. Thank you.

5 CHAIRPERSON NELSON: Thank you,
6 Council Member Brewer.

7 MALE VOICE: I just want to
8 emphasize that speaking for myself, and I am sure
9 the other folks on the panel wouldn't disagree
10 that I don't oppose paid sick leave, but the
11 question is whether it should be a government
12 mandate for paid sick leave, and the reason why
13 this is an important distinction is the reason why
14 Councilwoman James just left, but the point she
15 made in the prior panel, where she said, and I
16 would disagree with her that the primary
17 beneficiaries of this legislation were low income
18 workers. I don't think that is the case. I do
19 however think that this legislation would primary
20 affect low income workers, and this is being sort
21 of put up here as a business versus worker issue.
22 I don't think that is the case. What we don't
23 often see when we are looking at economic
24 regulation is the worker who can't get a job, and
25 so there are 300,000 people, maybe it's a million

1
2 people, who don't get paid sick leave that would
3 be required under this legislation, but there is
4 also 9.4 percent of the people in the city who
5 want a job and can't get one. That is close to a
6 million people as well, and if this legislation
7 would exacerbate that and would do so even for
8 employers that already provide paid sick leave by
9 allowing shakedown lawsuits, then this legislation
10 has a problem that is going to primarily affect -
11 - . People like me already get paid sick leave.
12 It's not going to affect my job. It is going to
13 affect the people who are most vulnerable.

14 COUNCIL MEMBER BREWER: And would
15 you handle somebody at a carwash who could have
16 lost his job and lost pay if he didn't have some
17 back up from a wonderful organization? He just
18 happened to find that wonderful organization and
19 they found him. There are lots of people who
20 don't have that kind of backup, and we have had
21 testimony after testimony after testimony as to
22 workers who get fired because they want to take a
23 couple days off. All of your work--

24 MALE VOICE: [interposing] That is
25 a very small sliver of this broad legislation.

1
2 What is at issue here is is it tough on people who
3 are low income who can't earn a lot of money? Of
4 course it is in this society, but the answer is
5 not to make it harder for them to find work.

6 COUNCIL MEMBER BREWER: I am not
7 saying--we are talking across purposes. I am just
8 stating for those organizations that have a PTO,
9 they would not be part of this legislation. We
10 are trying to get at the carwash type of situation
11 where this is absolutely no support when they get
12 sick, and I don't understand why you could be
13 opposed when most organizations have PTO. We are
14 trying to get to those who have absolutely
15 nothing.

16 MALE VOICE: The businesses that
17 aren't offering--listen, paid sick leave is
18 something that all of us would want as one of the
19 benefits we negotiate for in the market. That
20 does not imply that every business is similarly
21 situated. As I discuss in my written comments
22 here and construction workers are differently
23 situated--

24 [crosstalk]

25 MALE VOICE: - - hired day laborers

1
2 to replace them. Restaurant workers and workers
3 that work on tips, if this legislation were more
4 narrowly tailored like some of the other exemplary
5 pieces of legislation out there, which are limited
6 in number, in other words it was 50 or more
7 employees like Connecticut, if were a piece of
8 legislation without a private right of action like
9 Washington D.C., if tip employees were excluded,
10 you may still get opposition from the business
11 folks in this panel, but it would be a far
12 different piece of legislation than the one that
13 is actually before the Council.

14 COUNCIL MEMBER BREWER:

15 [interposing] Just like everybody says, New York
16 City is different. I just want to correct one
17 point on San Francisco. We talked to the
18 administrative agency there that administers for
19 four or five years legislation, and I just want to
20 say from February 2007 until the end of last year,
21 that agency received 305 complaints, which was
22 about 4.4 per month, and most cases if not all
23 were easily, easily resolved, and none of the paid
24 sick day cases have gone to any kind of an appeal
25 hearing. 115 of the complaints resulted in back

1
2 wages and in 95 cases the claimant opted to have
3 the city write a letter to the business reminding
4 them of their obligations, and that was the end of
5 it. There are 14 cases pending, and they expect
6 to be resolved. Nothing went to court. Thank you
7 very much, Mr. Chair.

8 CHAIRPERSON NELSON: Thank you,
9 Council Member Brewer. We also have asking a
10 question, Council Member Lander and then Council
11 Member James. Again, if you could keep it to one-
12 -this panel has been here pretty long, so if we
13 could wrap it up, that would be great.

14 COUNCIL MEMBER LANDER: Thank you,
15 Mr. Chairman. I won't ask many, but I have been
16 here a while too, and patiently waiting to ask a
17 couple of questions. I do want underscore what
18 Council Member Brewer had just said because the
19 real evidence from San Francisco about what really
20 happens here in court, in the law, in response,
21 the evidence is out there. She offered phone
22 numbers at the beginning of the hearing, so I
23 trust her 100 percent, but if you don't, take her
24 up on the phone numbers. Mr. Copeland, I guess I
25 want to start by saying I am a household employer.

1 I employ a domestic worker as well, and I am proud
2 of the fact that I provide paid sick days, and I
3 do it on the books, and I comply with the law, and
4 I don't think the idea that it would be easier for
5 me to deny her paid sick days or not to comply
6 with the law ought to affect us. It's great, and
7 I also should say I ran a not for profit for 15
8 years. We grew it from five to 50. We always
9 provided paid sick days. The paperwork is
10 honestly not that difficult. But I want to start
11 with a question to Mr. Bookman because I am really
12 genuinely trying to listen. We have had two
13 hearings, and after each one, we have made changes
14 to try to improve the bill and get to a place
15 where folks could live with it. One of the
16 biggest changes we have made is in the restaurant
17 sector, so at the previous hearing restaurant
18 owners told us that the way they handle sickness
19 is by allowing workers to swap shifts. With
20 Council Member Brewer's support, we amended the
21 bill to allow shift swapping. We are going to
22 hear testimony from the restaurant workers that
23 they are opposed to it. They believe we are
24 actually denying them a meaningful access to paid
25

1
2 sick days, and I am not happy about it, but it
3 comes from listening, and yet I didn't see
4 anywhere in your testimony any recognition to the
5 amendment to the bill that would allow shift
6 swapping, and I really don't understand how I am
7 trying to listen to you about the Department of
8 Health, about the - - , but I have to say between
9 Council Member Brewer's actual evidence from San
10 Francisco and the fact that you don't even
11 recognize the fact that the bill now allows shift
12 swapping, help us understand what I am supposed to
13 take away from your testimony today or...

14 ROBERT BOOKMAN: On the shift
15 swapping issue as soon as we saw the second
16 version we pointed out why it is not what we had
17 asked for. The way it is written--and it's
18 important to actually look at what is in this law
19 rather than the idea of the law--what is written
20 here is you have to shift and swap or vice versa
21 within the same pay period. Well, the reality of
22 New York State employment labor law for our
23 industry is pay periods are not two weeks like in
24 big businesses and city government. They are
25 weekly as generally Saturday night, so if somebody

1
2 calls in sick on a Friday night, we have one day
3 to shift with them, and it's just not practical.
4 We had asked for within a two or three week period
5 of time. Allow us to mutually agree on swapping a
6 shift--that didn't make it, and the other thing
7 you need to take away from the bill, which is
8 actually--we keep hearing it, but it is just not
9 true, and Councilwoman Brewer just said it again,
10 if I am an employer and I provide ten days sick
11 per year, double that this bill provides, but I
12 require documentation I am in violation of this
13 bill, so I am covered by this bill. Most
14 definitely I am covered by this bill.

15 COUNCIL MEMBER LANDER: So we
16 should remove shift swapping then because shift
17 swapping is not going to help the restaurant
18 workers and we should take it out of the bill. We
19 should support the restaurant opportunity center
20 and the restaurant workers and go ahead and just -
21 - . Is this the case for all restaurant workers?

22 ROBERT BOOKMAN: [interposing] If
23 you are going to put language in it, make it
24 meaningful like--

25 [crosstalk]

1
2 COUNCIL MEMBER LANDER: - - pay
3 period.

4 ROBERT BOOKMAN: You like their
5 bills, but then when it comes to doing what is in
6 those bills, you don't want to do it. Washington
7 D.C., which you keep talking about, they exempt
8 tip workers altogether. Why don't we do that?

9 COUNCIL MEMBER LANDER: That is not
10 what restaurant workers asked for at the last
11 hearing. You asked for--

12 [crosstalk]

13 COUNCIL MEMBER LANDER: --anyway,
14 it's hard. I just have got to be honest. It is
15 hard to take the recommendations for improvement
16 about the Health Department seriously, about a
17 whole range of other issues seriously when we go
18 to extensive lengths to actually put them in the
19 bill at real cost--I don't like the shift swapping
20 in this bill. I would rather just cover
21 restaurant workers, but even when we go ahead and
22 make those compromises, it wasn't really there. I
23 guess on the same topic, so if we agree it's \$0.18
24 an hour, you really think what is fair is to split
25 that equally between business owners and low wage

1 workers, who are making 12, 15, \$20,000 a year?

2 ROBERT BOOKMAN: Yeah.

3 COUNCIL MEMBER LANDER: Equally.

4 ROBERT BOOKMAN: Just like
5 unemployment, just like social security. It is
6 virtually--
7

8 COUNCIL MEMBER LANDER:

9 [interposing] Just like the minimum wage.

10 ROBERT BOOKMAN: It is virtually an
11 equal contribution. Minimum wage is not what we
12 are talking about.

13 COUNCIL MEMBER LANDER:

14 [interposing] It is not what you are talking
15 about.

16 ROBERT BOOKMAN: This is adding a
17 benefit. This is adding a benefit--

18 [crosstalk]

19 CHAIRPERSON NELSON: Please one at
20 a time.

21 ROBERT BOOKMAN: The trust is you
22 don't even believe your \$0.18 an hour. That is
23 the problem 'cause the real cost is a lot more.
24 I'll agree on the \$0.18 an hour right now. Let's
25 figure out a way to split it.

1
2 COUNCIL MEMBER LANDER: So first of
3 all, I have not questioned your integrity or your
4 sincerity at this hearing, and I am offended by
5 your doing it to me. I tried to take you at your
6 word. I tried honestly to listen to what you said
7 at the previous hearing, and advocate for
8 amendments to the bill, but yes, I find it silly
9 and offensive that you think that employers and
10 workers earning the minimum wage in carwashes and
11 green grocers are in position to equally split the
12 cost of their illness with their employers, so my
13 final question, Mr. Chairman, and I'll get out of
14 the way. Quite a few of the employees--I will say
15 this. This bill actually with the under-five
16 exemption, exempts 64 percent of all business
17 establishments in New York City.

18 ROBERT BOOKMAN: [interposing] It
19 does not.

20 COUNCIL MEMBER LANDER: What is
21 left is workers between five and 50. That is what
22 we are talking about. Actually the partnership
23 statistics show that those businesses have been
24 growing and scaling up, not shrinking relative to
25 50 but quite a few of them are establishments like

1
2 McDonald's and Olive Garden, so we are not talking
3 about independently owned small mom and pop
4 businesses on our retail strips. We are talking
5 about franchises. We are talking about chain
6 restaurants. Do you really believe that workers
7 at a McDonald's Express, workers at a Dunkin
8 Donuts, workers at an Olive Garden shouldn't have
9 paid sick days, and that if we require them to
10 have paid sick days that those businesses are
11 going to leave the city of New York?

12 CHAIRPERSON NELSON: Council
13 Member, please. Nobody would impugn your
14 integrity. Nobody here knows you by the way would
15 mean it, and it is hard for me to try to keep my
16 colleagues in line, but we have to move the
17 agenda. - -

18 COUNCIL MEMBER LANDER:
19 [interposing] Mr. Chairman, I asked a simple
20 question about whether they believe that workers
21 at McDonalds or Dunkin Donuts or the Olive Garden
22 should be denied--

23 [crosstalk]

24 FEMALE VOICE: [interposing] I just
25 think it shouldn't be a good guys, bad guys thing

1
2 because you can't earn a living for a family off
3 of owning a Dunkin Donuts or a Subway. You have
4 to own two or three of them, and people work their
5 way up to that, so I think that you have got to
6 understand there is two sides to this equation.
7 There are employers who are hard pressed too, even
8 in those chain operations.

9 COUNCIL MEMBER LANDER: And they
10 can't provide five paid sick days for employees--

11 FEMALE VOICE: [interposing] I am
12 just saying that because I have underwritten
13 franchises and looked at what the numbers are--

14 COUNCIL MEMBER LANDER: We did it
15 together. I remember the franchise project that
16 we worked on together.

17 FEMALE VOICE: That is right, and
18 remember, those families could not be underwritten
19 to talk a loan.

20 COUNCIL MEMBER LANDER: But it
21 wasn't about whether they offered paid sick days
22 or not. The cost of real estate is an issue.

23 [crosstalk]

24 COUNCIL MEMBER LANDER: The costs
25 of doing business in New York are significant, but

1
2 I honestly believe leaving aside the mom and pops
3 for a minute and just talking about franchise
4 operators of major national corporations like
5 Subway, like Dunkin Donuts, like McDonald's, I
6 don't believe there is a place where you can make
7 those businesses work and successful where you
8 can't offer your workers paid sick days and that
9 that is the difference between succeeding and not
10 succeeding or leaving the city and--

11 MALE VOICE: [interposing] It's a
12 false dichotomy though. You are presenting a
13 false dichotomy. Nobody is suggesting that
14 McDonald's or Dunkin Donuts is going to leave the
15 city. On the margin franchises might close down
16 absolutely. On the margin would businesses invest
17 in labor saving technologies to avoid the cost of
18 this the way now when you go out to get your
19 groceries, you can--

20 [crosstalk]

21 COUNCIL MEMBER LANDER: --labor
22 saving technologies, they are investing in them
23 today. They are not going to invest in them
24 anymore.

25 CHAIRPERSON NELSON: [interposing]

1 Talking over each other again, gentlemen.

2 [crosstalk]

3 CHAIRPERSON NELSON: Councilman
4 Lander, in all due respect there is a few Council
5 Members already passed on their turn because of
6 the incredibly long amount of time the questioning
7 took place. So we will have to end it at that,
8 okay? Just one member still, Council Member
9 Richards please had one question he says.
10

11 COUNCIL MEMBER RICHARDS: Good
12 afternoon. I am the newest council member, so it
13 is a pleasure to be at my first controversial
14 hearing I guess I'll say and I guess I will be in
15 more of these. It is a pleasure to be here.
16 First of all I want to welcome you guys to the
17 Council chambers, and I am appreciative of you
18 guys coming. As someone who represents the
19 Rockaways who just went pure devastation after
20 Hurricane Sandy, I had many workers, everyday
21 workers come to my office, and say hey, can you
22 write me a letter to my employer because they want
23 me to come into work and my house is underwater,
24 and the days were ticking and the time was
25 ticking, so the question that I have is just a

1 simple question. Do you believe the everyday
2 people of the Rockaways who were devastated
3 deserve for paid sick days? I don't think that is
4 too much to ask for after devastation. Do you
5 believe--anyone on the panel can answer this
6 question--do you believe that those people who
7 were totally devastated, those people in Breezy
8 Point, whose homes were totally burned out, those
9 people in my district whose homes were totally
10 devastated, do you believe that those everyday
11 people deserve five paid sick days?
12

13 FEMALE VOICE: I don't think there
14 is anyone in the city or any employer that
15 wouldn't think they deserved as much time as they
16 needed. It's not paid sick days. It's disaster
17 recovery.

18 COUNCIL MEMBER RICHARDSON:
19 Unfortunately, we didn't see that.

20 FEMALE VOICE: That is unfortunate.

21 CHAIRPERSON NELSON: Okay. Thank
22 you, Council Member. Just a chairman observation,
23 the people in this audience are the most mature I
24 have ever seen at a hot topic meeting, so it is
25 really, really to your credit. I can tell you

1 that, we thank this panel so much. It was
2 certainly spirited, and that is what it is all
3 about within a degree. Thank you so much. Thank
4 you, Council Member James for passing her turn
5 this time, and she is always inquisitive, so that
6 was really nice of you. The next panel please.
7 Regina Smith of the Harlem Business Alliance, then
8 there is a worker who wishes to go by the name of
9 Andrea X, and then we have the borough president
10 of the Bronx, Ruben Diaz, Jr. I served with
11 senior actually on the Council. This is junior.
12 We have the former comptroller of the city of New
13 York, the great William Thompson.

14
15 BOROUGH PRESIDENT DIAZ: Good
16 afternoon, Mr. Chairman and to all of the members
17 of the City Council, who are here this afternoon,
18 I just wanted to say thank you for being here and
19 hosting us in this really important issue as we
20 discuss and deliberate Intro 97, otherwise known
21 as paid sick leave. In October, Mr. Chairman, I
22 stood on the steps of City Hall with members of
23 the City Council, labor leaders and people of this
24 great city, many who are here today, some of who
25 are on top, to declare my support for this

1 important bill. At the time I noted that far too
2 many workers, particularly low wage workers in our
3 communities are often forced to make difficult
4 choices between their health and their paycheck
5 and that it is a choice no one should be forced to
6 make. Nothing has changed since then. In fact
7 our case has only grown even stronger. This is
8 common sense legislation. This is something that
9 our city needs, and the data shows us just how
10 much we need it. Mr. Chairman, I want to take a
11 different perspective here this afternoon because
12 on Monday we saw a report that was released from
13 the community Service Society that outlines just
14 how important this issue is particularly to the
15 borough that I represent, the beautiful borough of
16 the Bronx, and of course to the Latino community
17 being a Puerto Rican elected official myself, and
18 I have to say that what is important to the Bronx,
19 what is important to Latinos, Mr. Chairman, has to
20 be important to New York City. This new report
21 demonstrates how prevalent and devastating this
22 problem is across the city. The legislation could
23 not be more meaningful or timely. They found that
24 nearly half of Latinos in New York City are denied
25

1
2 paid sick leave, making them the least likely
3 racial or ethnic group to have access to paid time
4 off when illness strikes. That ladies and
5 gentlemen, is a tremendous number. That is far
6 too great a portion of our city's workforce to be
7 denied paid sick days. Among working women not
8 even half, 49 percent, only 49 percent of Latinas
9 in our city can take a paid sick day when they
10 need to deal with their children having an asthma
11 attack that we know happens quite often in the
12 borough of the Bronx or when they are dealing with
13 the flu or when they simply want to go and get
14 checked up for a mammogram or something else. It
15 was said here earlier that people were playing
16 political games. Mr. Chairman, this is not a
17 political game. This is about people's lives.
18 This bill has tremendous support as many people
19 know that when we did the fair wages for New
20 Yorkers act, many polls show how New Yorkers from
21 all walks of life support this important piece of
22 legislation. We also have 38 members of the City
23 Council, who are supporting this legislation, and
24 I would hope that this bill is brought to a vote.
25 I just want to add my comments by saying this--

1
2 very few people if any I don't think anyone who
3 opposed this piece of legislation has an unpaid
4 sick day. In other words, the people who would
5 oppose this, if they were able to take a day off
6 from work, they would be able to get paid for
7 that. I also want to submit, Mr. Chairman, that
8 because we don't have this as law of the city of
9 New York, there are many families in the Bronx and
10 throughout the city of New York, who are making
11 bad decisions. There are folks who are going to
12 work sick. There are folks who are sending their
13 children to school to day care sick because they
14 won't get paid for the time off. I also want to
15 say that there's an inconsistent message when we
16 speak of health disparities, particularly in my
17 borough, when we say educate folks, give them the
18 information they need so they can go and take
19 better care of themselves, so that they can go and
20 see a doctor, except that we could do all of the
21 education that we want, and all the educating that
22 they need, but if they can't take a day off to go
23 see that doctor, then what are we doing it for?
24 Now I know working with Brad Lander and with Gale
25 Brewer and all the City Council Members here I

1
2 know, Mr. Chairman, that concerns have been heard
3 and concerns have been met. It is time that the
4 people of the city of New York deserve this. It
5 is time that at least we have an up or down vote
6 on this piece of legislation in this legislative
7 body. Thank you.

8 CHAIRPERSON NELSON: Thank you, Mr.
9 Borough President. Mr. - - ?

10 WILLIAM THOMPSON: Mr. Chairman, it
11 is a pleasure to be here, and let me apologize
12 upfront after I speak I am going to have to leave.
13 I have another-candidate-

14 CHAIRPERSON NELSON: [interposing]
15 You have been waiting around for hours, so I
16 understand.

17 WILLIAM THOMPSON: --have another
18 candidate forum; it seems as if we have two and
19 three a day, but we have one that began at one
20 o'clock at NYU on affordable housing, and I am
21 going to have to run over to that also, but let me
22 again thank you for the opportunity to testify
23 this afternoon as well as the members of this
24 committee, and also let me single out
25 Councilperson Gale Brewer, who has done great work

1 in this area. Councilperson, thank you so much
2 for your leadership here. If it seems like we
3 have been discussing paid sick leave for years, it
4 is because we have. Too many mothers have had to
5 choose between going to work and caring for their
6 children. Too many fathers have shown up to their
7 jobs sick, risking not just their well-being, but
8 the health of those around them because the
9 current system simply gives them no choice, and
10 too much time has been lost putting up one excuse
11 after another why paid sick leave can't be passed.
12 The time for action is now. As a former city
13 comptroller, a candidate for mayor and lifelong
14 New Yorker, I supported a paid sick leave approach
15 that balances the needs of workers and families
16 with the challenges faced by small businesses.
17 Giving workers time off to take care of themselves
18 and their families is morally just and
19 economically prudent. We are not talking about
20 extravagant benefits. Only decent treatment for
21 the people who make our city run. It's certainly
22 not too much to ask for five paid sick days a
23 year, especially when the law allows for
24 flexibility for new businesses and exempts those
25

1 with less than five employees. In fact, a healthy
2 workforce is not a liability, but an investment in
3 our economy. As a father, I know the last thing a
4 parent wants to do is be at work while their sick
5 son or daughter is at home alone and in bed. We
6 can spare their agony and help parents care for
7 their sick children, and when they are done, come
8 back to work with the focus that makes New York's
9 employees the most productive and industrious in
10 the world. New Yorkers support paid sick leave.
11 Leaders across the city including a majority of
12 City Council Members support paid sick leave. The
13 only obstacle to this legislation is the Speaker,
14 who is blocking the bill with an iron fist and
15 refusing to even allow a vote. Speaker Quinn's
16 public rationale is that the economy is not ready
17 for the bill that it would be too difficult for
18 small businesses, it would be an added burden.
19 Because I don't question Speaker Quinn's motives
20 and because I understand the concerns of our small
21 businesses, I have proposed a common sense
22 compromise that I believe will help to break this
23 impasse once and for all. I am proposing that we
24 change the bill so the paid sick time portion of
25

1 the legislation does not go into effect for one
2 year. This will give businesses amply time to
3 prepare and remove the obstacle placed before the
4 bill by Speaker Quinn. I know we can do this. As
5 New Yorkers, we have always led the way on making
6 progress for working people. Each step of the way
7 there have been those that have said the price for
8 economic and social justice would be too great.
9 From minimum wage and child labor laws to social
10 security benefits and protections from employment
11 discrimination those reforms all began right here
12 in New York, yet businesses adjusted, workers
13 continue to produce and the economy flourished.
14 Regulations protecting workers did not create a
15 dead end for economic success. They helped pave
16 the way and helped pave the path to the middle
17 class for working families like yours and mine. I
18 ask Speaker Quinn to tear down this obstacle to
19 economic justice and join us in this proud
20 democratic tradition for progress. Let's pass
21 paid sick leave, and let's do it now. New York's
22 working men and women deserve no less.
23

24 CHAIRPERSON NELSON: Thank you.

25 Ms. X?

1
2 ANDREA X: Andrea. Hi. My name is
3 Andrea. I work in the travel industry, and I have
4 paid sick days, but I am here to testify in favor
5 of a law that would guarantee that everyone in the
6 city has paid sick time because I know firsthand
7 that all of us are at risk if everyone does not
8 have this basic benefit. My mother was a
9 Holocaust survivor and my parents were married for
10 62 years. My mother developed Parkinson's disease
11 and had a major stroke. She was hospitalized and
12 then sent to a nursing home. The doctors told my
13 father that there was nothing they could do for
14 her at the home, so my 85 year old father took my
15 mother home and care for her. She needed a
16 feeding tube, and she was in a semi coma, so of
17 course, we needed some help. We got a home care
18 aid through a company called Self Help that
19 provided support for Holocaust victims. The home
20 health aide came four hours a day and that help
21 was essential for my father. The aide was a
22 caring person who took good care of my mother, but
23 she also struggled to have enough money to live
24 on. She lived a considerable distance and she
25 walked to work to save the \$2.25 that it would

1
2 cost her to take a subway. She clearly needed
3 every dollar she earned as an aide to meet her
4 needs. In January of this year, our aide called
5 in sick with the flu that was going around this
6 winter, but the next day she came in. She was
7 clearly still sick, but she could not afford to
8 lose a day's pay. My father felt like he was
9 placed in a horrible situation. He felt sorry for
10 the aide, and didn't want to send her home knowing
11 how badly she needed the money. My parents had
12 both had flu shots, which we later found out was
13 very ineffective for the elderly this year, and
14 the aide wore gloves and a mask, but nevertheless
15 when someone is sick, there is no way to stop
16 germs from spreading. Both of my parents
17 contracted the flu, and although the doctor was
18 called immediately and both my parents were put on
19 Tamiflu, my mother died three days later on
20 February 1st. We are heartbroken and devastated as
21 a family. My father is now dealing with grieving
22 and feeling guilty for my mom's death, and he does
23 not deserve this as he was amazing and took
24 unbelievable care of my mom, sacrificing his own
25 health. Our aide feels terrible as well, but the

1
2 position she was put in is not a position anyone
3 in our city should be put in. If she had some
4 guarantee of pay for the time she missed with the
5 flu, she would have never come in, and my mother
6 might still be alive. We feel the agency is
7 responsible for my mother's death because they
8 should insist that their aides stay home when they
9 are sick and make it possible for them to do so by
10 providing paid sick leave. It is stupid and wrong
11 of agencies, which are responsible for placing
12 workers in homes with very sick people not to give
13 workers paid sick time, but it is equally wrong
14 and stupid for us as a city not to require all
15 employers to give workers that time. A million
16 workers without paid sick days affects us all. We
17 need a law that would make sure anyone who is sick
18 can stay home. I urge the City Council to pass
19 this law, which would require paid sick time for
20 all workers so that no family will have to go
21 through what mine has. Thank you for this
22 opportunity to testify.

23 CHAIRPERSON NELSON: Thank you,
24 Andrea. Are you suing the agency?

25 ANDREA X: I am planning on it.

1
2 Yes.

3 CHAIRPERSON NELSON: Okay. Just
4 curious with that. I had a similar situation and
5 the person came in coughing and sneezing,
6 allergies, I said, are you sick? Because this
7 person was very, very vulnerable. He said, no,
8 no, just trees, leaves, whatever it is, so I
9 understand that. You really feel terrible because
10 that person, the sick person is just so weak. I
11 didn't want to break my being sort of removed from
12 everything, but emotions can rule sometimes. One
13 more. Yes. Sure, if you would please..

14 REGINA SMITH: Good afternoon,
15 Chairman Nelson and members of the Committee on
16 Civil Service and Labor. Thank you for giving me
17 an opportunity to offer testimony on New York
18 City's paid sick days bill. My name is Regina
19 Smith, and I am executive director of the Harlem
20 Business Alliance. The Harlem Business Alliance
21 works diligently to deliver best practice
22 instruction and high quality technical assistance
23 to its aspiring entrepreneurs and established
24 businesses. A number of our clients are among the
25 state's working poor and chronic unemployed, low

1
2 income citizens seeking to start a business or
3 improve their business skills. We work tirelessly
4 to assist these highly motivated individuals.

5 Having said that, the passage of the city's paid
6 sick leave act would not have a direct impact on
7 the economic security of the lives of the state's
8 working poor, chronic unemployed and low income
9 citizens, but it would also affect our membership,
10 their families and a number of our clients.

11 Simply put, it is our belief that to do good work,
12 workers must be in good health, and of course,
13 this bill assures that. Make no mistake, the
14 Harlem Business Alliance understands and
15 appreciates the concern - - that the paid sick
16 days legislation would place an undue burden on
17 the business community; however, we have concluded
18 that they need to protect the economic security,
19 welfare and health of the most vulnerable and
20 needy members of our community far outweighs that
21 concern. Research clearly and convincingly shows
22 that the bill would not be unduly burdensome to
23 the business community. With that in mind on
24 behalf of the Harlem Business Alliance I today
25 urge the City Council to pass the sick days bill

1 in this committee and to take it to the full
2 Council for a vote. Equally important I call on
3 both the business community and the City Council
4 to work in earnest to negotiate and arrive at a
5 compromise to pass the bill because by all
6 objective estimates in the long run, we have full
7 confidence that the passage of the bill would
8 prove to be a win, win for business, the Council
9 and the community at large. I can go on to repeat
10 some of the statistics that have been shared with
11 you here today. I don't think that that is really
12 necessary, but I believe that it is truly
13 important that the City Council, who represents
14 the members of the city to weigh in on this issue.
15 It is a health matter that needs your concern and
16 it needs to be addressed, and we urge you to
17 continue to work with the business community, and
18 I commend you for all of the work and the
19 amendments that have been made thus far. I
20 believe that we should be this close to coming to
21 an agreement on this bill, and I thank you very
22 much.
23

24 CHAIRPERSON NELSON: Thank you,
25 ma'am. Three of my colleagues I think just

1
2 basically want to make a comment, starting with
3 Council Member James, then Council Member Lander,
4 then Council Member Brewer.

5 COUNCIL MEMBER JAMES: Thank you,
6 to the Harlem Chamber of Commerce. Thank you for
7 your leadership. Harlem Business Alliance. Thank
8 you for your leadership, and thank you for
9 weighing both sides and coming out in support of
10 New Yorkers and coming out in support of
11 recognizing that this is a good thing for business
12 as well as individuals who unfortunately do not
13 have the opportunity to take time off. To the
14 Bronx Borough President, I asked a question
15 earlier with regards to demographics and whether
16 or not this bill would apply primarily to low wage
17 workers. The response that I received was it
18 would primarily apply to all workers, but I have
19 read different accounts that this would for the
20 most part have a beneficial impact to the lives of
21 most low wage workers. Would you agree with that
22 statement?

23 BOROUGH PRESIDENT DIAZ: Low wage
24 workers would be greatly affected by this. The
25 Bronx would be affected by this should the bill

1
2 pass in a positive way, and Latinos, again, when
3 you look at the ethnic breakdown, we live in a
4 beautiful diverse city, but the group that is
5 affected negatively now by not having this into
6 law are Latinos, particularly Latinas, women. A
7 mother not only needs paid sick days for herself,
8 but also when her children are sick, so they can
9 take better care of those children. I would say
10 that yes, the biggest beneficiary would be those
11 that are working in low wage jobs. Certainly in
12 the Bronx many of those individuals are also
13 Latinos.

14 COUNCIL MEMBER JAMES: Thank you.

15 And to Ms. Andrea, my sympathy and my thoughts and
16 prayers are with you and your family during your
17 time of solace. I too took care of my mother
18 before she passed away. She had a home attendant,
19 who unfortunately could not take any time off, and
20 so I sympathize with you. Often times when she
21 did come to work, we had to advise her to go back
22 home, and it was really the responsibility of the
23 family to take care of our mother, so I join with
24 you and hope that all low wage workers and all
25 workers and particularly home aide healthcare

1
2 assistants and aides have sick leave, and so I
3 thank you for coming here today and testifying.
4 Thank you, Mr. Chair.

5 CHAIRPERSON NELSON: I guess
6 Council Member Brewer? He said no.

7 COUNCIL MEMBER BREWER: I will go
8 next. I do want to thank Andrea. I want to thank
9 the Borough President. I want to thank the Harlem
10 Business Alliance tremendously. My question for
11 the Harlem Business Alliance is first of all thank
12 you because it is you and also I have to say the
13 Harlem Chamber of Commerce, both of whom are
14 supportive of this bill, and in your care, what do
15 most of your organizations do? Obviously, there
16 is no mandate, but most of them I assume do manage
17 to find a way to be supportive of their employees
18 when they are sick most of all because then they
19 are more loyal to the enterprise. If you could
20 just comment on that...

21 REGINA SMITH: Well, that is
22 exactly what happens. When you value your
23 employee, you work with your employees, and you
24 will provide them with the time, so that they can
25 take care of their loved ones. So that is exactly

1 what small business owners do.

2 COUNCIL MEMBER BREWER: Thank you
3 very much. I just want to mention, Mr. Chair,
4 that the New York Academy of Medicine wasn't able
5 to stay here, but this very esteemed organization,
6 which has been talking about public health for
7 years and decades actually a couple hundred years,
8 is supportive of paid sick leave. Thank you very
9 much.
10

11 CHAIRPERSON NELSON: Thank you,
12 Council Member Brewer. Council Member Halloran?

13 COUNCIL MEMBER HALLORAN: Thank
14 you, Mr. Chairman. My first question is directed
15 at the borough president. It is good to see you,
16 sir, and I know we have gone back and forth on
17 many occasions, on many issues, but I know you
18 work hard for your constituents, and I am kind of
19 curious about a group of your constituents, which
20 will be alienated by this bill. Not only is the
21 Bronx Chamber of Commerce come out against it,
22 which is representative of a large portion of the
23 business owners, but the Bodegas and Store Owners
24 Association is against it, and those groups are
25 predominantly Latinos, as you doubtless know, who

1
2 are concerned that it cuts into their ever
3 dwindling bottom line. They are also very
4 concerned about the Department of Health managing
5 it. They are not exactly having a very good
6 relationship with the Department of Health on
7 fining them as it is right now. I know you know
8 what it is to pay for small business operation in
9 your borough. I know you have an incredible pulse
10 of your community, but surely as you sit there,
11 you understand that those of us who are trying to
12 find some compromise are very concerned about
13 turning a monster like this over to the Department
14 of Health which has a history of being less than
15 equitable in fining our small businesses in the
16 city and now we are giving them \$1,000 a pop
17 opportunity to hurt small businesses, some of
18 which may only have six employees. Can you speak
19 to that, sir? Are you concerned there? Do you
20 want modification of the bill in some respects or
21 are you happy the way it is?

22 BOROUGH PRESIDENT DIAZ: Well, let
23 me just start by saying, Councilman, that no one
24 could ever question my support for small business
25 in the borough. When you look at some of the

1 languages already been changed, many of those
2 bodegas have yet to--there are very few bodegas
3 for instance who have more than five employees, so
4 when you look at the modifications that have
5 already existed, it has taken those types of small
6 businesses into account. Obviously, when those of
7 us who support this piece of legislation we don't
8 want to hurt small businesses. What we want to do
9 is be equitable and fair to those hardworking
10 individuals, many of them who are taxpayers,
11 right, who just--is it only right for them to be
12 able to take a day off if they are not feeling
13 good, and by doing this like it was mentioned
14 earlier, this would help in productivity, this
15 would help making sure that folks are not coming
16 into work while they are sick and affecting
17 others. I have shown as a legislator before being
18 the borough president, I have shown as the borough
19 president other pieces of legislation like the
20 fair wages for New Yorkers act to always have an
21 open mind, to always continue to listen and to
22 hear what all sides have to say in recent
23 compromise. I have on this occasion, I am well
24 aware that Councilperson Brewer and many of the
25

1
2 legislators on this panel and on this body have
3 already compromised a lot and so the time has come
4 where I believe we cannot afford for certainly a
5 million New Yorkers to go on without paid sick
6 days, and as a borough president of the borough, I
7 can't afford to have a whole segment of the
8 population who we want them to go and check
9 themselves, we want them to be healthy, but just
10 don't have the day off where they have to choose
11 between going to the doctor and putting food on
12 the table.

13 COUNCIL MEMBER HALLORAN: Mr.

14 Borough President, as I said to you at the outset
15 of my commentary, I know you have the pulse in
16 your community of the small business world as well
17 as the citizens, and I am just very concerned that
18 the five items that I have outlined as problematic
19 in case you didn't hear them in the testimonies
20 one the definition of a small business, five
21 persons, it just seems given all of the taxes they
22 pay, the impacts that they have, the fines they
23 get already from the city weren't a problem.
24 Number two, the penalties and oversight DOH being
25 the wrong agency, the fines being too much and

1 this moral character finding that floats around in
2 this bill smacks to me of something that could
3 prevent licensing of these businesses down the
4 road, which is a real problem. The private right
5 of action, the lawsuit issues related to that, the
6 fact that it's an 18 month window to document for
7 these claims that there is vague document the
8 illness language and finally that we may interfere
9 with the at will employment nature. I submit
10 those as concerns just to remind you, sir, before
11 I got here to the Council, I was a single solo
12 practitioner as an attorney. If I didn't go to
13 work, I didn't get paid, and now at the Council
14 level, yes, I have paid sick days, although I only
15 got to take them once this year, and it was for a
16 brain tumor operation, so I took off two weeks and
17 was back to work on the third, which was my
18 impetus to get back and do the people's work, so I
19 appreciate your commentary, and you are right, we
20 are all hypocrites as we sit here and discuss paid
21 sick leave while we all have it, which is
22 something I tried to point out to a doctor, who
23 was on a panel a little earlier than you, but I
24 appreciate it, and I appreciate your work. I will
25

1
2 turn this back over to the chair; however, I will
3 say I am very disappointed in Comptroller
4 Thompson's commentary. It was self-serving. It
5 was politically motivated. This Speaker is having
6 this hearing. She has struggled with this issue,
7 as has everyone who is concerned with the nine
8 percent plus unemployment rate in the city of New
9 York. For him to have made a political attack and
10 then walked out I don't think is far 'cause I
11 would have liked to ask him some questions since
12 he is the former comptroller, and I have a little
13 bit of business experience. I was looking forward
14 to going back and forth with him. I will say for
15 the record that despite being a Republican,
16 despite endorsing someone else in the mayoral
17 race, I don't think that is what Chris Quinn is up
18 to. I think she is trying very hard to reconcile
19 some very difficult issues, and to her credit,
20 this hearing is going on and the discussion is
21 being had, so normally, I find the former
22 comptroller to be a fine person. I just think
23 that the speech today was nothing but a political
24 hatchet job.

25 CHAIRPERSON NELSON: Thank you,

1
2 Councilman Halloran, and I have to agree with the
3 last 50 or 60 words, and the rest of it too, but
4 just politically speaking I found that to be a
5 little bit strange. Thank you so much. You have
6 been very very helpful. Interesting panel. I
7 appreciate it. And our next panel, and I hope I
8 get this name right 'cause it's an assembly
9 member, my colleague, Mark Gjonaj and James Essey,
10 New York Staffing Association, and Jay Peltz--I
11 wonder if you are related to Sam Peltz I used to
12 know. There you go. We will definitely talk
13 afterwards. He was a good guy, and Tom Minnick
14 [phonetic], the Business Council of New York State
15 and Jay Peltz is the Food Industry Alliance of New
16 York. Okay. Thanks.

17 ASSEMBLY MEMBER GJONAJ: Good
18 afternoon, Chairman and fellow Council Members.
19 Thank you for allowing me to address you today on
20 this very important issue. I just want to make
21 sure everyone understands I am in full support of
22 a paid sick day. I am just not in support of the
23 current bill as it has been presented.

24 CHAIRPERSON NELSON: [interposing]
25 Could you identify your name?

1
2 ASSEMBLY MEMBER GJONAJ: So I will
3 repeat that one more time for those with selective
4 hearing--

5 CHAIRPERSON NELSON: [interposing]
6 I am sorry, sir. Did you mention your name for
7 the record?

8 ASSEMBLY MEMBER GJONAJ:
9 Assemblyman Mark Gjonaj.

10 CHAIRPERSON NELSON: Thank you.

11 ASSEMBLY MEMBER GJONAJ: So I just
12 want to reiterate that one more time for those
13 with selective hearing. I support paid sick days,
14 but not this current bill. The bill has good
15 intentions. It is the framework that is bad.
16 Specifically requiring small business with five
17 employees which is also referred to as mom and pop
18 shops or microbusinesses, the bill will not be
19 easy or painless to them. The effect on my
20 district, which is the borough of the Bronx
21 specifically, which has the rate of unemployment
22 in the state and the city, the commercial
23 corridors, which are no longer vibrant or flowing
24 with pedestrian traffic is evident by the vacant
25 stores that we have. A recent polling that I have

1 done in my district of these commercial corridors
2 is that with a guaranteed salary, they would be
3 willing to close up. They can no longer operate
4 at a profit level that is worth it to them. To
5 head counting method is certainly taking into
6 consideration part time and seasonal workers as
7 well as it is not discussing those owners that are
8 currently on the books as employees, husbands,
9 wives, children, taking them into consideration in
10 headcount takes a negative impact. Conceivably a
11 family owned pizzeria, husband, wife and two
12 children with one single employee would have to
13 comply with this bill. I would imagine that we
14 should revisit this bill and address the family
15 owned businesses and give them an exclusion - -
16 the Department of Health, which is an agency
17 currently at the heat of a report that has
18 recently come out revealing that the agency
19 targets small businesses in the outer borough in
20 particular my borough, the borough of the Bronx,
21 which is being taxed through an auto controlled
22 fine system and is used as a source of income to
23 fill city coffers. The Department of Health has
24 become nothing more than a - - tax collector that
25

1 is destroying small business in our city. These
2 small businesses truly believe that they are
3 overregulated with the intention of being found in
4 violation so they can be fined. This bill will
5 also create an advantage to businesses outside of
6 New York City and outside of New York State. On
7 one hand this city cannot proclaim that it is
8 dedicated to creating an environment to encourage
9 small business growth, specifically mom and pop
10 shops and microbusinesses, which are the lifeblood
11 of our economy while it implements bills to
12 undermine their very existence. Small businesses
13 bottom line can no longer support being nickel and
14 dimes--those nickels and dimes have lots of zeros
15 after them or can they be written off as a cost of
16 doing business in New York City because there is
17 nothing left to write off. There is clearly a
18 line between profit and loss. Thank you.

19
20 JAMES ESSEY: Mr. Chairman, my name
21 is James Essey. I am president and CEO of the
22 temp positions group of companies. We are a 51
23 year old regional family owned staffing service
24 with our headquarters in New York, employing over
25 5,000 people annually, and I am here to provide

1 testimony on the behalf of the New York Staffing
2 Association. NYSA represents the interests of
3 temporary staffing firms, which are responsible
4 for providing employment for over 120,000
5 employees throughout the city on an annual basis
6 with an estimated \$1.6 billion dollars in economic
7 impact. Our temporary employees range from wait
8 staff, schoolteachers, secretaries and laborers to
9 CEOs, accountants and engineers. It is an
10 industry composed of an incredibly diverse
11 workforce. Our workers are treated as our W2
12 employees. They receive competitive compensation,
13 state and federal mandated benefits such as Social
14 Security, disability, unemployment insurance and
15 worker's comp coverage, job skills training and in
16 many cases vacation time and healthcare benefits.
17 Critically our efforts provide a bridge between
18 unemployment and full time position. Indeed 70
19 percent of temporary employees ultimately receive
20 permanent positions as a result of their temporary
21 jobs. We are a jobs creation machine. Okay. So
22 why are we worried? The temporary staffing
23 industry operates with low profit margins
24 typically around three percent, largely due to the
25

1 pay that we have to offer and the benefits and the
2 extensive recruiting and training costs we entail.
3 So simple math. 250 workdays, five sick days.
4 That is two percent of the total, so we have a
5 three percent profit margin, you add two percent
6 cost, that doesn't leave an awful lot left. As a
7 result of these low margins and the fact that we
8 are already preparing for an increase in costs
9 relating to the affordable care act and an
10 increase in the minimum wage, this legislation
11 would be a potentially fatal third blow to our
12 members. This is because we would have to pass
13 yet another increased cost onto our clients to
14 remain competitive, and this additional increase
15 would most likely reduce overall demand for our
16 services and reduce the number of jobs we offer
17 each day to city residents. We agree with the
18 well intentioned reasons behind the bill that no
19 employee should risk continued employment by
20 taking a sick day, but our industry is already
21 built on the premise that employees can work when
22 and where they want. The hiring situation though
23 is still precarious with unemployment at
24 stubbornly high levels, while many employers are
25

1
2 simply sitting on the sidelines. We believe this
3 legislation as currently drafted is something the
4 city cannot afford at this time. There are a
5 number of specific issues to our industry that for
6 time reasons we will include in our written
7 testimony, but I won't read here. Thank you very
8 much.

9 CHAIRPERSON NELSON: Thank you, Mr.
10 Essey. Mr. Peltz?

11 JAY PELTZ: Thank you, Mr.
12 Chairman. - - today's public hearing. My name is
13 Jay Peltz, and I am the vice president of public
14 affairs for the Food Industry Alliance of New York
15 State. The FIA is a non-profit trade association
16 that promotes the interest of New York's 21,000
17 grocery stores. Our members include chain and
18 independent food retailers that account for a
19 significant share of the city's retail food market
20 and the wholesalers that supply them.
21 Historically the retail food industry has provided
22 flexible employment opportunities throughout the
23 city. In addition as a heavily unionized
24 industry, it has for decades provided good paying
25 jobs with benefits including paid leave through

1 the collective bargaining process. It is also
2 challenges to preserve very low profit margins,
3 typically a best case of a penny on the dollar in
4 a highly competitive marketplace that gets more
5 competitive every year with warehouse clubs,
6 supercenters, organic and natural food stores,
7 drug stores, dollar stores and convenience stores
8 all offering a wider assortment of groceries at
9 very competitive prices. In addition, recently
10 some supermarket owners have had to absorb
11 significant increases in federal and state income
12 taxes and all food retailers will be required to
13 pay for a pending increase in the state minimum
14 wage itself described as a \$1.2 billion de facto
15 annual tax increase. Add to that significant cost
16 increases due to the pending full implementation
17 of the federal affordable care act. It is in this
18 context that great pressure is being exerted to
19 enact an unfunded mandate otherwise known as paid
20 sick leave also characterized as a de facto annual
21 \$800 million tax increase. Enacting such a tax
22 will be a mistake for the reasons that I will
23 discuss. The retail food industry has a long,
24 proud history of providing flexible employment
25

1
2 opportunities to a wide range of people across a
3 spectrum of life circumstances. Why then would
4 the city enact legislation that would hurt an
5 industry with a track record of successfully
6 meeting the demands of a very competitive
7 marketplace while providing flexible job
8 opportunities, many of them union positions with
9 negotiated salaries and benefits including paid
10 leave at so many different points of the life
11 cycle? If enacted, the bill would create a
12 substantial disincentive to create new jobs and a
13 substantial incentive to cut jobs and hours by
14 increasing the cost of each job at a time of weak
15 economic growth and soft consumer spending. That
16 would could the historically broad spectrum of
17 employment opportunities in the industry to
18 narrow. It would also harm - - the primary
19 vehicle through which government benefits such as
20 SNAP and WIC are provided to low income residents
21 throughout the city to purchase grocery staples.
22 There is another major public policy problem with
23 the law. If enacted, the city Department of
24 Health will have called [phonetic] full authority
25 to implement and enforce the law including called

1
2 broad powers to ensure compliance with its
3 provisions. This authority however would directly
4 conflict with the terms of the memorandum of
5 understanding within the New York State Department
6 of Agriculture and Markets and the New York State
7 Department of Health, which by its terms bind all
8 city health departments. The MOU [phonetic] has
9 been effective since March 1, '86 and it replaced
10 an MOU between the same agencies dated December
11 20th, '72. Under the terms of the MOU, food
12 processing establishments in New York City
13 including retail food stores, chains drugstores,
14 food warehouses and wholesale food distributors
15 are inspected and regulated by the State
16 Department of Agriculture and Markets, while food
17 service establishments such as restaurants and
18 food concessions at movie theaters are inspected
19 and regulated by a health department. Generally
20 under Section 2 of the MOU, the State Department
21 of Agriculture and Markets has jurisdiction over
22 all operations of a food processing establishment
23 and "in no instance shall an establishment be
24 inspected by both departments," thus the broad
25 authority granted to the city health department to

1 enforce the paid sick leave law is a significant
2 violation of longstanding state policy, which bars
3 the city health department from having concurrent
4 jurisdiction over New York City supermarkets and
5 chain drugstores with the State Department of
6 Agriculture and Markets. In addition, the
7 provisions of the legislation do not apply to
8 workers covered by collective bargaining
9 agreement, but only if one, the provisions of the
10 law have been expressly waived in the CBA and two,
11 the CBA provides for a comparable benefit in the
12 form of paid days off. The legislation however
13 does not precisely define the word comparable and
14 the waiver requirement gives unions additional
15 leverage. Acrimony between the parties is likely
16 to increase as they negotiate the meaning of the
17 word comparable and as management seeks offsets
18 due to cost increases arising under the law.
19 Since union employees already have the opportunity
20 to negotiate for full benefits through the heavily
21 regulated collective bargaining process, the
22 provisions of the law should not apply to all
23 workers subject to a CBA without exception. The
24 provisions of the law should not apply to all
25

1 workers subject to a CBA without exception.
2 Accordingly the FIA on behalf of its members
3 opposes adoption of this legislation. Thank you
4 for your time and attention to this issue and to
5 the FIA's concerns.
6

7 CHAIRPERSON NELSON: Thank you, Mr.
8 Peltz. Mr. Minnick?

9 TOM MINNICK: Chairman Nelson,
10 members of the Committee on Civil Service and
11 Labor and other city Council Members. My name is
12 Tom Minnick. I am the director of the Center for
13 Human Resources at the Business Council of New
14 York State, Inc. The Business Council is the
15 largest state business advisory organization and
16 we represent more than 2600 private sector
17 employers across New York State and in the five
18 boroughs. On behalf of these members, I
19 appreciate the opportunity to provide you with our
20 views on Intro number 97-A. The Business Council
21 urges the City Council to reject this proposal.
22 Here is why. Mandated leave will increase
23 absenteeism. In a 2009 New York Times article
24 Casey Mulligan, economics professor at the
25 University of Chicago wrote that the International

1 Monetary Fund studied American and European
2 employees' absence from work for sickness from
3 1995 to 2003. The report found that the average
4 European was absent from work for sickness more
5 than American workers, yet no study has found that
6 Europeans are sicker than Americans, so why would
7 European workers stay home sick more than their
8 American counterparts? The answer is that
9 mandated government social insurance systems in
10 Europe reward employees absence. Certainly under
11 such systems sick workers are less likely to go to
12 work when they are sick, but employees who are not
13 sick are more likely to be absent saying they are
14 sick. The labor market responds to the
15 government's sick leave program reward of paid
16 absence by keeping European workers home more
17 often. Don't do that in New York City. Second,
18 employment related mandates punish responsible
19 employers. The partnership for New York City's
20 2010 employers sick time study analyzed by Ernst
21 and Young found that 88 percent of the city's
22 private sector workers have access to paid leave
23 that can be used when they are sick. The proposed
24 legislation punishes the vast majority of
25

1 responsible New York City private and non-profit
2 employers who already provide paid time for
3 absences by forcing costly administrative changes
4 in current policies. This includes organizations
5 with workforces across city, state and national
6 boundaries that will have to consider significant
7 changes to such current well thought out,
8 generous, and time tested policies and programs.
9 In addition employers with employees represented
10 by labor unions are disadvantaged in collective
11 bargaining before the first proposal is ever
12 presented. A bill such as this creates a
13 distorted and artificial minimum bargaining
14 position. Employers and their workers or unions
15 representing their workers are better positioned
16 to provide a workable solution to time off needs,
17 not governmental one-size fits all mandates.
18 Thanks for the opportunity to testify today.

19
20 CHAIRPERSON NELSON: Thank you, Mr.
21 Minnick. Just a brief analysis. If anybody came
22 and they were 100 percent sure that they knew what
23 was right, and - - listened to both sides of this
24 issue, which I think it is being really drummed
25 out pretty well if you don't think perhaps the

1
2 other side has got some good points, I'd say you
3 are totally not open to anything in life. Just
4 think about that for a moment, and really go back
5 to the grindstone, and if you come back the same
6 conclusion that you had before this, fine. Just
7 take it all in if you possibly can. We have been
8 sitting here for a lot of hours, so it gets more
9 difficult as it goes on. Do any of my colleagues
10 have a brief statement or question for the panel?
11 Council Member Halloran?

12 COUNCIL MEMBER HALLORAN: Thank you
13 for taking the time to be here. I am going to
14 actually just ask one question and it relates to
15 what the Chair just alluded to and that is when
16 there are places to compromise. Taking off the
17 table for the matter that some of us believe there
18 may be a curtailment of a preemption problem here
19 that we may be dealing with a state statute that
20 really would need to be in place in order to make
21 this work both because it will require an
22 apparatus to enforce, and DOH certainly is not
23 prepared to do that, and I question whether DCA
24 could do it, but my feeling is they would be the
25 almost only agency that would, so taking that off

1
2 the table for a second, would a change in the
3 number of employees required before the base line
4 comes in be a factor that would pull people off
5 the fence on this? As people like I have
6 suggested looking at anything smaller than 25
7 employees seems to me to be unduly harsh and
8 punitive given the fact that the minimum wage is
9 going to be increased, that the affordable
10 healthcare act will come in and increase cost to
11 small business, that our property tax rate in New
12 York City is ridiculous, that we have commuter tax
13 on top of a payroll tax on top of a city, state
14 and local income tax coming out of these
15 paychecks. Are there any parts of this bill
16 specifically that if tweaked leaving aside the
17 preemption issue that I may agree with you with
18 that we may not lawfully be able to do this in the
19 first instance. Is there anything that would be
20 palatable to our small businesses in the course of
21 this dialogue?

22 JAY PELTZ: Your consideration
23 would bear potential weight on swaying those that
24 are concerned for all of the obvious reasons that
25 you mentioned. The number is of a particular

1 concern to me. I go back to the question of how
2 do we define a small business? At a state level,
3 it is 100 employees, SBA level it's 500 employees.
4 Those are not the businesses that I am so
5 concerned with today. I am concerned about the
6 microbusinesses, the small mom and pop business
7 that cannot bear another tax or burden. In
8 addition to that while we are talking about what
9 could make the bill work, aid not only for those
10 microbusinesses, but for those with thin margins
11 or those that are facing hardship cases. We can't
12 afford for another business to leave this city or
13 close up. - - keeping an open mind and coming up
14 with alternatives that may make this palatable.

16 COUNCIL MEMBER HALLORAN: And you
17 make a very interesting point about margins. One
18 of the groups exempted in this latest iteration is
19 Con Edison. Now I am not so happy with Con Edison
20 for a lot of reasons having to do with the way the
21 storm was handled, but their exemption was based
22 on the fact that the Public Service Commission
23 identifies their margin of profit. Right? So
24 it's a finite number, and it said to them--we are
25 saying as a body in this latest iteration of this

1 bill, it is okay that we are going to exempt you
2 because we understand your margin is too small,
3 but we are not willing to say that to the mom and
4 pop deli. We are not willing to say that to the
5 shoemaker, the few cobblers left in the city of
6 New York. We are not willing to say that to the
7 family run business that has five or six
8 employees. Where are we on that?

10 ASSEMBLY MEMBER GJONAJ: I just
11 want to add you are absolutely right because those
12 particular industries or companies, small business
13 cannot afford lobbyists. They are out there
14 working very hard, and they couldn't be here to
15 testify.

16 COUNCIL MEMBER HALLORAN:
17 [interposing] I didn't want to say that but I'm
18 glad you did.

19 ASSEMBLY MEMBER GJONAJ: I can and
20 I will because I want to be a voice for that small
21 business. I know what that means, and I know what
22 they go through on a daily basis and it is evident
23 by the vacant stores in my district, those
24 commercial corridors, which have vacancies that
25 were once filled with pedestrian traffic no longer

1
2 are able to survive competing with the big chains
3 and competing with the Con Edisons of the world.

4 COUNCIL MEMBER HALLORAN: I
5 represent as you may know Bayside, Whitestone,
6 Flushing, College Point, Little Neck, Douglaston,
7 - - and North Flushing. Those communities are the
8 third largest tax base of the city of New York and
9 receive about 25 percent in city services than
10 other council districts, and I have corridors like
11 Bell Boulevard, Northern Boulevard, Francis Lewis
12 Boulevard, which have one in five shops closed
13 because the mom and pop shops can't afford to be
14 here anymore, and it is not like the city is going
15 to attract some big manufacturer to come in and
16 save us. We are not Detroit. We could never be
17 Detroit and have industry because industry
18 requires space. Space costs too much here. I
19 know you had a comment, so please--

20 JAY PELTZ: Thank you, Councilman.
21 It's not just the mom and pop. We have good
22 independent food retailers operating in very
23 challenging environments, not just in terms of the
24 overall economics--

25 COUNCIL MEMBER HALLORAN:

1 [interposing] Fighting box stores.

2
3 JAY PELTZ: There is the
4 competition and they face challenges operating in
5 some neighborhoods for various reasons and the
6 problem is that if you establish a bright line of
7 20 employees, and they have 25 because of the
8 number of part times that they hire, and our
9 industry is loaded with part timers, and they
10 would fall under the bill, and they would be
11 required to incur the incremental costs and
12 because of the competition and because of their
13 very low margins, they simply can't afford it, so
14 the definitional piece is highly problematic.

15 JAMES ESSEY: Councilman, I wanted
16 to mention too if I may just to respond to both of
17 those questions you raised, I think in terms of
18 size of business I represent the New York Staffing
19 Association, so we are in the temporary staff
20 business, and the problem with size for us is that
21 we could operate an office with 15 people, but we
22 put out 100 people to work. 100 people would just
23 be a minimum number in order to basically break
24 even in this business, right? So we would fall
25 under sort of any size, but the fact is if you

1 look at our margin it's tiny, and we mentioned
2 before in terms of your cost argument, I mentioned
3 some simply math, which is simply if you have 250
4 work days and you are giving five sick days, that
5 is two percent of work days, right? So in our
6 industry, we have a three percent profit margin,
7 so we take two percent off of that. That sort of
8 leaves almost nothing left, so it is a huge cost
9 that people just sort of aren't looking at. It
10 sort of seems like how much could that really be?

12 COUNCIL MEMBER HALLORAN: Well, the
13 other thing that I have noticed in both studies
14 that I have seen, both I'll call them right and
15 left arguments on this, neither of those studies
16 have taken into account the increase in minimum
17 wage or the impact of the affordable care act.
18 Neither of the studies that have been bandied
19 about in large part have taken either of those two
20 economic impacts into consideration in the numbers
21 they are using, which says to me as somebody who
22 will look at it critically, we have got a big
23 problem because these numbers just can't possibly
24 be right. Regardless of what conclusions we would
25 draw from the numbers, the numbers themselves

1
2 aren't right, and that is a problem. We are sans
3 Chairman, and I guess Gale is the senior member of
4 this body, so Gale?

5 COUNCIL MEMBER BREWER: I want to
6 thank the panel very much. I appreciate it, and
7 we have met with some of you and we are taking all
8 of your ideas into consideration. I promise you
9 Thank you very much. The next panel.

10 MALE VOICE: Richard McGahey,
11 Milano School Urban Policy at the New School; Dr.
12 Toni Lewis, SEIU; Selena Alvarez, Make the Road
13 New York; Jorge Ortiz for Shirley Aldebol, SEIU 32
14 BJ, Reverend Raymond Rivera, Latino Pastoral
15 Action Center and Brett Garrett. We are doing a
16 big panel. Brett Garrett from Blue Bottle Coffee
17 Company.

18 COUNCIL MEMBER BREWER: I would
19 like Brett to start. Can you pass the microphone
20 down please? Go ahead whenever you are ready to
21 begin, and thank you all very much for being here.
22 I know you have been waiting a long time, and I
23 really appreciate it. Government at work is a
24 little slow. Thank you. Go ahead, sir.

25 BRETT GARRETT: Hi. My name is

1
2 Brett Garrett, and I am here today to read a
3 statement from James Freeman [phonetic], Blue
4 Bottle Coffee Company's founder and CEO. My name
5 is James Freeman, and I am the founder of Blue
6 Bottle Coffee Company, a company that prides
7 itself on selling great coffee and also having
8 good personal policies for our employees. I
9 founded Blue Bottle in San Francisco, where we
10 currently have seven stores. In the last two
11 years, we have opened four stores in New York
12 City. Our company is extremely successful and our
13 success can be attributed to both our excellent
14 product and also to the good working environments
15 for our employees. As you know, San Francisco is
16 a city that requires all businesses to provide
17 paid sick days to their employees. The law in San
18 Francisco is very similar to the law proposed here
19 in New York, except that San Francisco requires
20 much more paid sick time than is required under
21 the New York City law. San Francisco requires
22 that businesses like mine provide nine days of
23 paid sick time to each employee. New York City
24 will only require five days of paid sick time for
25 businesses like mine. I want to say two things to

1
2 the Council. One is that far from being a problem
3 for business, the paid sick time requirement in
4 San Francisco has been easy to deal with, and has
5 been a good thing for my workers. I have had no
6 difficulty complying with this law, and I am very
7 happy that my workers can take time off and not
8 come to work when they or a family member are
9 sick. It is very important to my business and my
10 store's reputation that my workers not come to
11 work sick. Furthermore, I am really happy that
12 there is paid sick time law that applies to all
13 businesses in San Francisco because it is nice for
14 an employer like me who would want to give my
15 workers a reasonable amount of time off when they
16 are sick to know that my competitors will also be
17 supplying that benefit to their workers. Second,
18 as an employer who recently moved to New York,
19 creating 63 jobs in the city and great coffee, I
20 support the New York paid sick time proposal
21 currently before the City Council. I hope that
22 you will pass it so that all workers in New York
23 City like my workers will have access to paid sick
24 time. Thank you for your time and consideration.

25 COUNCIL MEMBER BREWER: Thank you

1
2 very much. That is really helpful to those of us
3 who care about this issue, and I know how great
4 your business is and everybody should go there.
5 Thank you very much. Why don't we start down
6 here? Professor, why don't you go next?

7 RICHARD MCGAHEY: I think the
8 volume is a little high here. My name is Richard
9 McGahey. Thanks to the Council for the
10 opportunity to testify. I am a labor economist
11 who teaches at the urban policy program of the New
12 School. I am a former chief economist to the U.S.
13 Senate Committee on Labor and Human Resources,
14 former economic advisor to Senator Edward Kennedy
15 and was nominated by President Clinton and
16 confirmed by the Senate as assistant secretary of
17 policy for the U.S. Department of Labor. This
18 legislation is a carefully crafted bill that can
19 benefit workers in New York City. There will be
20 likely little if any negative economic impact, and
21 that can be more than offset by positive factors.
22 Let me mention four arguments briefly in favor of
23 it. First as has already been discussed for
24 cities that have enacted it, the implementation
25 has been straightforward with minimal impact on

1 business. Second, we have no empirical data as
2 has been pointed out on the sick days, but we do
3 have it on minimum wage increases, and the
4 empirical evidence on increases in the minimum
5 wage strongly suggests no discernible effects on
6 employment from increases in the minimum wage;
7 therefore, it is pretty easy to say that sick days
8 that would cost less than minimum wage are not
9 going to have an employment effect. Third, there
10 are economic benefits to workers and to businesses
11 through increased productivity and decreased
12 turnover. There have been a number of factual
13 assertions. I won't have time to do them all
14 here. I'd love to talk about them in questions or
15 submit to you. Workers don't take all of the sick
16 days they are allocated. We know how many they
17 take. They take two to three. On average they
18 have eight in the United States, so this idea of
19 costing it out at the full five days is simply
20 overstating the cost by almost doubling what the
21 actual experience is likely to be, and finally to
22 encourage good jobs and to support good employers,
23 many of whom do provide these benefits, the policy
24 should be as uniform as possible with no
25

1 significant carve outs for specific sectors.
2 Specific carve outs create bureaucratic confusion
3 and uncertainty and they also undercut policy's
4 role in trying to create high quality jobs. We
5 want policy to create a good base line that
6 creates high quality jobs, coupled with the
7 empirical evidence largely from the minimum wage
8 that there unlikely to be significant employment
9 effects. I think that the bill is a modest bill
10 that will not hurt the economy.
11

12 COUNCIL MEMBER BREWER: Father, do
13 you - - . He needs a microphone.

14 REVEREND RAYMOND RIVERA: Thank
15 you. My name is Reverend Raymond Rivera. I am
16 chairman of the National Evangelical Latino
17 Coalition representing 3,000 churches nationwide
18 and here in New York City several hundred
19 churches--our affiliate which I'm president of,
20 the Latino Pastoral Action Center. I come to you
21 both in a spirit of humility and a spirit of
22 authority. Humility because I am not an economic
23 expert. I am not a labor expert. We certainly
24 have heard contradictory information from those
25 that are here that represent both sides of this

1 issue, but my authority doesn't lie in my
2 expertise. I come to you in the spirit of
3 authority from my faith tradition, and not only
4 mine as a Christian, but the Judeo, Islamic and
5 most faith traditions unequivocally speak about
6 our concern for the poor and our concern for low
7 wages, especially in the Judeo tradition, the book
8 of Leviticus and Deuteronomy has so many
9 protections for low wage workers and those of the
10 Jewish faith or the Christian faith I know it's
11 comfortable for you to dichotomize your faith and
12 say this is business, and this is my faith, but
13 that is not really acceptable in faith traditions.
14 You can't dichotomize your faith. We are supposed
15 to reflect our values and not departmentalize our
16 values depending on when it is most convenient to
17 us, so I speak from that faith tradition that God
18 is concerned about low wage workers. He certainly
19 is concerned about their health. He certainly is
20 concerned about paid sick leave. I want to
21 elevate this to a transcended spiritual reality
22 that is uncompromising and that is part of all
23 faith traditions and for those that don't have
24 faith traditions, I would appeal to the better
25

1
2 angels of their human nature or their higher self
3 or their humanistic instinct that is concerned
4 about the common good. I want to hope and trust
5 like many have said that they are all interested
6 in the common good, and everyone that have spoke
7 has spoken both from the business community and
8 from the labor advocate side are all interested in
9 the common good, but I have to again humbly submit
10 that I approach it with the - - of suspicion
11 because I know that the human condition can
12 deteriorate to greed, and certainly we have a
13 history of greed, and it would be a historical,
14 not really recognize the history of labor
15 relations in this country to say that most laws
16 that have come forth have not come forth out of
17 some great human instinct, but have been the
18 result of advocacy and struggle, and it is from
19 that authority perspective that I speak. So I
20 want to thank you for listening to me.

21 COUNCIL MEMBER BREWER: Thank you
22 very much. We love Council Member Fernando
23 Cabrera. We have a great respect for him, so I
24 know he is one of your colleagues. Doctor, go
25 ahead.

DR. LUELLA TONI LEWIS: Good

afternoon. Glad to be here. Thanks for allowing me to speak. My name is Dr. Luella Toni Lewis. I am a family physician and geriatrician board certified and also trained and licensed right here in New York State, and so I am here to talk from a physician's perspective today. And from a lot of physicians' perspectives this is an open and shut public health issue. As you can imagine, you will hear this from physicians in San Francisco and Washington D.C., who have a couple of years' experience with implementation of their own paid sick time laws. You will hear this from physicians in Seattle, Portland, Connecticut and Philadelphia, who cheered on successful votes in their legislatures, and you will hear a little bit from me here today and you will see it in the testimony I have submitted. The laws of New York City should be giving the same advice to our families and our workforce that I have given to my many, many patients. If you are sick you should stay home and take care of yourself. If you are really sick, you should come and see the doctor. It is really that simple from the physicians'

1 perspective. So we have seen far, far too many
2 patients wind up in the emergency rooms of New
3 York City, the most expensive and least effective
4 place to receive care because they held off
5 receiving the care they needed turning a
6 preventable or a manageable situation into a full
7 blow catastrophe, whose added costs affect all of
8 us. We have seen the single working mom in tears
9 when she brought her seven year old daughter into
10 the ER at 11:30 at night with a severe asthma
11 attack because she couldn't switch her shift or
12 take the day off or get her daughter or find
13 someone. We have seen this far too many times,
14 and then just to get to a little bit of a number--
15 we have heard a lot of numbers today, but the
16 Institute of Women's Policy Research supports
17 these anecdotes about emergency room care. They
18 found that 48,000 emergency room visits per year
19 in New York City could be prevented by giving
20 every worker the ability to earn paid sick time
21 from a combination of people who would stay at
22 home, rest and manage their conditions, so it
23 didn't require a medical intervention to patients
24 who sought care in a more appropriate venue. This
25

1
2 would reduce healthcare costs by 39.5 million a
3 year, including 28.4 million just to HHC, which is
4 passed on, so I see my time. I will be
5 disciplined and thank you for an opportunity.

6 COUNCIL MEMBER BREWER: Thank you
7 for all of your testimony. Go ahead, sir.

8 JORGE ORTIZ: Good afternoon. I
9 want to thank - - Council to have the opportunity
10 to testify here. My name is Jorge Ortiz. I am a
11 32 BJ member. It's on behalf of the thousands of
12 32 BJ members I speak today to support paid sick
13 days for low wage workers in New York City. Too
14 many hardworking men and women in New York City
15 struggle to make ends meet and lack paid sick
16 days. Without paid sick days, workers can be
17 fired, demoted or otherwise punished for taking
18 time off. Workers have the right to recover from
19 illness without being afraid or losing pay or even
20 worse losing their job. I have a friend who works
21 in the food line at a fast food restaurant. She
22 never called in sick because she is afraid of
23 losing her job, especially in this bad economy.
24 She says that all the employees she work with feel
25 the same way and come to work sick--sometimes

1 infecting each other, the customer and
2 contaminates the food. They know that they can be
3 easily replaced, and calling in sick means they
4 don't get paid. That will make paying the bills
5 that much harder. Everyday workers like my friend
6 find themselves having to choose between taking
7 care of their health or being able to provide - -
8 for their families. Workers depend on every cent
9 of their incomes - - . Too many workers live
10 paycheck by paycheck and live in fear of losing
11 their job if they call in sick. It is time to
12 pass paid sick days and give all workers the
13 benefits they deserve to take care of themselves,
14 their family, their co-workers and the public.
15 That is why 32 BJ urges City Council Members to
16 continue to stand up for low wage workers, so that
17 they never again have to choose between sick and
18 medical attention and losing a day's pay or worse,
19 losing their job. Thank you very much.

21 COUNCIL MEMBER BREWER: Thank you
22 very much, and I know that your vice president,
23 Shirley Aldebol had to leave, and she submitted
24 testimony for the record. Thank you very much.
25 Go ahead. Take as much as you need because I know

1
2 you are translation, and I thank you, thank you,
3 thank you. Go right ahead.

4 SELENA ALVAREZ (through
5 interpreter): Good afternoon. My name is Selena
6 Alvarez and I am a member of Make the Road New
7 York. I came from Mexico, Michoacán, two years
8 ago. In 2011, I started working at a taqueria in
9 9107 Corona Avenue in Elmhurst. I had to go into
10 work. I couldn't miss work because I didn't have
11 paid sick days. I was feeling ill. I went to see
12 the doctor on February 21st, and he said I was in
13 very bad shape, and I needed to stay in the
14 hospital overnight to be monitored. I ended up
15 staying in the hospital for four days because the
16 doctor said that I was not doing very well. When
17 I left the hospital, I had a heart monitor, and he
18 ordered me to rest for the next two weeks. I
19 called my employer - - , to tell him what
20 happened. When I told him what the doctor had
21 said, he told me he would call me back if there
22 was any work for me after two weeks of rest, but
23 he never called me back. In other words, I lost
24 my job just because I got sick and I couldn't go
25 back to work right away. I support paid sick

1
2 days because workers should be paid for the days
3 they miss when they or their family members are
4 sick, and workers should not be afraid of losing
5 their job just because they get sick. I am here
6 today asking City Council to take action on behalf
7 of thousands of workers without paid sick days.

8 Thank you.

9 COUNCIL MEMBER BREWER: Thank you
10 very much. I have a quick question for the
11 professor. There is this discussion about we can
12 only do paid sick days when the economy is better.
13 I am just wondering from your perspective do you
14 feel that it could be done at any time, and what
15 are the advantages or disadvantages from your
16 perspective?

17 RICHARD MCGAHEY: I think this is a
18 modest bill and could be done at any time. We
19 don't relax any discrimination laws or minimum
20 wage laws or health and safety regulations when
21 the business cycle goes up and down, so I think
22 that this is--that stems from my conclusion that
23 this is a very modest bill that is not going to
24 have significant costs on business. I don't think
25 you want to make regulations variable along the

1
2 business cycle.

3 COUNCIL MEMBER BREWER: Council
4 Member Halloran?

5 COUNCIL MEMBER HALLORAN: Thank
6 you, Madam Chair. I appreciate everyone on the
7 panel who has testified, but I would like to visit
8 Ms. Alvarez's testimony because only a portion of
9 it was read into the record, and I want to ask her
10 some questions about the statements she makes in
11 her full testimony to this Commission. I believe
12 your full testimony would have read, I came to New
13 York from Michoacán two years ago. I came because
14 my children are here, and I wanted to save money
15 to build a house for my family in Mexico. I have
16 worked in restaurants since I arrived because in
17 Mexico I have my own restaurant. When I first got
18 here, I thought workers in this country would
19 receive better treatment, like how I had treated
20 my workers in Mexico, but I found out that the
21 opposite is true and that many employees,
22 especially low wage immigrant workers are treated
23 very badly here in the United States. We work
24 very long hours for little pay, and I had a very
25 bad experience when I lost my job. Is that an

1
2 accurate rendition of what your statement is to
3 this committee as written in this testimony you
4 have handed up? Is that accurate?

5 SELENA ALVAREZ (through
6 interpreter): Yes, everything is complete.

7 COUNCIL MEMBER HALLORAN: I would
8 just point out that according to - - , who studies
9 economic conditions in various countries, 44
10 percent of Mexicans live in poverty, ten and a
11 half percent of them live in what is called
12 extreme poverty. The average Mexican makes \$7,000
13 a year. In the United States, 16 percent of the
14 country lives in poverty, 0.5 percent in extreme
15 poverty and the average salary is 42,971. We have
16 some of the most restrictive labor laws--

17 FEMALE VOICE: [interposing] I am
18 sorry. Can you just go a little bit slower--

19 [crosstalk]

20 COUNCIL MEMBER HALLORAN: In
21 Mexico, 44 percent of the population lives in
22 poverty and 10.5 percent lives in extreme poverty,
23 and the average salary is \$7,000 a year. In the
24 U.S., the average salary is \$42,000 a year, only
25 16 percent of the United States citizens live in

1 poverty and 0.5 percent live in extreme poverty.
2 Do you really feel that workers in the United
3 States are treated worse than they are in Mexico?
4 Is that really your testimony?

5
6 SELENA ALVAREZ (through
7 interpreter): She says, yeah, that she believes
8 they are.

9 COUNCIL MEMBER HALLORAN: Okay.
10 You are aware that this bill that is in front of
11 this body would not have saved your job because it
12 only lets you have five sick days, and then the
13 employer could terminate you?

14 SELENA ALVAREZ (through
15 interpreter): She says, she believed that this
16 bill will save her job. Currently she is working
17 at another place where she is working 12 hours a
18 day without no paid sick days, and actually in the
19 bottom it says that in her testimony where she has
20 to go into work not feeling well, and she has to
21 prepare food.

22 COUNCIL MEMBER HALLORAN: And that
23 is dangerous. I understand that.

24 SELENA ALVAREZ (through
25 interpreter): She is working 12 hours a day

1 making \$70 a day.

2
3 COUNCIL MEMBER HALLORAN: If in
4 fact conditions are worse than they are in Mexico,
5 I am sure that she should have a discussion with
6 her Council Member, potentially the Department of
7 Labor because I cannot imagine an instance where
8 an American worker is being treated worse than a
9 worker in the Republic of Mexico at this time, but
10 again, I appreciate her experience, and I would
11 just relay that even under this bill, you would
12 not be able to be out for two weeks, and still get
13 your work back.

14 COUNCIL MEMBER BREWER: Thank you
15 very much. I can't thank all of you enough for
16 waiting, for your testimony and for being here.
17 Thank you. Call the next panel, please.

18 MALE VOICE: Robert Sunshine,
19 National Association of Theatre Owners in New York
20 State, Lawrence Mandelker, New York Metropolitan
21 Retail Association, David J. Louie, Inc., Carolyn
22 Richmond, New York City Hospitality Alliance,
23 Andrew Mosall [phonetic], New York State
24 Restaurant Association. I am not sure if all of
25 these people are here. And Thomas Ferrugia, the

1
2 Broadway League Inc. I think some of those people
3 may have left.

4 COUNCIL MEMBER BREWER: Go ahead
5 whomever would like to begin.

6 LAWRENCE MANDELKER: Good
7 afternoon, members of the Committee. I am
8 Lawrence Mandelker. I appear on behalf of the New
9 York Metropolitan Retail Association, known as
10 NYMRA. Our members are national chain retailers
11 operating in the city. Because this bill would
12 unnecessarily link the admirable goal of providing
13 paid sick leave to the imposition of extraordinary
14 regulatory burdens--let me repeat that--because
15 this bill would unnecessarily link the admirable
16 goal of providing paid sick leave to the
17 imposition of extraordinary regulatory burdens
18 NYMRA opposes the adoption of this legislation.
19 My oral statement will merely list the burdens.
20 My written testimony will explain them. One,
21 retailers require the presence of all employees
22 during the days when inventory is taken and during
23 the make or break Christmas season. During these
24 blackout periods, no paid sick leave should be
25 permitted, and I talk about that at length, and

1 offer a fix in the appendix to my written
2 testimony. Seasonal workers too--seasonal workers
3 are hired to allow full time workers to take
4 vacation or to help during blackout periods. It
5 would undermine the whole purpose of hiring
6 seasonal workers to allow them to accrue and take
7 even unpaid sick time. Three, paid sick leave
8 should not be given to employees who fail to
9 provide reasonable notice of the need to use paid
10 sick time when such need is foreseeable and as
11 soon as practicable where it is not. Four,
12 transferees should not be able to carry over
13 accrued paid sick time unless they are
14 transferring between two locations located within
15 the city of New York. Next one, a separated
16 employee should not be able to carry over accrued
17 unused paid sick time unless he is rehired by the
18 same employer within 60 days, not six months, and
19 the separation and rehiring are respectively from
20 and to a job site located within the city. Next
21 one, paid sick time should not be allowed to
22 either care for or help a family member keep a
23 medical appointment unless the family member's
24 name, address and relationship appear on the
25

1
2 employee's personnel records. Next, until she has
3 provided the employer with reasonable
4 documentation of the need for such absences no
5 employee should be entitled to receive paid sick
6 time if she is absent for at least two consecutive
7 days, not three, two consecutive days or for an
8 aggregate of three days within any two week
9 period. Next one, an individual claiming to be
10 egreged [phonetic] must file her complaint with
11 DOHMH within six months of the alleged violation,
12 not 18 months. In case of an audit, the
13 complainant's name must be disclosed. I have
14 never heard an audit, where the auditor doesn't
15 tell the auditee [phonetic] what the object of the
16 audit is. Next one, a notice of violation by
17 DOHMH should identify the complainant and set
18 forth the facts constituting the alleged violation
19 with particularity. It should have to certify--
20 this is DOHMH--it should have to certify that
21 there is a good faith basis to proceed with the
22 proceeding. Next one, no employee should have a
23 right to go to court unless she complains to DOHMH
24 and her complaint has been determined. She should
25 then have only 90 days to go to court, and

1 finally, counsel fees in the event of a judicial
2 proceeding, counsel fees should be awarded to
3 whoever prevails, be it employee or employer.
4 That is the rule in the United States civil rights
5 act. That is the rule even in landlord and tenant
6 courts under the RPAPL. Thank you for your time.
7 My written testimony really explains this and
8 analyzes this at greater length 'cause this is a
9 larger conversation.
10

11 ANDREW MOSALL: Good afternoon now.
12 My name is Andrew Mosall. I am the political
13 director for the New York State Restaurant
14 Association. We are by far the largest restaurant
15 association of its kind in New York State
16 representing about 5,000 members here in the city.
17 I won't rehash what a lot of the great arguments
18 my colleagues have made. I just want to touch on
19 a few things that I think merit a little further
20 discussion. Obviously, the cumulative expenses,
21 the inappropriateness of the Health Department
22 handling these cases have all been touched upon.
23 I would again--Council Member Brewer, I would beg
24 you if you were to make one substantive change to
25 this to remove the private right of action, which

1 has also been expounded upon at great length. It
2 seems from some of your comments about San
3 Francisco your intention is to have most of these
4 resolved amicably between a discussion of the
5 Department of Health or whatever entity ends up
6 handling the cases. That simply cannot be the
7 case if there is a private right of action the way
8 it is stated in the bill now. The restaurant
9 industry is already under siege by wage an hour
10 suits, some of them legitimate, some of them not,
11 the AMA suits--Americans with disability suits--
12 and others. This would only add to that cottage
13 industry. The other point that I wanted to make
14 is that in the discussion about the economic
15 impact of this, it sort of--we have been talking
16 about in terms of sort of a nuclear option. Will
17 jobs be lost? Will businesses close? The picture
18 is much more complicated than that. There is a
19 study actually that was conducted albeit not
20 conclusive by the Employment Institute of
21 Washington of Connecticut's relatively new paid
22 sick leave law, and they surveyed about 150
23 businesses. About 80 of them have said that they
24 are going to take action in response to the bill.
25

1 About half of those were going to take actions
2 against their employees, and I'll list them now.
3 19 said they would raise consumer prices, 17 said
4 they would scale back other benefits, 16 said they
5 would restrict expansion with Connecticut, 14 said
6 they would scale back on vacation leave, 12 said
7 they would reduce employee hours, 7 said they
8 would require employees to pay more into their
9 health insurance, 6 said they would fire or lay
10 off employees, 6 would reduce wages, 5 would
11 expand elsewhere outside Connecticut, 3 would
12 convert part time to full time positions--oh, I'm
13 sorry, the opposite, and 2 would replace employees
14 with temps and 1 would scale back hours of
15 operation. So business is a zero sum game, and
16 this is going to cost businesses money. Will it
17 cause abundant layoffs? That remains to be seen,
18 but the fact is that if you are having someone who
19 is earning ten dollars an hour above minimum wage,
20 and now they get five paid sick days, the employer
21 is going to reduce that to nine or eight dollars
22 an hour. It is not because they are bad people.
23 It is just because they have a business to run,
24 and that is unfortunately the way it works. So
25

1
2 there could be cases where somebody is already
3 making federal minimum wage and they don't have
4 paid sick days and they have no other benefits and
5 maybe that will help out a few of these people,
6 but it is going to have real economic impact and
7 cause hardships that I don't think even the
8 proponents of this bill are considering. Thank
9 you very much.

10 CHAIRPERSON NELSON: Thank you, Mr.
11 Sampson [phonetic]. I'm not saying you are not
12 telling the truth. I am just saying if the stats
13 are correct then it's a compelling argument hence
14 the reason for these meetings, hence the reason
15 that any criticism of the Speaker prior is really
16 bogus because it's better to do this than rush to
17 judgment. That is why these meetings are
18 important.

19 LAWRENCE MANDELKER: Mr. Nelson, if
20 I could just add this to your comment about the
21 Speaker--

22 CHAIRPERSON NELSON: [Interposing]
23 Your name is on the record already, right?

24 LAWRENCE MANDELKER: Yes, it's
25 Lawrence Mandelker.

2 CHAIRPERSON NELSON: Alright.

3 LAWRENCE MANDELKER: This is an
4 incredibly difficult issue because nobody in their
5 right mind is against giving paid sick leave. The
6 question is what about the regulatory - - that
7 comes from it, and I believe that the Speaker and
8 others in this body have really, really thought
9 about this. I believe that everybody is acting in
10 good faith, and we are in the political season.
11 We understand that, but I think people are acting
12 in good faith and the Speaker and this Committee
13 and you and Council Member Brewer and Council
14 Member Halloran all should be commended because
15 you are really taking your responsibilities
16 seriously, and you are really trying to do what is
17 right.

18 CHAIRPERSON NELSON: Thank you, Mr.
19 Mandelker.

20 ROBERT SUNSHINE: I want to thank
21 Chairman Nelson and Councilman Halloran not only
22 for the opportunity to address you, but for
23 remaining here after several hours. It is very
24 frustrating on our part. I have been before these
25 Council hearings on many occasions, and the three

1 of you, this is the most I have ever addressed, so
2 I am happy for that. Councilwoman Brewer, I
3 really have to commend you and thank you for your
4 total patience on all of this and for meeting with
5 us and listening to our comments and our arguments
6 and understanding them, so we thank you for that.
7

8 Good afternoon. My name is Bob Sunshine. I am
9 the executive director of the National Association
10 of Theatre Owners of New York State. We are a
11 not-for-profit organization. We represent about
12 54 movie theaters and about 1800 employees in the
13 five boroughs. NATO, our group, does not oppose
14 the concept of paid sick leave. I repeat it. We
15 do not oppose the concept of paid sick leave, but
16 we oppose this administratively burdensome,
17 significant costly and excessive punitive
18 legislation. We want our employees in our
19 theaters to be happy. We need them to be happy,
20 so we don't fire our employees when they are sick.
21 We provide flexible work hours, flexible
22 schedules, and most of our workers are part time
23 workers. We let them swap shifts. They take the
24 time off if they are ill when they need it, and
25 without fear of losing their job or missing any

1 paychecks. We all support the laudatory
2 intentions behind this measure and businesses of
3 every stripe can agree that no one should be fired
4 for being sick, but we feel that this is the wrong
5 approach, the wrong bill at the wrong time. Under
6 this bill, we would have to track every short term
7 employee from day one to see if they accrue the
8 right amount of time to qualify for paid sick
9 leave. What about exemptions? Other states have
10 exemptions for students, independent contractors,
11 certain healthcare workers, tipped employees, et
12 cetera, et cetera. In this bill it provides for
13 exemptions for only federally worked study
14 students. It doesn't work for us. We have many
15 students who are credited to colleges and who work
16 for us, but they are not in federal programs. New
17 small businesses are also exempted, but only for
18 the first year. Even worse, this bill states that
19 you must still provide five unpaid sick days to
20 all employees, so in effect, there really is no
21 exemptions the way this bill is written. Also
22 under this bill an existing policy must have the
23 same accrual requirements and provide leave for
24 the same purposes. This means that companies that
25

1
2 have paid sick policies if they do not accrue the
3 same way that this law reads, they then have to
4 add the five sick days. In effect what we are
5 doing is we are going to make these other
6 companies who probably have better opportunities,
7 better vacation time, better sick time give them
8 up because of the way this is worded. I just want
9 to end it by saying the if point of this bill is
10 to prevent employees from being fired when sick,
11 then please do not interfere with businesses who
12 do not fire employees when they are sick. If a
13 company already has a paid sick policy, but does
14 not have the same accrual policy, it is not going
15 to pass muster. We have very serious concerns
16 with the enforcement by the Health Department, the
17 private right of action and the steep fines. In
18 summary, this bill is much more difficult
19 administratively and financially. In 2010 Speaker
20 Quinn recognized that the bill had the wrong
21 approach and came out at the wrong time.
22 Resisting it then by her was brave; resisting it
23 now in an election year is profile in courage. We
24 urge other members of the Council to summon the
25 courage to resist this bill. Thank you.

1
2 CHAIRPERSON NELSON: Thank you, Mr.
3 - - . We appreciate your time. Council Member
4 Halloran?

5 COUNCIL MEMBER HALLORAN: Thank you
6 all for being here, and I am sorry I am one of the
7 three that you have to be in front of, but let me
8 start off by asking as I did to another panel of
9 people who were opposed to this bill. If we were
10 to sit down and compromise on this bill, could you
11 tell us what the areas most in need of compromise
12 are? I have outlined four that I think are the
13 most important, but I'd like to know if there is
14 room for compromise, what those areas would be and
15 what they would need to be in order for this to be
16 a functional bill in terms of satisfying the
17 majority of your concerns, understanding that
18 political compromise is never a neat and clean
19 thing.

20 ROBERT SUNSHINE: Thank you for the
21 opportunity for responding to that. Number one,
22 the accrual. We would like 180 days of continuous
23 employment to accrue. We think that that is very,
24 very important. We think that the interpretation
25 and the description of what a part time student is

1 should be changed. It shouldn't just be one that
2 is in a federal program. We also believe that an
3 employee can utilize paid sick leave after six
4 months of continuous employment as to 90 and 120
5 that is under the bill. We feel that people who
6 only work for two or three months, leave a job,
7 and then come back should not be able to get that
8 to continue. It should start right from the
9 beginning. With regard to work shifts, we are
10 certainly in favor of it if a person can change a
11 work shift and make up the time and not lose pay.
12 We do that in our theaters not only in New York,
13 but all over the country. The reason we are a big
14 employer of part time people, students and
15 retirees is because of our flexible work policy,
16 so I think this would work very, very well. Would
17 either of you like to add?

19 ANDREW MOSALL: We share many of
20 the same concerns as the movie theater industry.
21 I expressed my concern in the comments about the
22 private right of action, which has been a serious
23 concern of many of the panel members. I would
24 like to see that completely stricken and the fines
25 removed. I believe Council Member Halloran, you

1
2 made a point of saying that I have spoken with
3 many Council Members both privately and on other
4 committees who are aghast at the amount of fines
5 faced by small businesses and to their credit,
6 they are actually now taking substantive movements
7 to change some of those overly regulatory burdens
8 on our small businesses, and now they want to
9 impose even more fines and more difficult fines.
10 Both the accrual system and how the regulations
11 about how those records have to be kept are
12 tremendously burdensome on the restaurant
13 industry, which is probably the most labor heavy
14 industry at least in terms of the amount of
15 different employees that go through a business at
16 any given time and keeping track of who is a part
17 time employee, how many hours they have to be at
18 work to accrue that and then actually having an
19 hourly system of taking their sick time doesn't
20 make sense for the restaurant industry because the
21 way the bill is written now, I can actually be in
22 my shift four hours, and decide that I am sick and
23 go home, and that counts hourly where that doesn't
24 work for the restaurant industry. Where am I
25 going to get another waiter in the middle of a

1 shift in the middle of the day? Barring maybe
2 extraordinary circumstances, we would much rather
3 have that worker have to call in in the beginning
4 of a shift. These are all very technical things,
5 but these are the minutiae of the bill that are
6 going to make it work or not, and I also echo some
7 of what my other colleagues said about much more
8 drastic measures of creating some kind of system
9 where both the employees, maybe the government and
10 employers can opt into whether that can be done at
11 the City Council or the state level, whichever is
12 more feasible.
13

14 ROBERT SUNSHINE: Councilman

15 Halloran, the way the bill is worded now if you
16 work on a Tuesday and Thursday for instance, you
17 could literally call in for Wednesday, a day that
18 you are not working, and you can get a sick day
19 and get paid for it. That is something that
20 should be looked into.

21 LAWRENCE MANDELKER: The members at

22 NYMRA are unlike many of the other employers who
23 have testified here because they are generally
24 larger employers, and they have sophisticated
25 record keeping capabilities and they have large

1 employment forces, and what happens is when
2 somebody is out except in certain instances where
3 you hire a replacement, it is just that the burden
4 shifts to other workers, and they do the work.
5

6 There are two industry specific complaints that we
7 have with this bill. One is the whole issue of
8 seasonal workers, and I have explained that at
9 length in the written testimony, explained why it
10 is bad and the reason it is bad is these are make
11 or break periods--inventory, Christmas season, and
12 there is a definition of how you do that, and it's
13 not that nobody is allowed to take leave. It's
14 that the leave is really at the employer's
15 discretion because it is all out bedlam during
16 those periods of time. The second thing has to do
17 with seasonal workers, first thing is blackout
18 periods, the second is seasonal workers 'cause we
19 use seasonal workers, and the whole reason for
20 seasonal workers is to allow the permanent, the
21 full time workers--well not even full time, full
22 time or part time, the permanent workforce to go
23 on vacation while maintaining a level of service,
24 and secondly, the supplement the permanent force
25 during the Christmas season, so those are very,

1
2 very important. The rest of the complaints I have
3 outlined them are - - . One, to make the taking
4 of paid sick leave to have as much reasonable
5 notice to the employer as practical, so that they
6 can make arrangements to cover the shift, do
7 whatever, and the second thing, and this is the
8 documentation period, if you are going to be out
9 two days, it is not unreasonable to say
10 documentation or three days after in two weeks.
11 One of the witnesses testified at the car wash
12 said he didn't have a problem bringing a doctor's
13 note or what have you. The last thing, and I am
14 not going to go over it time by time by time
15 'cause the hour is late, but it is really the
16 whole issue of the complaint resolution mechanism,
17 the lawsuit mechanism. You want to make a more
18 level playing field, and you say why should you
19 make a more level playing field between a poor
20 worker and a well to do employer? And the answer
21 is that the poor worker is dealing with himself or
22 herself and the employer is dealing with a bunch
23 of poor workers, so it sort of evens out, and I
24 wouldn't attempt to quote scripture as the
25 distinguished priest who appeared before us, but

1
2 it says in Deuteronomy don't favor the poor and
3 don't favor the wealthy. Justice shall you give
4 them. It is a complicated thing, and we just ask
5 that the members of the Council hear us and
6 address us, meet us part of the way. Nobody wants
7 to deprive people of a right to take paid sick
8 leave when they are sick--at least not from our
9 perspective. We are not going to fall out of
10 business if people get it. We already give it.

11 COUNCIL MEMBER HALLORAN: Mr.
12 Mandelker, I appreciate that, and I am going to
13 turn it back over to our Chair. Of course, you
14 and I would benefit for more litigation as trial
15 attorneys I'm sure, but we both know that your
16 recommendations are really reasonable asks for
17 this body, and I just point out to our friends in
18 both the restaurant association and to the
19 theaters association, I was with you before on 32
20 ounce sodas. I will be with you again on these
21 paid sick leave issues, and we at least won one
22 victory before. Let's look forward to a second
23 here.

24 LAWRENCE MANDELKER: If you promise
25 not to tell the Bar Association what I said, I

2 promise that I won't tell them what you said.

3 CHAIRPERSON NELSON: - - missing
4 the St. Joseph feast today that I was supposed to
5 be at. I'm not Catholic, but I was going to go.
6 Thank you so much. Thank you, gentlemen. The
7 next panel Robyn Overman [phonetic] GMHC, the Gay
8 Men's Health Crisis, Maria Castaneda, SEIU 1199,
9 Sherry Leiwant, A Better Balance, Anne Bove, New
10 York State Nurses' Association, and Douglas Hall,
11 Economic Policy Institute from Washington D.C.
12 Would you all please come up? - -

13 DOUGLAS HALL: I appreciate the
14 opportunity to speak with you today. My name is
15 Douglas Hall. I am the director of Earn
16 [phonetic] at the Economic Policy Institute. Earn
17 is a network of primary state, but also local
18 based organizations that are committed to lifting
19 up working families and achieving greater shared
20 prosperity. The purpose of my testimony today in
21 support of this bill is very simple. I just want
22 to sort of reiterate some of what has already been
23 said about the fact that there is a very solid
24 economic case to be made for passing paid sick
25 leave legislation. I think it is really important

1
2 to emphasize in particular the fact that not very
3 many folks have been really pounding home the fact
4 that there are very good sort of economic pluses.
5 There has been a lot of focus on the potential
6 downsides of this, but the fact that things like
7 increased productivity, reduced presenteeism
8 [phonetic], reduced turnover. Those are real
9 things that real business people can and should be
10 concerned about. So what we have done at the
11 Economic Policy Institute, we released a report
12 back in October, paid sick days measuring the
13 small cost for New York City businesses. If you
14 haven't seen it, I recommend you take a look at
15 it. What we basically do here is we rely on U.S.
16 Census Bureau economic census data, and it tells
17 us a lot about the extent to which wages and
18 salaries are a major cost for employers by sector
19 and the extent to which therefore you would see
20 additional costs, and I think what is really
21 important to note is that if you look across all
22 sectors, it does vary by sector. Here in New York
23 the cost of implementing this bill we suggest
24 ranges from 0.06 percent of total income in the
25 wholesale trade sector to .54 percent of

1 administrative support. So we are not talking six
2 percent. We are not talking 60 percent. We are
3 talking about very small fractions of percentages.
4 The reductions in costs are real. There has been
5 a lot of concern expressed about the fact that
6 this is not perhaps the best time to be passing
7 legislation that imposed additional costs on
8 business. I think one of the really points is the
9 fact that we are dealing in a vulnerable economy
10 makes this exactly the right time for low income
11 workers who have seen their wages eroded over time
12 and whose power relative to their employer has
13 been eroded by a weak economy. This is the right
14 time for New York City to step up and be a leader
15 along with those other cities that we have heard
16 mentioned today. There is lots of good reasons,
17 and I am happy to take any questions you might
18 have.
19

20 CHAIRPERSON NELSON: Thank you. We
21 will go through the panel, and then my colleagues
22 may ask a question.

23 [background conversation]

24 COUNCIL MEMBER HALLORAN: Just one
25 question, very briefly. I understand the sense of

1
2 urgency in getting this done because some people
3 feel that this has been on the table for a while,
4 but you would at least concede that as we are
5 doing this we should get it right the first time
6 and not create a myriad of complex hoops for
7 businesses to jump through that we may have to
8 change because Department of Health, which has
9 already told us they are not prepared to do this
10 if it gets passed may have to pass the buck off to
11 DCA or to another agency. I mean you do want us
12 to at least make sure we can implement this in a
13 meaningful way and not have to come back and
14 reevaluate the wheel. You want us to do it right
15 the first time, right?

16 DOUGLAS HALL: Certainly. Doing it
17 right the first time makes a lot of sense. If I
18 read the tracking on this bill correctly it has
19 been in the process for three years now. I think
20 probably folks had a time to get their views out
21 there and iron out some of those wrinkles.

22 COUNCIL MEMBER HALLORAN: Fair
23 enough. [off mic]

24 CHAIRPERSON NELSON: Thank you.
25 Thank you again.

1
2 : Good afternoon. My name is
3 Maria Castaneda. I am secretary treasurer of
4 1199, united healthcare workers east. We
5 represent 50,000 members in the five states, New
6 York, New Jersey, Maryland, D.C., Massachusetts
7 and Florida. I am here to add our union's voice
8 in the previous speakers that is in support for
9 the paid sick leave. For the first time in U.S.
10 history women comprise half of the workforce.
11 Females are the primary or core bread winners in
12 close to two-third of American households. In
13 1199, 80.5 percent of our members are women. In
14 the homecare division 97 percent of the 65,000
15 members are women. Home care is a growing
16 industry where without a union workers earn
17 minimum wage and lack benefits. If they don't go
18 to work, they lose their assignment, and with it,
19 their income. These workers often find themselves
20 choosing to pay attention to health needs or going
21 to work. They send their sick kids to school not
22 because they are bad parents, but because they
23 know that losing their assignment will mean loss
24 of financial security to provide food and shelter
25 for their family. It shocked our conscience that

1 in New York City people have to make these
2 choices. Paid sick days is not a financial, - -
3 or political issue. It is a moral on too.
4 Workers want to be productive members of our
5 society, and they do not feel they need to neglect
6 their health or - - their loved ones in order to
7 keep their jobs. For this reasons unions have
8 historically fought to secure better benefits for
9 workers. Most people in this room - - get a five
10 day workweek, benefits and overtime and paid sick
11 leave because of unions. The City Council has the
12 power and obligation to address disparities and
13 ensure fairness and justice for all New Yorkers.
14 On behalf of the 1199 members, we ask that you
15 raise the bar for workers protection by enacting
16 this bill 97 because it's the morally correct
17 thing to do. Thank you.

18
19 CHAIRPERSON NELSON: Thank you, Ms.
20 Castaneda.

21 SHERRY LEIWANT: I thank you. My
22 name is Sherry Leiwant. I am co-president of A
23 Better Balance, which is a legal advocacy
24 organization whose mission is to promote equality
25 and expand choices for men and women at all income

1 levels so they can care for their families without
2 sacrificing their economic security. I thank you
3 for the opportunity to testify on behalf of this
4 important bill, introduced by Council Member Gale
5 Brewer and endorsed by 38 Council Members. This
6 is my third time testifying in support of this
7 bill. In that time, there have been a lot of
8 changes. For one thing, many more jurisdictions
9 have passed paid sick days as you have heard
10 joining the District of Columbia, San Francisco
11 and Milwaukee, which had passed it when we had
12 first introduced this bill in 2009. We know have
13 the cities of Seattle, Portland, Oregon and
14 Philadelphia having passed the bill, paid sick
15 days legislation as well as the state of
16 Connecticut. Our bill is very similar to the
17 bills that are in all of those municipalities and
18 have been introduced in 20 more, so it's not just
19 the ones that have passed. There will be more as
20 we sit here, and you have also heard about the
21 success of the bill in San Francisco. There are
22 no real complaints there. The other thing, and
23 there has been job growth and no harm to the
24 economy. The other thing that has happened since
25

1 we first introduced the sick days bill in 2009 is
2 that it has been amended and amended and amended
3 again. We and members of the coalition in support
4 of paid sick days most of all Gale Brewer and
5 many, many Council Members have spoken and met
6 with most of the business leaders who have
7 testified today to hear their concerns and to
8 change aspects of the bill. There have been 20
9 business friendly amendments made to this bill. I
10 know that I don't have time to go through all of
11 them, but I just want to say that we have done a
12 carve out of under-five businesses, that 64
13 percent of businesses in New York City, we have
14 brought down the number of days to five days a
15 year, making this a much weaker bill than others
16 that have passed. We have made it very clear that
17 any kind of leave will count. There are not
18 reporting requirements. I have heard a lot about
19 reporting requirements. There are no reporting
20 requirements, and I also just--I know I am out of
21 time, and I can't go through all of them. We
22 added the administrative remedy in conjunction
23 with the Council because there were complaints
24 from the business community that only having a
25

1 court remedy would be a real problem for them,
2 which we totally understand. Everyone understands
3 that, and that is why there is an administrative
4 remedy in the bill. I just wanted to make one
5 other correction. Council Member Halloran had
6 mentioned that Con Ed was excluded from this bill.
7 That is not the case. We heard from Con Ed that
8 they were worried that people might call in sick
9 when there were emergencies and they need their
10 whole workforce, and we know we have experienced
11 that in New York. We want to be sensitive to that
12 so there is an exception when there is a
13 publically declared emergency, this bill is
14 suspended, but they are not excluded. So I just
15 wanted to make that point.
16

17 CHAIRPERSON NELSON: Thank you, Ms.
18 Leiwant. Is it Robin or Anne next?

19 ANNE BOVE: Hi. My name is Anne
20 Bove. I'm a registered nurse who works at
21 Bellevue Hospital the past 35 years, and I am the
22 secretary of the board of directors, New York
23 State Nurses' Association, and I am here to say
24 the New York State Nurses' Association supports
25 the paid sick time act that has been recently

1
2 amended by the City Council and is still waiting
3 for vote after it was introduced, and that number
4 is 97 from 2010. The reason we support this bill
5 is that because lack of paid sick days for any
6 individual has major implications in terms of
7 public health. Without paid sick time, employees
8 who are ill are more apt to continue working,
9 therefore exposing co-workers and the public to
10 contagions especially in New York City's congested
11 subways, food service establishment and work
12 sites. When people don't seek medical care when
13 they are ill their conditions can worsen, leading
14 to complications and usually greater expense.
15 Employees who are ill and out of work for longer
16 periods of time subsequently results--early
17 intervention prevents unnecessary hospitalization
18 and delivers better outcomes. When people become
19 ill and cannot take away from work to visit a
20 doctor or to recover, they become sicker and are
21 forced to visit emergency rooms, adding already to
22 overcrowded conditions facing New Yorkers in our
23 ERs. Sick children get sicker and infect peers
24 and teachers ins schools and playgrounds and
25 parents can't take time off to take children to

1
2 the doctor, to stay home with them while they get
3 better. People need care after hospitalization
4 and getting to medical appointments can be
5 difficult if time is not allowed. Most hospitals
6 and doctors' appointments happen during working
7 hours. One should not have to choose between
8 helping a loved one or one's job, so NYSNA calls
9 upon the Speaker to bring the paid sick time bill
10 to a vote. Thank you.

11 ROBYN OVERMAN: Good afternoon. My
12 name is Robyn Overman, and I am the director of
13 human resources at Gay Men's Health Crisis. Thank
14 you very much for the opportunity to testify
15 today. For over 30 years GMHC has been fighting
16 the AIDS epidemic. On behalf of our over 10,000
17 clients I am here to urge the City Council to vote
18 on and pass the earned sick time act. Not only is
19 this act important to preserving the health and
20 employment of New Yorkers living with HIV, it is
21 also simply the right thing to do. When asked the
22 most important reason why they support earned sick
23 time, many of our clients reply that they are
24 afraid of catching a cold or flu from other New
25 Yorkers. Because of their HIV status, our clients

1 have compromised immune systems that are more
2 susceptible to infection. Sharing crowded space
3 on the subway or eating food handled by people who
4 are sick and cannot stay home because they do not
5 earn sick time could result in an expensive and
6 life threatening illness. Without earned sick
7 time, many New Yorkers with HIV are forced to
8 choose between staying home to care for themselves
9 and risking their access to expensive and
10 lifesaving medications. Adhering to a strict
11 medication regimen is critical to not only
12 preventing the progression from HIV to AIDS, but
13 also to preventing the further spread of this
14 epidemic in our city. Finally, as a human
15 resources professional for over 20 years who has
16 worked with many employees affected by HIV, I am
17 passionate about earned sick time. New York City
18 is the birthplace of laws and regulations that
19 provide the most basic rights and protections to
20 low wage workers. Despite this history, we now
21 law behind many cities across the country and
22 around the world that ensure their workers are not
23 docked wages or even fired simply because they
24 need time to care for their health. Access to
25

1
2 earned sick time should not be dependent on
3 whether someone happens to work for an
4 organization like GMHC that voluntarily provides
5 it. GMHC urges the City Council to vote on and
6 pass the earned sick time act. Thank you very
7 much.

8 CHAIRPERSON NELSON: Thank you, Ms.
9 Overman. Yes? Councilman Halloran?

10 COUNCIL MEMBER HALLORAN: My
11 question is for Ms. Castaneda of 1199. Your
12 organization engages in collective bargaining.
13 Now according to the testimony of Kevin Finnegan
14 from your organization who was here earlier, your
15 union has negotiated collective bargaining
16 agreements that did not contain paid sick leave.
17 If it was so important that paid sick leave be
18 passed by this body, why has your organization
19 negotiated contracts where paid sick leave was not
20 part of the negotiations?

21 MARIA CASTANEDA: We have many
22 contracts that we have paid sick leave, but we
23 have homecare members that don't have sick time,
24 and in this growing in the changes in the
25 healthcare industry, the models of healthcare, we

1
2 anticipate that there will be thousands of people
3 that will be doing homecare work and they don't
4 have sick time.

5 COUNCIL MEMBER HALLORAN: You do
6 acknowledge that your organization, which engages
7 in collective bargaining has in the past
8 negotiated collective bargaining agreements that
9 did not contain paid sick leave, but yet you are
10 coming here and saying it is absolutely essential
11 we do this, yet you didn't feel it was absolutely
12 essential when you engaged in hundreds of contract
13 negotiations in which it was not part of the
14 equation. Don't you think there is a little bit
15 of hypocrisy there coming to me and saying to me
16 as a legislator I must do this 'cause it is
17 essential for your workers, but you didn't think
18 it was so essential that you did it during your
19 contract negotiations? Just to be fair.

20 MARIA CASTANEDA: Our unions
21 negotiate healthcare benefits and paid sick time
22 for our members, but we are not--when we are
23 supporting this basically we are not just talking
24 about our members. We want to have - - workers in
25 New Yorkers have this paid sick leave because it

1
2 is the right thing to do, not just the 65,000
3 members that belongs to our union. We care about-
4 -

5 [crosstalk]

6 COUNCIL MEMBER HALLORAN: I would
7 just respectfully say that if it is the right
8 thing to do maybe you should have done it in the
9 collective bargaining agreements where you didn't
10 do it it. All I am saying is there is a hypocrisy
11 there.

12 [crosstalk]

13 COUNCIL MEMBER HALLORAN: The
14 second thing is this is to the whole panel, and
15 look, I am not saying I am opposed to this idea.
16 I am just saying we have to make sure that when we
17 do it we do it the right way. One of the things
18 that concerns me is that the new version of the
19 bill, Section 17-153, specifically addresses
20 collective bargaining agreements, and it says the
21 provisions of this chapter shall not apply to any
22 employee covered by a bona fide collective
23 bargaining agreement if two conditions are met.
24 One, the provision is waived, so somebody
25 expressly knows I am waiving my paid sick leave

1
2 opportunity here, and B, the rest of the agreement
3 provides for some form of a comparable benefit.
4 It could be vacation days. It could be blanket
5 ticket days, and then it goes on to define what
6 some of those are and not limited of course, but
7 holiday time, sick time, Sunday time, it lists a
8 whole bunch, but in the definition section when we
9 deal with the general public, not the collective
10 bargaining people, we don't have that provision.
11 We don't expressly spell out those kinds of
12 alternatives. Do you think it would be fair then
13 for us to say that if we are going to do it for
14 our unions and collective bargaining agreements it
15 would be fair for us to do it to our non-union
16 employees and give them the ability to provide a
17 comparable alternative in the paid sick leave
18 bill? Does anyone in the panel want to answer
19 that?

20 FEMALE VOICE: Yeah, I can answer
21 that at least partially. I think it is also clear
22 in the bill that all of these things, paid
23 vacation time, personal time, sick time, will
24 count as long as you can use it for sick time, and
25 that is what this was really meant to be, so I

1 think it is the same really. I totally think it's
2 very, very important that employers be able to
3 label or definite their time off policies however
4 they want, and that is the goal of this bill, and
5 we have changed it many times now to try to make
6 that clearer.
7

8 COUNCIL MEMBER HALLORAN: Any of
9 you be opposed to an employer saying I am
10 providing you with a bank of time, and not
11 defining what it has to be used for, but other
12 than emergencies when you are sick that morning or
13 you are hit by a car with some form of a notice
14 requirement?

15 FEMALE VOICE: [off mic]

16 COUNCIL MEMBER HALLORAN: That is
17 acceptable, panel. I appreciate that. Thank you.
18 I have nothing further, Mr. Chair.

19 CHAIRPERSON NELSON: Thank you.
20 Excellent questions. Thank you so much. Do we
21 have the next panel coming?

22 BARBARA YOUNG: Excuse me sir? I
23 joined the panel. Excuse me.

24 CHAIRPERSON NELSON: You were
25 called up originally?

1
2 BARBARA YOUNG: I am not sure. I
3 just thought that I would speak at 3:10.

4 CHAIRPERSON NELSON: What is your
5 name, ma'am?

6 BARBARA YOUNG: Barbara Young.

7 MALE VOICE: You haven't been
8 called yet.

9 CHAIRPERSON NELSON: It was going
10 so well. Okay.

11 [background conversation]

12 CHAIRPERSON NELSON: They are just
13 asking you to wait until the next panel which is a
14 pro panel. This is an anti-panel. We are doing
15 pro, con, pro, con. John Binizio [phonetic] of
16 the Five Borough Coalition, please and Rosina
17 Ruben [phonetic] Attitude New York, and William
18 Shuzman [phonetic], Allied Building Metal
19 Industries and Joseph Leo [phonetic], Atlantic
20 Contracting and the ICA of New York City and Lew
21 Coletti [phonetic], BTEA. If you want to start
22 from any particular order like John and moving..

23 JOHN BINIZIO: Sure. I'd be happy
24 to start. I'd like to just take a second before
25 my two minutes starts. Thank you for not pressing

1
2 that button so quick, to thank the three of you
3 that are still here for actually staying. I have
4 been here for five hours, and I have to tell you
5 that this is the last time that I will ever come
6 down to the City Council to testify because I feel
7 disrespected, not by you guys. You guys are
8 great. I have met with Ms. Brewer before. Dan
9 Halloran, who I have never met before happens to
10 be my Councilman, but I am--

11 COUNCIL MEMBER HALLORAN:

12 [interposing] And hopefully will be for the next -
13 - .

14 JOHN BINIZIO: Anyway, thank you
15 very much. My name is John Binizio--

16 CHAIRPERSON NELSON: [interposing]

17 I am sorry, John, if I just say this though in
18 fairness to many of my colleagues, there are so
19 many different conflicts going on between going to
20 functions in our community, which if you don't go,
21 people says he or she stinks because they never
22 shows up, and as I mentioned there is a St.
23 Joseph's Catholic Lawyers thing, and there is also
24 other meetings. I have a waterfronts meeting as a
25 matter of fact that began about an hour ago, but

1
2 since I am chairing this meeting I have to pass on
3 that. So in all fairness, it's a balance.

4 JOHN BINIZIO: I understand that,
5 and I also understand that - - preconceived
6 notions. My name is John Binizio. I am a Bronx
7 businessman and chamber member who also serves as
8 the chairman of the Westchester Square BID.
9 Personally, I am not opposed to the idea of sick
10 pay. I pay my employees 15 days a year. I am
11 however very much opposed to Intro 97-a for the
12 simple reason that this bill is not just about
13 earned sick pay. It is a wolf in sheep's clothing
14 and a true hidden tax that will retard job growth
15 and work against part time employment. Beyond the
16 sections of the bill that define eligibility and
17 time tabulations it is sections of the law that
18 give the Department of Health very intrusive
19 fining power over every business in the city. The
20 bill encourages fines starting at \$1,000 for the
21 most minor of infractions and while there are no
22 provisions in the law for punishment of an
23 employee who is later determined to have made
24 false accusations against an employer, there are
25 provisions for a tribunal to fine employers to

1 encourage whistleblowing, and for the city to make
2 moral judgments and online posts of companies it
3 deems to be of bad moral character, and there is
4 no way to guarantee that an employee's use of this
5 time will actually be used for its intended
6 purpose. It may very well come to pass, and I can
7 tell you as a businessman that it always does,
8 that people will use days for other purposes once
9 they are earned and then when they actually get
10 sick, they will not be able to take off, and they
11 will still go to work sick. This bill provision
12 to count heads instead of accumulating employee
13 hours is also disturbing. It discriminates
14 against employers who hire part time workers, such
15 as mothers or auditioning actors and students, and
16 it will severely discourage the hiring of such
17 individuals. Worst of all this bill has been
18 drafted--and I'll finish up--with an us versus
19 them approach. The need for law enforcement
20 doesn't justify such a massive level of intrusive
21 monitoring. This bill is aimed squarely at the
22 struggling small business community, the sector of
23 our economy that generates two-thirds of the
24 city's jobs. These businesses should be nurtured
25

1
2 for their efforts, not picked apart to fill the
3 city budget. They should be recognized for the
4 greater good they provide to the job market, not
5 used as pawns in a game of budgetary gotcha. It
6 is wrong to throw them all into a box with a
7 caution label upon it for in the end we are all
8 going to pay the price for that. The Speaker is
9 right to be concerned about this bill, and as the
10 leaders of your districts and the businesses you
11 represent so should every member of this Council.
12 Let's not forget businesses are constituents too.
13 Thank you,

14 CHAIRPERSON NELSON: Good points.

15 Thank you, Mr. Binizio.

16 ROSINA RUBEN: My name is Rosina
17 Ruben, and I am a small business owner. My
18 husband and I run a chauffeur transportation
19 service that employs 70 people. In 20 plus years
20 of operating 24-7, 365, we have remained open
21 through blizzards, blackouts, hurricanes and 9/11
22 possible in no small part because of our
23 hardworking and dedicated staff. It is truly
24 puzzling that you would think that we and other
25 small business owners like us would not do

1
2 everything we can afford to compensate their
3 efforts. Longtime personal relationships aside it
4 is just plain good business to offer the best
5 possible compensation package along with flexible
6 scheduling. Often times compensation is custom
7 fitted to the different needs of individual staff
8 members. In 2012, the sales revenue of our
9 business was 80 percent of what it was in 2007,
10 yet our rent has quadrupled, utilities have
11 tripled and vendor costs have risen significantly.
12 Several years ago our bank credit line was
13 cancelled even though we have never missed a loan
14 payment or bounced a check. Five years ago we
15 made a commitment that anyone who was doing their
16 job would keep their job. The only way to keep
17 our promise in this economy was to go weeks,
18 sometimes months without a paycheck for ourselves,
19 a practice which has not been uncommon for many
20 small business owners during this slow lurching
21 recovery. Our cash reserves both business and
22 personal have been drained. The financial
23 challenge created by this bill in its current form
24 would likely force us to cut jobs and to reduce
25 other benefits to current employees. Perhaps the

1 most glaring example of the absence of real input
2 from small businesses in the crafting of this
3 legislation is the section on recordkeeping. I
4 don't know anyone who tracks time worked in 30
5 hour increments to pay sick time in one hour
6 increments. Doing so would be a cumbersome and
7 expensive process for most. In general, I don't
8 think that imposing mandates on small business is
9 a good idea. I believe that business owners can
10 and will better allocate resources if we are less
11 burdened by such constraints, but if you feel you
12 must push this bill, why exempt even the smallest
13 businesses? If providing paid sick leave is part
14 of the cost of hiring in New York City, then so be
15 it. When a job is created in addition to the
16 actual salary all employers have to factor in the
17 cost of payroll taxes, unemployment insurance,
18 disability and worker's comp. So why not add paid
19 sick leave to the list? If this bill is passed,
20 many small businesses will choose instead to
21 utilize freelance workers. Not only will these
22 freelancers be without the benefit of paid sick
23 leave, they will be without any of the benefits of
24 full time employment, and as self-employed workers
25

1
2 they will be personally liable for twice as much
3 in payroll taxes. In fact, in this new tech age
4 where people can work remotely from anywhere the
5 freelancers may not even be New Yorkers. Elected
6 officials often speak of the importance of small
7 business to the recovering economy. If you
8 believe that to be true, this is not the time to
9 add the additional burdens imposed by the bill
10 under consideration today, and I would like to add
11 to Mr. Halloran's point that he made earlier. If
12 my business were able to achieve a 12 percent
13 profit margin, I would jump for joy. In 2012, our
14 profit margin was two percent and for the three
15 years prior to that we operated at a loss. Even
16 if it is true that it only will cost an additional
17 \$0.18 per hour for my employees that will add
18 approximately an extra 25 to 30,000 to my
19 expenses, which we don't have.

20 CHAIRPERSON NELSON: Thank you, Ms.
21 Ruben. - - Mr. Shuzman? - - .

22 JOSEPH LEO: My name is Joseph Leo.
23 I am president of Atlantic Contracting, a union
24 building construction trade company specializing
25 in heat and frost insulation. Our operation is

1 locally signed with the heat and frost union Local
2 12 out of New York City. I am also president of
3 the Insulation Contractors Association of New York
4 City, which represents 25 affiliated union
5 contractor members, all signed to the Local 12
6 collective bargaining agreement. Our exception--
7 we just have one exception to the rule. While we
8 are in favor of the overall proposed legislation
9 of the sick leave act, we just have one exception.
10 Our exception is related to provision in Section
11 K, paragraph 2, stated as follows: the provisions
12 of the section shall not apply to any employee in
13 the building and construction industry covered by
14 a bona fide collective bargaining agreement if
15 such provisions are expressly waived in such
16 collective bargaining agreement. If you could
17 just put a period before the end of the last
18 sentence, this would solve our issue with this
19 proposed legislation. It is that simple; however,
20 since that end of that last sentence reads that
21 way, we would not have to negotiate the language
22 into our CBA. Our average union employee
23 currently is paid 91.17 an hour for a yearly total
24 of \$153,000. - - currently the union voted to
25

1 split \$5.62 an hour into their vacation fund.
2 This amounts by average of just over \$9,000 an
3 employee which equates to 24 days paid leave. As
4 I states earlier, it is the provision within the
5 bill and the - - . Contract negotiation is a
6 delicate process. This will cost us quite a bit
7 of money. It will cost my small little
8 contracting association \$1.6 million to put that
9 writing in a bill into our CBA, which you don't
10 plan to have us do this anyway. We need that
11 sentence removed. Thank you.

13 WILLIAM SHUZMAN: Thank you. My
14 name is William Shuzman and I am the executive
15 director of Allied Building Metal Industries. We
16 are a New York City Trade Association of
17 structural steel and miscellaneous iron
18 contractors. Allied represents contractors both
19 large and small. The one thing that all Allied
20 members have in common is that all of our
21 employees are union iron worker members. Our
22 association is generally in support of the
23 proposed legislation with one very important and
24 specific exception. That exception relates to the
25 language in Section 17-513b which refers to

1 employees in the building and construction
2 industry covered by a collective bargaining
3 agreement. Our objection relates to the language
4 which exempts employers who have a contract with
5 the union from the obligation to provide sick
6 leave only if the sick leave is expressly waived
7 in the collective bargaining agreement. Allied
8 negotiates contracts with the iron workers. One
9 of the issues discussed every time around is paid
10 time off. Our industry has dealt with the issue
11 by creating a fund, which pays employees when you
12 do not work because of holidays, vacation,
13 sicknesses, et cetera. For every hour worked by
14 an iron worker, his employer contributes \$16 into
15 this fund. This is deposited in an individual
16 account for the employee. At current wage rates,
17 the \$16 an hour or \$640 a week is equivalent to
18 more than seven and a half hours of paid time off
19 for every week worked, so an iron worker working
20 47 weeks gets more than \$30,000 for paid time off.
21 These dollars are equivalent to 45 days for sick
22 days, vacations and holidays. If an employee
23 takes three weeks, ten paid holidays, he still has
24 an additional number of days for sick leave. This
25

1 is the bargain that my industry has agreed upon,
2 the unions and the employers together. To now
3 give the union an additional five days of paid
4 time off for their members unless there is an
5 expressed waiver unfairly tips the balance in all
6 future negotiations. The unions won't voluntarily
7 agree to such a waiver unless there is a quid pro
8 quo. In our trade, the sick leave provisions of
9 this bill are worth more than \$4,300 per employee
10 per year, so before the - - parties negotiate,
11 before they sit down to negotiate, the employers
12 are going to face a \$4300 per employee per year
13 increase in their labor costs. In a city such as
14 ours where construction costs are higher than
15 anyplace else in the country, do we need an
16 automatic increase such as that? As I said
17 earlier we believe that employers should be
18 responsible for their employees need for paid time
19 off. A bill designed to add such requirement in
20 industries where there are no provisions for paid
21 time off is certainly warranted, but unionized
22 construction employers are not part of that
23 industry. Employers in the unionized construction
24 industry are responsible employers and have met
25

1
2 their obligation. We should not now be penalized
3 by requiring us to pay again for a benefit that
4 has already been provided. We should not be
5 robbed of the fruits of our negotiations. We
6 therefore urge passage of this bill with one
7 exception mentioned earlier removal of the
8 language in Section 17-1513b, which requires that
9 exemption from the bill's requirements be
10 conditioned on express contractual waiver of sick
11 leave benefits. Thank you.

12 LEWIS COLETTI: Thank you, Chairman
13 Nelson. Thank you, Councilman Halloran, for
14 staying and persevering. I also want to thank
15 Councilwoman Gale Brewer, who attempted to work
16 with us over the past year and a half on language
17 to address the problem. We unfortunately couldn't
18 find a resolution to it. My name is Lewis
19 Coletti. I am the president of the Building
20 Trades Employers' Association. We represent 27
21 union trade contractor associations and 1800
22 contractors who collectively bargain and employ
23 100,000 building trade unions. Listening to
24 various testimony today, it is clear that the
25 purpose of this bill is to provide paid sick leave

1
2 for people who don't have it. Building trade
3 unions have it. Not to give labor an unfair
4 advantage at the collective bargaining table by
5 asking us to get a waiver from them--if the
6 provision is not removed that you heard from some
7 of the other speakers, it will reduce the number
8 of union jobs and business opportunities that my
9 contractors have in New York City. It wasn't too
10 long ago where you couldn't walk down a street and
11 find a non-union job. You had to look for it.
12 Now you can walk down every street in every
13 borough in Manhattan they are building 30 and 40
14 story buildings non-union. This additional cost
15 will make us more non-competitive, and goes
16 directly contrary to some of the programs that the
17 building trade unions have already adopted, which
18 included a voluntary 20 percent cut in wages and
19 benefits in order to put their members back to
20 work. So this really is harmful for us. The
21 building trade unions don't belong in this bill.
22 Other people do, and as my colleagues have said,
23 if you could just remove the provision if such
24 provisions are expressly waived in such collective
25 bargaining agreement we could be supportive of the

1
2 bill. Let me conclude by saying that I heard
3 Vinny Alvarez from the Central Labor Council
4 himself say from one of these seats that the
5 building trade unions have paid sick leave, so I'd
6 strongly urge you don't involve yourself in the
7 collective bargaining process. This is one of the
8 highest paid unions in the city. They have earned
9 it through the collective bargaining process. Let
10 us resolve these issues at our own table. Thank
11 you.

12 CHAIRPERSON NELSON: Questions are
13 almost exhausted, but thank you so much for
14 staying this long and testifying, giving us your
15 expertise. We have the next panel we will be
16 calling. Jeffrey Hayes, PhD [phonetic], the
17 Washington Institute for Women's Policy and
18 Research, Phil Andrews [phonetic], RWDSU, Nancy
19 Rankin [phonetic], Community Service Society,
20 Frank Proscia [phonetic], a doctor MD, Doctors'
21 Council SEIU, and - - Bendelay [phonetic], Moms
22 Rising dot org. Should be room for all five if
23 you want to, unless you would like to sit there on
24 the end - - . That way you can even start off.
25 Be right there, first batter. Are you Monifa

1 [phonetic]? Good. If you would like to start off
2 by all means... Thank you.

3
4 MONIFA BENDELAY: Thank you so
5 much. Again my name is Monifa Bendelay, and I am
6 here for Moms Rising. As a New York City mom,
7 mother of two, and on behalf of the tens of
8 thousands of members of Moms Rising here in New
9 York City, we want to thank you for having this
10 hearing. It is very important to us. We urge you
11 to please accept our plea to pass earned paid sick
12 days bill. New York City moms and dads understand
13 the important and the value of paid sick days.
14 Moms Rising members have taken nearly 2,000
15 actions in support of this legislation, sending
16 letters, e-mails, making calls and sharing their
17 stories and attending rallies. For working
18 parents access to earned sick days is vital to our
19 family's economic security. We are all familiar
20 with the scene of being stumbling around the house
21 in the middle of the night when you realize that
22 your kid is sick, too sick to go to school, and
23 you have to figure out what you are going to do,
24 either take care of them the next day or figure
25 out your logistics for your job, and for too many

1
2 New Yorkers, they just don't have the opportunity
3 and they don't have the option to stay home and
4 take care of a sick child. Paid sick days can
5 also help contain the nation's healthcare costs
6 because workers are able to go to the doctor for
7 preventative services and early detection and
8 treatment. We recently asked our New York City
9 Moms Rising members why access to earned paid sick
10 days is important to them, and I am going to share
11 two very, very brief stories. One is from Tara.
12 Tara has paid sick days, so when her daughter was
13 very sick for over a week, she was able to full
14 concentrate on getting her daughter well and not
15 worried about losing a paycheck. She wrote,
16 "every parent should have the right to care for a
17 sick child without fear of losing his or her job
18 and without fear of being unable to pay the bills.
19 Over a person's working life someone is going to
20 get sick. Their kids more than likely will also
21 get sick." And the second story is from Constance
22 who wrote, as a teacher, she sees day in and day
23 out students who are sent to school sick because
24 their parents are unable to take a sick day to
25 care for their children. So in the interest of

1
2 time we just want to really hammer home the point
3 that when kids go to school sick, they infect
4 their classmates, their teachers, and it really
5 has a ripple effect across the entire community
6 and affecting people who do have paid sick days,
7 so we really urge you to pass the bill. Thank
8 you.

9 NANCY RANKIN: Thank you for the
10 opportunity to testify today. My name is Nancy
11 Rankin. I am vice president for policy research
12 at Community Service Society New York, and I am
13 here to say that the stories that you heard today
14 from the workers are not isolated stories. Over a
15 million working New Yorkers are denied paid sick
16 days. The partnerships claim that 88 percent of
17 private sector workers already have paid sick
18 leave is based on online responses from a self-
19 selected group of 708 employers with an average
20 size of 585 workers, so basically large
21 corporations. Our figures are based on over ten
22 years of annual scientific surveys done by - -
23 research and we found that 43 percent of working
24 New Yorkers and more importantly 62 percent of low
25 income workers are denied paid sick leave, but you

1 don't just have to rely on our figures. According
2 to government data, the BLS data for the New York
3 City metropolitan region 60 percent of workers in
4 the bottom wage quartile in the New York
5 metropolitan area don't have paid sick time, which
6 is virtually the same figure we had. I want to
7 address the fears that have been raised that paid
8 sick days should not be passed now because it
9 could burden small businesses that have been
10 hanging on by a thread, and I'd like to respond to
11 that with four things. First, the measure as you
12 have heard now exempts mom and pop shops which
13 excludes 64 percent of New York City's 220,000
14 business establishments. Second, as you will hear
15 from one of my colleagues here, the cost is
16 minimal, \$0.18 an hour on average. Third, there
17 is no evidence that the small costs would cause
18 job loss. There is a substantial body of economic
19 research that you have heard about and we have the
20 actual experiences of places like San Francisco, a
21 study done by Aaron Dubeis [phonetic], an
22 economist, found that 80 percent of employees say
23 the law in San Francisco, which is actually wider
24 in scope has had no effect at all on their bottom

1
2 lines. This is because once you have law it
3 creates a level playing field so no business is at
4 a competitive disadvantage to undercut by those
5 who would force their workers to come in sick, and
6 this is in fact the argument for having a law that
7 covers all businesses. Arbitrary carve outs are
8 bad public policy because they allow unfair
9 competition and they would also leave out many of
10 the low wage workers who most need paid sick days.
11 For example, even just under 20 would exclude
12 almost 90 percent of business establishments and
13 one-third of the workers without paid sick days.
14 Thank you.

15 PHIL ANDREWS: Good afternoon.

16 Thanks to the Council Members who are still here
17 and everyone who came out to testify today. My
18 name is Phil Andrews. I am the director of retail
19 organizing at the RWDSU, the Retail Wholesale
20 Department Store Union. I just want to talk about
21 the situation in retail today. First of all the
22 union fully supports the passage of 97-A. We
23 fight hard to get paid sick time for our members
24 in their contracts, but it's a struggle in an
25 industry that is moving increasingly towards jobs

1 that are not just part time, but have erratic
2 schedules, on call shifts, demands for open
3 availability. I'm not talking about mom and pops
4 here. This race to the bottom in retail is being
5 led by major retail employers, who are trying to
6 have the lowest paid casual workforce with the
7 fewest hours and the least benefits. We see the
8 paid sick days are often the first to go. There
9 is hundreds of thousands of non-union retail
10 workers, and 77 percent of them report into CUNY
11 and this kind of job study last year that they do
12 not have paid sick days. 77 percent do not. Now
13 my experience has been that almost all of the
14 campaigns that I have worked on almost none of the
15 workers had paid sick days or only a very small
16 number of full time workers. There is an example
17 literally five blocks from here--a couple of
18 outposts of a store called YRB. They have ten
19 stores and 150 workers and no paid sick time or
20 paid time off of any kind. It took those workers
21 three years of organizing and going through an
22 election and going through contract negotiation
23 just to get paid sick days. It is a lot of work
24 for those workers, and the majority of course are
25

1 not union in retail. In the campaign I am
2 currently working on again almost nobody gets paid
3 sick days except for the small number of full time
4 workers. We are talking about major retailers,
5 national retailers with thousands of employees at
6 a minimum and millions of dollars in revenue.
7

8 I'll wrap it up with this last story. In one
9 particular case a national retailer decided that
10 part time workers could only get 20 hours a week
11 as opposed to the 32, which they had allowed them
12 to get before, but a store policy says you have to
13 get 1400 hours a year to get any paid time off.
14 So now obviously none of those workers will ever
15 get 1400 a year therefore none of them will ever
16 get paid sick time. Thank you.

17 DR. FRANK PROSCIA: Thank you. My
18 name is Dr. Frank Proscia, executive director of
19 Doctors' Council SEIU, and we are the healthcare
20 union that represents the doctors who work for the
21 city of New York. We are a union for doctors, but
22 also a voice for patients. Every day many workers
23 face a choice when they are sick to either stay
24 home and risk losing their job or go to work and
25 risk their own health and the public's health.

1
2 Many private sector workers don't even have access
3 to paid sick days. When working people have no
4 choice but to go to work sick, they risk infecting
5 others, complicating their own illness, delaying
6 their own treatment and turning minor health
7 problems into major ones. The working sick travel
8 by bus, train, cabs and planes spreading disease
9 further and having their own illnesses worsen.
10 The lack of paid sick days is especially serious
11 in jobs requiring frequent contact with the public
12 such as food service, hotel, childcare, schools,
13 and in healthcare. The employees should not have
14 to make the choice between their jobs and their
15 family's health. The FDA requires food service
16 workers to be away from work while ill. Childcare
17 centers require sick children to stay at home.
18 The CDC recommends keeping children home from
19 school when ill. Workers without paid sick days
20 can't always comply jeopardizing everyone's
21 health. Public policies allowing workers to earn
22 a limited number of paid sick days a year from
23 their employers would allow them to recover from
24 illness, care for a sick family member or attend
25 medical appointments. Without this, illnesses

1
2 worsen and spread leading to emergency room
3 visits, trying to find medical care at off hours
4 leading to both increased costs and overburdening
5 our already congested healthcare systems. There
6 are other cities and states that have already
7 legislated paid sick days. This is a common sense
8 public health policy and New York City should be
9 leading the charge in this regard. It further
10 controls healthcare costs and may even have a
11 potential to reduce healthcare disparities in the
12 city. Thank you.

13 JEFFREY HAYES: Good afternoon.

14 Thank you for this opportunity to testify on this
15 bill. My name is--

16 CHAIRPERSON NELSON: [interposing]

17 Sir, is your microphone on? Is the red light on?

18 JEFFREY HAYES: Yes. My name is
19 Jeff Hayes, and I am a study director with the
20 Institute for Women's Policy Research, and the
21 Institute for Women's Policy Research conducts
22 rigorous research and disseminates its findings to
23 address the needs of women, promote public
24 dialogue and strengthen families, communities and
25 societies. IWPR's research finds that businesses

1 and communities in New York City would benefit
2 greatly from providing workers with earned sick
3 time as proposed in the earned sick time act.
4 Using the amended parameters of the bill and
5 publically available data, IWPR has re-estimated
6 the anticipated cost - - some of the anticipated
7 benefits of the currently proposed legislation
8 using data collected by the U.S. Bureau of Labor
9 Statistics, the Centers for Disease Control
10 Prevention, the New York City Department of Health
11 and Mental Hygiene and the U.S. Census Bureau.
12 Using government statistics on paid sick leave
13 usage figures among those covered, we estimate
14 that workers earning leave under the earned sick
15 time act will take an average of 2.2 days annually
16 out of a maximum of five days that may be accrued.
17 This is the average number of the sick days used
18 among workers with access to paid leave if they
19 have maximum of five days to use in the national
20 data. The cost of implementing this law is
21 estimated at \$0.18 per hour as you have heard
22 already today for employees receiving new paid
23 leave or about 6.31 per week for the average work
24 week in 2012 dollars. Providing earned sick days
25

1 is also expected to yield benefits to businesses.
2 Savings due to reduced turnover, increased
3 productivity and reduced contagion of communicable
4 disease in the workplace that offset the costs of
5 wages paid during covered work absences. IWPR has
6 also updated some estimates quantifying the
7 savings that earned sick days would bring by
8 reducing the number of emergency department visits
9 among working adults by including the dependent
10 children that we heard about earlier from two
11 panels ago, and so the estimates say that New York
12 City can save about 70 million a year, and that
13 was about 39 million for the workers and 31
14 million for the dependent children and 56 million
15 of that would come from public health insurance
16 programs which are - - funded.

17
18 CHAIRPERSON NELSON: Thank you.

19 COUNCIL MEMBER HALLORAN: Yes. I
20 guess I will start on my right, but your left and
21 work over. My first question is we are all
22 talking about these numbers, and I have once again
23 heard it will cost \$0.18 per hour extra. Now I am
24 going to do a very simple math experiment, and
25 let's see if we can all follow along. Assuming

1
2 nine dollars an hour is the pay scale, assuming a
3 30 hour work week, which is basically a six hour
4 day five days a week, we reach the number of 270
5 in a week. This paid sick leave process doesn't
6 commence until 90 days so three months out. In
7 that three month period it will be 810 units
8 collectively that would be what we are talking
9 about in terms of hours and time. We are looking
10 at giving at that point 1.5 days of sick leave at
11 the 30 month mark and on somebody making nine
12 dollars an hour, which I think is the reasonable
13 number to use because the Albany legislature has
14 now talked about a particular minimum wage, so I
15 think that is the number we have to use. Exclude
16 the service industries that do the separate wage
17 for tips, tipped employees I don't even want to
18 touch that because I don't think anybody has
19 figured that number out. So we are looking at
20 basically in that three month period an \$81
21 increase in pay theoretically, right, which on the
22 grand scheme of things if you divide that back
23 into the three month period of pay at \$270 a week
24 comes to somewhere in the neighborhood of five
25 percent. Now if that is the case I don't see how

1
2 it is \$0.18 per hour more unless we are doing a
3 slightly different math but that doesn't capture
4 the cost. I think you get closer to 18 if we are
5 saying that no one is going to use their full
6 time, and I concede that studies have shown that
7 we are not necessarily going to wind up using full
8 time, so I will give that back to you, but what it
9 is not calculating in and tell me if I'm wrong is
10 the fact that I have to bring another employee in
11 to replace that employee, who also has to paid at
12 nine dollars an hour to sit there for the six hour
13 shift--well, nine hour shift because it's 1.5 days
14 in the 90 day period, so actually you are paying
15 that person to sit there as well, which you
16 weren't paying before, so wouldn't it be fair for
17 us to at least if we are going to talk about what
18 it's going to cost to at least include the
19 employee who has to replace in the small
20 businesses that number? Shouldn't that be part of
21 our equation? Panel, tell me.

22 JEFFREY HAYES: In the 2009 report
23 that was issued to New York City on the earlier
24 version of the legislation there actually is an
25 example in there about basically the economic

1 theory is that you won't hire that other worker
2 unless you really have the work, and they are
3 basically going to make that much money for you.

4 [crosstalk]

5 COUNCIL MEMBER HALLORAN: Okay. So
6 I have Bridget's Well Restaurant [phonetic]. I
7 actually happen to have used to own that location
8 on Bell Boulevard, and I have ten employees. I
9 have one bartender who works Monday to Friday 9-5.
10 I have five employees who work Monday to Friday,
11 one each day in the evening, and I have four
12 employees who work split shifts on the weekends,
13 Saturday and Sunday, so I fall into this law,
14 correct? If my bartender doesn't show up, how can
15 you tell me I don't need to replace them? How can
16 you possibly tell me I am not paying both my
17 employee who is sitting home and the employee who
18 is working?

19 JEFFREY HAYES: The bartender is
20 making the money for you. You are only paying the
21 sick pay for the employee who is not there--

22 COUNCIL MEMBER HALLORAN:
23 [interposing] I understand that. I am using the
24 example of a critical employee. I am just using
25

1 the bartender as an example. You concede that
2 many of these mom and pop shops--and although we
3 are saying five or less I submit to you that a
4 small business in New York is probably 50 or less,
5 but I am willing to live with 25 and less. I am
6 not living with five because I had more than five
7 and less than 25 employees, and I am telling you
8 if my bartender is out sick, I need a bartender to
9 replace them. I cannot cost shift as you
10 indicated businesses will do. If I am running a
11 bodega and I have a cashier who works Monday to
12 Friday during the morning shift and I have a
13 different cashier that works Monday to Friday in
14 the evening shift and I have the same scenario on
15 the weekends of a split shift, so I am already at
16 five employees without a float. If one of my
17 cashiers doesn't show up, can I run my business
18 without replacing one? No. So I need someone to
19 come in and cover that shift, and I have to pay
20 that person. So how come it is that we cannot
21 calculate that money in and be honest about that?
22 Do you disagree with the numbers I gave you a
23 moment ago in general? I won't give you the
24 specific like nickel and dime of it, but don't you
25

1
2 concede there is a bigger cost than any of you are
3 talking about, and that is without talking about
4 the numbers that are going to go up based on the
5 wage increase that is going to be mandatory based
6 on an increase in the minimum wage, the affordable
7 healthcare act and its requirements on these
8 businesses and our general rubric of tax.

9 JEFFREY HAYES: The only other fact
10 I could throw in to answer real quick would be
11 that actually in the San Francisco data there was
12 very, very little hiring of replacement workers.
13 Your example, yes, there are going to be a few
14 that do. That actually is much smaller than
15 people think.

16 COUNCIL MEMBER HALLORAN: [off mic]
17 people in New York in business than there are
18 citizens in the whole set of San Francisco. We
19 are in order of magnitude completely different.

20 JEFFREY HAYES: But as a share of
21 the workforce, a share of their employers--

22 COUNCIL MEMBER HALLORAN:
23 [interposing] Connecticut, great state, right
24 north of us, 50 people before they will even touch
25 this issue. Similarly situated, economically

1
2 similarly situated, right above us, democrats run
3 that place too. They went with 50. Just saying.

4 NANCY RANKIN: Well, I was just
5 going to agree with him that the actual research
6 on this in San Francisco shows that really it is
7 very, very small percent actually hire replacement
8 workers, particularly if someone is out for a
9 couple of days that generally that the work is
10 just shared among the other staff that is there.

11 COUNCIL MEMBER HALLORAN: Have you
12 ever actually owned a small business?

13 NANCY RANKIN: I have worked in
14 small business--

15 COUNCIL MEMBER HALLORAN:
16 [interposing] Have you ever owned a small
17 business.

18 NANCY RANKIN: I haven't owned a
19 small business, but I have worked in small
20 businesses and larger businesses and generally,
21 when somebody is out the remaining work is shared
22 among the people who are there.

23 COUNCIL MEMBER HALLORAN: So the
24 answer is no, you have not ever owned a small
25 business, right?

1
2 NANCY RANKIN: I have been a
3 consultant where I have run my own small business.

4 COUNCIL MEMBER HALLORAN: So the
5 answer is no. Thank you. Ma'am?

6 MONIFA BENDELAY: I have never been
7 a small business owner. I just want to say that
8 for the record, but--

9 COUNCIL MEMBER HALLORAN:
10 [interposing] Did any of the concerns I raised
11 raise any issues for you in terms of what we are
12 talking about number wise, not the big picture of
13 sick leave?

14 MONIFA BENDELAY: It absolutely
15 does because we are as concerned about the costs
16 and the overall health of the economy as everyone
17 else, and we just feel that the costs of an
18 employee coming in and making other employees sick
19 exaggerates those liabilities even further.

20 COUNCIL MEMBER HALLORAN: I agree
21 with you 100 percent, and I am not fighting with
22 the general premise. I am talking about the
23 specific application, and I am really scared
24 because they left the republican in charge of the
25 room.

1
2 MONIFA BENDELAY: One other thing
3 is that ironically we find that the small business
4 owners are doing this on their own - - paid sick
5 days, but with the people who aren't we feel are
6 the ones that need to be held to task, which are
7 the large retailers, which you talked about--we
8 find that the major stores having lower standards
9 than the small businesses, so--

10 COUNCIL MEMBER HALLORAN:

11 [interposing] And I understand that, and
12 Councilman Lander and I were actually exchanging
13 tweets for those of you who pay attention to that
14 stuff, and we talked about the fact that franchise
15 organizations and large retailers with employees
16 who are not necessarily unionized may be a
17 particular category we should pay attention to,
18 and I don't not concede that, but let me turn to
19 our doctor for a minute because doc, I wasn't
20 going to let you get off without a conversation
21 too. You concede though that under FDA
22 regulations employees at food service industries
23 are not permitted to go to work, yet they do as
24 was evidenced by the testimony you heard here
25 today. Isn't that correct? So it would be fair

1
2 to say for me as somebody who is being devil's
3 advocate in this that we had people who testified
4 here today about breaking federal law. Isn't that
5 accurate?

6 DR. FRANK PROSCIA: That is
7 accurate, and that is the problem we are trying to
8 solve today.

9 COUNCIL MEMBER HALLORAN: I agree
10 with you there. Food service industry is
11 definitely a place where we need to look at this
12 issue, and I don't doubt for a minute that that is
13 a problem. And I raised this issue in the last
14 hearing, and I am still vamping because the
15 Chairman is not back, and I will be happy to have
16 the individual discussion with you. The only
17 other question, comment I would make to you,
18 Doctor, is that you also opened your statement
19 with talking about the people who are sick
20 traveling the buses, the subways, the streets of
21 the city of New York. You did the same thing
22 another doctor did in the first panel, which was
23 disingenuous. Those people are still going to be
24 on the buses and the subways and the trains and
25 the streets even if they have a paid sick day.

1
2 They may sleep for some of it, but they are going
3 to go see their doctor, and the majority of them
4 are going to get on a bus to do it or a subway to
5 do it, and so we are not really solving that
6 problem, and I think it is always the red herring
7 when there is so many good things we could talk
8 about why this law needs to happen that when we
9 throw up things that just are not true like it's
10 \$0.18 to an employer or that we are going to keep
11 them from being in the public's venue to get the
12 rest of the public sick, it detracts from your
13 argument.

14 DR. FRANK PROSCIA: May I just say-

15 -

16 COUNCIL MEMBER HALLORAN:

17 [interposing] Sure. Absolutely, Doctor.

18 DR. FRANK PROSCIA: All sick people
19 end up going up to the doctor. They will have to
20 travel to go to the doctor. Once there, the
21 doctor and the nursing staff will let the patients
22 know what to do, to limit themselves. If they are
23 at work, they are seeing tens, hundreds of people
24 in a day, contaminating foods and other things, so
25 we are limiting the problem, and that is what paid

1 sick days is trying to do.

2 COUNCIL MEMBER HALLORAN: And on
3 that note, I thank you all for your testimony, and
4 I am going to do something I as a republican of
5 this body have never done. I am going to excuse
6 you and call the next panel. Carol Saginaw
7 [phonetic] from the Center for Children's
8 Initiatives, Armando Uribe [phonetic] from New
9 York Communities for Change, Heman Sindu
10 [phonetic] from - - SEIU, Rabbi Michael Feinberg
11 [phonetic] from the Greater New York Labor
12 Religion Coalition and Zayed Hamad [phonetic] from
13 the Retail Action Project.

14 [background conversation]

15 COUNCIL MEMBER HALLORAN: Guys, I
16 am sorry. The clerk in the interest of fairness
17 of going pro and con wants to call an opposed
18 panel first. I am sorry. Counsel for the Council
19 apologies, but I have to call up a con panel
20 first. See, I was calling up another pro panel
21 even though I'm republican. Denise Richardson
22 [phonetic] General Contractors Association, Shane
23 McMorrow [phonetic] from the Mechanical
24 Contractors Association, Robert S. Altman from
25

1
2 QBBA, Doreen Zayer [phonetic] from Relax on Cloud
3 9 Inc. and Marilyn Rosay [phonetic] of the
4 Therapeutic Resources. My apologies for name
5 errors. Okay, I guess if we start from the left
6 and work ourselves right we should be okay. Time
7 is yours.

8 [background conversation]

9 DOREEN ZAYER: Hello. My name is
10 Doreen Zayer. I have a small business on Staten
11 Island. It's a health and wellness spa called
12 Relax on Cloud 9, so health and wellness is my
13 business. I am also an employee of that business
14 and I am also a New York State licensed massage
15 therapist and a mother of three. One of the
16 things I outlined in the proposal was this quote,
17 "the Council finds that providing paid sick time
18 is affordable for employers and good for
19 business." And I am here to say that all
20 businesses are not the same. What this bill fails
21 to recognize is my small business and businesses
22 like mine. When an employee needs off for any
23 reason, the clients that were booked with them are
24 notified and rescheduled to another day. Often
25 our clients have a relationship with a particular

1 therapist and prefer to wait for their return.
2
3 How is it possible to afford this? Here is an
4 example of the result this bill will have on my
5 business. A therapist paid on average \$19 an hour
6 in an eight hour shift they receive \$152. The
7 business pays into the employee's social security,
8 unemployment, disability, health insurance and
9 matches their IRA contributions. This increases
10 the expense by approximately 11 percent for a
11 total of \$168.72. We average \$58.30 per hour
12 gross income to the business if we are completely
13 booked with an hour for lunch. We have the
14 potential to general \$408.10 in service sales per
15 therapist. The therapist calls out. We call the
16 clients, tell them their therapist is not coming
17 in and they reschedule to another day, and oddly
18 enough this happened yesterday. We did reschedule
19 people and there was one person I could not
20 reschedule, and the person who did that massage
21 was me, and the reason I did that massage was so
22 that I wouldn't lose the sale for that day. If I
23 had to pay that therapist to be home, I don't know
24 how I would do it. So at this particular point
25 when we have a therapist out, we have a loss of

1 \$408 to the business for the day, but we don't
2 have that payroll expense of \$152. This bill will
3 force the business the incur the \$150 payroll
4 expense per day the employee is out up to five
5 days in a calendar year. Multiply this by ten
6 employees, each receiving five paid days. This
7 will cost my business \$7,600 annually while at the
8 same time reducing sales by \$20,405. How anyone
9 can say this is affordable and good for business
10 is not considering all businesses. This bill has
11 good intentions and is an attempt to protect low
12 income workers who live in fear of losing their
13 jobs if they call out for any reason, yet my
14 business, which employs skilled workers who make
15 their own schedules and take off as they need
16 without any fear of retaliation will be put out of
17 business. My business offers the best benefits
18 package it can afford. It is important to my
19 business to keep and retain excellent staff and so
20 far I have been able to do that. I could not
21 continue to employ the people I currently have at
22 the hourly wage they earn under this bill. I
23 would be forced to lay people off. I would think
24 the Council would be looking into meaningful ways
25

1
2 to help employers employ, not force them to incur
3 additional expenses, additional recordkeeping and
4 make it difficult for them to survive and thrive.
5 I have been in business over 17 years, am a member
6 of the Staten Island Chamber of Commerce, an
7 executive officer on Staten Island's premiere
8 networking group, the Bucks, and an active
9 volunteer at many local fundraising events. Since
10 2008 I have had to close one location, sell a
11 mobile unit which was used for on-site free
12 services at local fundraising events and try to
13 survive the most difficult economic time I have
14 ever experiences. I hope the Council seriously
15 considers the devastating impact this will have on
16 many good businesses that have good employees
17 earning good wages. Do I have a minute or am I
18 done? I had another story.

19 ROBERT S. ALTMAN: Good afternoon.
20 My name is Robert Altman. I represent the Queens
21 and Bronx Building Association, the Building
22 Association of New York City. I am here to
23 testify in opposition to Intro 97-A. You have my
24 written testimony and you can certainly feel free
25 to look through it. I actually wanted to focus

1
2 instead about some things that I heard today. I
3 was a little afraid throughout during my time here
4 because I heard a number of Council Members
5 including the bill's primary sponsor, Gale Brewer,
6 and Council Member Brad Lander make a statement
7 that this bill did not apply to businesses of five
8 employees or less. They are wrong. I will now
9 read to you the part that puts those businesses
10 into the legislation. All employees not entitled
11 to paid sick time under this bill shall be
12 entitled to up to 40 hours of unpaid sick time in
13 accordance with the provisions of this chapter at
14 any time in the calendar year without retaliation.
15 Now employers is defined within the bill, but this
16 is all employees. So this is employees, which
17 does not have a carve out in it, so therefore, all
18 businesses that have a single employee are subject
19 to this piece of legislation. Moreover, they are
20 subject to the provisions of the chapter, so they
21 are subject to in fact all of the regulations and
22 all of the fines. So why am I afraid? I am
23 afraid because the primary sponsor does not even
24 understand the legislation that she is primarily
25 sponsoring. I am upset because the Council Member

1 started arguing the specifics of a bill with Mr.
2 Bookman I believe and he also said that and
3 doesn't understand the provisions of the bill. I
4 would suggest that everybody go back who are
5 supporting this bill and who think it doesn't
6 apply to businesses under five employees to go
7 back and read the bill. They really want to say
8 that, they will take out this paragraph and
9 include a provision that you if you are a business
10 under five employees you are not subject to any
11 provisions within this bill. I also of course
12 argue that the number should be higher. Thank
13 you.
14

15 SHANE MCMORROW: Good afternoon.

16 Thank you. My name is Shane McMorrow, the
17 assistant vice president for the Mechanical
18 Contractors' Association. Pretty much what I will
19 say will be similar to what you heard from other
20 union construction industry members, and what that
21 is is that we employ a couple thousand members in
22 the city here. Personally the mechanical
23 contractors, we are proud to employ Local 639
24 steamfitters, and for generations have employed
25 them at a good wage with really good standard

1 benefit packages, and this bill as it is written
2 will affect us in one of two ways. The first way
3 is that we will have to get an express waiver from
4 the union, and in order to do that, we would have
5 to negotiate over it, and just negotiating for it
6 means we are not going to get it for free, so in
7 essence we are going to give something up to get
8 them to waive the right to this. The other option
9 is that we don't get the waiver. Then we would
10 have a cost of about \$4,000 per employee for each
11 contractor. Some of our contractors employ about
12 100 members and are more large sized firms, but
13 most employ about 10 to 30, 10 to 50 guys and are
14 really are small to medium sized firms and would
15 not be able to bear that cost. So while this bill
16 is intended to give paid sick days to a lot of
17 people who need it, it would affect an entire
18 industry that has been for years providing the
19 best benefit packages pretty much in New York City
20 for wage earners, and what would happen
21 essentially is that a lot of contractors would
22 eventually go non-union and so they would be
23 giving their employees the five sick days
24 required, but you'd no longer have a pension. You
25

1
2 wouldn't have the excellent healthcare that they
3 have, and your wages would probably be cut in
4 half, so I believe it should really be looked at
5 as to how the need for the express waiver affects
6 some unions that provide really great benefits
7 because as it is written, we could not possibly
8 support that for what it would do to contractors
9 who enjoy employing members with great benefits,
10 but aside from that mechanical contractors fully
11 support the idea that workers do need paid sick
12 leave and it is a great thing for employees and
13 it's a great thing for the health of New York
14 City. Thank you.

15 DENISE RICHARDSON: Thank you. My
16 name is Denise Richardson. I am the managing
17 director of the General Contractors' Association
18 of New York. The GCA members employ over 10,000
19 unionized construction trades personnel from 11
20 different unions. In the interest of time I will
21 just summarize my testimony that you have in front
22 of you. We recommend the following changes to the
23 bill, which have been echoed by my construction
24 industry colleagues. The bill must expressly
25 exempt the unionized construction industry. To

1 not do that and to allow them to expressly waive
2 their right interferes with collective bargaining
3 in the private sector and is inappropriate for the
4 Council to mandate, and as my colleagues have
5 said, the whole collective bargaining process
6 revolves around many complicated issues including
7 work rules, other benefit packages and to give the
8 unions what amounts to another week of paid time
9 when we already contribute to a vacation and leave
10 fund, which in many instances exceeds minimum
11 wage, is frankly excessive, and I don't believe
12 was the intent of the bill. Second, the bill
13 needs to define regular rate of compensation as
14 straight time wages only. In the construction
15 industry whether you are union or non-union it is
16 common practice that people will work overtime
17 hours and often do off shift work, particularly if
18 you are working on road projects where you have
19 lane closures. That is not done on a 9 to 5
20 basis. The bill must say that any paid sick time
21 is based on straight time wages only and not any
22 additional compensation that an employee who calls
23 in sick for what would have been an overtime shift
24 would thereby earn overtime for being out sick.
25

1
2 Finally, the recordkeeping requirements are
3 onerous and punitive, and it is inappropriate for
4 the Department of Health to be able to come in and
5 audit any employer's records and to make fines
6 based on recordkeeping errors when the employer
7 has no recourse, and so despite the merits of paid
8 sick leave, we urge that the bill be rewritten to
9 address these very serious issues. Thank you.

10 LISA DAVIS: I'm Lisa Davis, and
11 this is my business partner Marilyn Rosay. We own
12 a staffing agency for occupational, physical and
13 speech therapists, who work with disabled children
14 and the frail elderly. We started this company 29
15 years ago as two occupational therapists, and
16 today we employ 600 professionals and 35 office
17 staff. We support the paid sick time bill for low
18 wage earners as we provide generous benefits
19 including paid sick time to our office staff, but
20 our niche professional service business this bill
21 would be disastrous. Let me tell you why. The
22 therapists we engage earn up to \$100 per hour and
23 have chosen to work with us for premium pay over
24 more a traditional salaried position with benefits
25 because they prefer higher earnings rather than

1 getting benefits like paid sick time. Our
2 providers make their own schedules, decide what
3 jobs to take and are not supervised by us. They
4 often have full time salaried positions and take
5 work from us after hours just to supplement their
6 income. Our professionals act like independent
7 contractors, but we classify them as employees to
8 comply with the ambiguous regulations of the Labor
9 Department and the IRS. We don't control them in
10 any way. We just serve as a conduit for payment.
11 They see a patient. We bill for their service.
12 The facility pays us and we pay the therapist. We
13 come away with a five dollar an hour profit, so
14 the only way we survive is on volume. With our
15 very narrow margins we can't afford to provide our
16 premium paid professionals with sick time. We
17 actually found exemptions to this bill in sick
18 time laws passed in Washington D.C. and
19 Connecticut, which apply to our business model.
20 We propose exempting licensed independent
21 professionals who earn at least four times the
22 minimum wage. We have been working with Gale
23 Brewer's office to consider a carve out, which
24 would still maintain the integrity of the bill,
25

1
2 but protect businesses such as ours who engage
3 licensed professionals. We want to stay in
4 business and continue to serve the children and
5 adults who need us. Please consider an exemption
6 for highly compensated professional employees.
7 Thank you.

8 COUNCIL MEMBER HALLORAN: Thank you
9 very much for your testimony. I am not going to
10 ask you many questions. I just want to thank you
11 for pointing out some of the areas that need
12 revision in this particular instance. I would
13 like to just ask those in the building trades who
14 have spoken to the issue of the collective
15 bargaining dilemma we would find ourselves in--two
16 of the panelists from 1199 SEIU testified that in
17 collective bargaining agreements that they have
18 engaged in, there have been occasions where paid
19 sick leave was not a factor--something they chose
20 for whatever reason to not include in their
21 bargaining. What would be the impact in the
22 collective bargaining you are engaged in in terms
23 of a bottom line? I know you gave us some dollar
24 figures, but in terms of your operability, your
25 ability to conduct business in general, if a carve

1
2 out didn't occur in this legislation and you were
3 compelled in addition to whatever other
4 concessions you make during collective bargaining
5 a presupposition was that you had to walk into
6 this with five paid sick days for your employees
7 at whatever union scale rates you may be paying.
8 I understand you are talking about \$100 an hour
9 for your healthcare professionals, some of these
10 scale union jobs are tremendous hourly rates.
11 What would be the impact to the businesses as a
12 whole?

13 SHANE MCMORROW: So for us, the
14 mechanical contractors, the steamfitters' combined
15 package wage and benefits is just over \$100 right
16 now, and it's one of the highest construction
17 packages in the country, and so when you are
18 walking into negotiations obviously if you are
19 going to say we are giving you five days off or
20 signing this waiver or you are going to have to
21 give us five days off, that's what you are working
22 with as assuming that they do a seven or eight
23 hour day, approximately 3500 or \$4000 per employee
24 that that is where you are starting your
25 negotiations. Just quickly, our benefits are a

1
2 little different. We pay into funds in the
3 construction unions, so they don't get a
4 particular day off, but in the local steamfitters'
5 638, they get \$14 per hour when they work that
6 goes into a fund that they can use for vacation or
7 time off.

8 COUNCIL MEMBER HALLORAN: Thank you
9 very much for being here and I wish the other
10 people from the negative panel were there 'cause
11 they were from the restaurant industry, but this
12 is my 16.9 ounce Coca Cola, which is perfectly
13 legal for the moment in New York City. We are
14 going to call up our next panel, which is a pro
15 panel. It was the panel I mistakenly called
16 before, so my apologies. Barbara Young from the
17 National Domestic Workers--no, this isn't the
18 right one. You did it to me twice with this one.
19 I remembered your names. Zayed Hamad, Rabbi
20 Michael Feinberg, Heman Sindu, Armando Uribe and
21 Carol Saginaw. You are here please. You will
22 start because I murdered your name, so go ahead.

23 CAROL SAGINAW: Thank you. My name
24 is Carol Saginaw. I am the president of the board
25 of the Center for Children's Initiatives formally

1
2 Childcare Inc. As an organization that provides
3 support to families seeking childcare solutions as
4 well as to professionals in early childhood
5 programs and workers, we are acutely aware of the
6 issues arising from the lack of paid sick leave.
7 In the USA today, the majority of adults in the
8 family work, and fewer than one in three children
9 now have a stay at home parent. In New York city,
10 over 300,000 children attend some type of
11 childcare program while their parents work or
12 attend school, yet many of their parents lack paid
13 sick leave and the ability to easily remain at
14 home with them when they are ill. According to
15 the Center for American Progress, parents without
16 paid sick days are more than twice as likely than
17 parents with paid sick days to send a child who is
18 ill to school or to childcare, and they are five
19 times more likely to report taking their child to
20 an emergency room because they were unable to take
21 off work during normal work hours. When parents
22 have no choice but to send a child who is ill to a
23 childcare program, the child's health is put at
24 risk as is the health of the other children and
25 the childcare workers who care for them. The

1
2 result is increased contagion and higher rates of
3 infection for all. Studies have shown that
4 children recover more quickly when parents stay at
5 home with them when they are ill. When parents
6 earn paid sick time at work, they are also able to
7 take their children to well child visits for
8 important immunizations that may prevent serious
9 illnesses and the need for future absences.

10 Parents without paid sick time are faced with the
11 terrible dilemma, how do they responsibly manage
12 their children's illnesses as well as recommended
13 doctor's visits without putting a strain on family
14 finances? The early childhood workforce suffers
15 as well without paid sick leave. Many common
16 infectious diseases are transmitted in workplaces,
17 particularly in work places with high degrees of
18 direct contact. Childcare workers are surrounded
19 by young children and parents and experience
20 substantial interpersonal contact on a daily
21 basis. Because of the enhanced danger of
22 contagion it is critical that sick employees
23 remain at home rather than come to work, but just
24 27 percent of childcare workers have access to
25 paid sick leave. These workers are amongst the

1
2 lowest paid in our country, earning an average of
3 just over 20,000 annually, half the national
4 annual wage. As such they are the least likely to
5 be able to afford to forgo a day's pay in order to
6 recover at home and avoid spreading infectious
7 illnesses. When they do come to work when sick,
8 they endanger both the children in their care and
9 their fellow employees. We want our children as
10 well as those who care for them to be healthy.
11 Paid sick leave is one way to ensure the health of
12 both. We applaud the attention to this issue and
13 urge the City Council to enact the proposed
14 legislation.

15 COUNCIL MEMBER HALLORAN: thank
16 you. Gave you a little extra time because I can.
17 Go ahead.

18 CAROL SAGINAW: Thank you because I
19 have waited here for hours.

20 COUNCIL MEMBER HALLORAN: Do you
21 want to testify next and then we will slide over
22 to the rabbi?

23 ZAYED HAMAD: First thank you for
24 your time. My name is Zayed Hamad. I am a Syrian
25 Mexican American student, and a member of the

1
2 Retail Action Project. I am on scholarship right
3 now studying international relations in the city,
4 which means I need to work to pay my rent and
5 bills in this expensive city. To support myself I
6 work as cashier at Urban Outfitters, meaning I
7 handle credit cards, cash, sometimes food and many
8 clothing items. This flu season affected me very
9 badly, and this winter along with thousands of
10 other Americans I was extremely sick for a week.
11 Because I am part time not only do I not get
12 healthcare from my job or other full time
13 benefits, I don't get a single paid sick day
14 either. I had a bad cough, congestion, a runny
15 nose and more importantly I was physically
16 exhausted, which made it more difficult for me to
17 recover quickly. I called out on my first day and
18 then worked while very sick the following three
19 days because I knew that if I didn't go in there
20 was no way I could make my rent, and like all of
21 my other co-workers, who also don't get sick days,
22 I was afraid that if I missed three or four shifts
23 due to an illness I'd be written up or even fired.
24 For three days I stood on my feet all day and
25 worked my shifts with the flu. Because I am a

1 cashier, not only did I put my coworkers at risk,
2 but the hundreds of customers I help each day and
3 the people who come in the next day because I have
4 to stock. I took cash and credit cards from many
5 people while coughing and blowing my nose and I
6 was forced to do so because I had no other choice.
7 At my store when workers call to let our managers
8 know we are sick, we aren't taken seriously. They
9 ask are you sure you really can't come in? They
10 really don't want to deal with it and ask us to
11 call our coworkers to make sure someone covers our
12 shift. If we can't work and can't find anyone to
13 fill the shift, we are scared we will get
14 disciplined. Because we don't have any paid sick
15 days, I was forced to choose between two bad
16 options. I can lose out on money I desperately
17 need because I live paycheck to paycheck or I can
18 come to work while sick with the flu spreading
19 around the city. This is why I am speaking today
20 because we need to make sure that workers in New
21 York City have just a few paid sick days a year.
22 The New York City Council should pass paid sick
23 days so we can stay at home when we are sick and
24 not get everyone else sick too. Thank you.
25

1
2 COUNCIL MEMBER HALLORAN: Thank
3 you. Rabbi?

4 RABBI MICHAEL FEINBERG: Good
5 afternoon. I want to thank the Committee for this
6 opportunity to speak in support of the paid sick
7 time act, Intro 97-A. I am here to add my voice
8 to that of my colleague Reverend Ray Rivera, who
9 spoke earlier, speaking to the issue not as a
10 policy expert or an economist, but as a faith
11 leader. Specifically I am testifying today on
12 behalf of the organization that I lead the Greater
13 New York Labor Religion Coalition and its more
14 than 800 clergy and faith leaders across the city.
15 The city is an interfaith alliance drawn from all
16 five boroughs comprised of Muslims, Jews,
17 Christians and people from all other faith
18 traditions working together to advocate for the
19 rights of low wage and immigrant workers and the
20 working poor in our city. We see ourselves as
21 allies to these workers in their efforts to
22 empower themselves and to organize to improve
23 their working conditions in their lives. In our
24 work we draw upon the central teachings of our
25 faith traditions and their insistence upon the

1 dignity of labor and their imperative to seek
2 justice for all workers. Here in New York City we
3 face the enormous public health challenge, and I
4 would have to say religious and ethnical challenge
5 of a vast workforce without any paid leave, sick
6 leave whatsoever estimated as we have heard at
7 more than a million workers. When employers
8 refuse workers paid sick time, they endanger the
9 health of the workers and their customers and
10 ultimately the public at large. As faith leaders,
11 we are charged with tending to the spiritual and
12 physical wealth, health and wellbeing of our
13 congregations and communities. For this reason I
14 along with my clergy colleagues urge the Council
15 to pass Intro 97-A. Passing a paid sick days bill
16 in New York City will set the city on record as
17 recognizing a basic covenant that no worker should
18 be forced to choose between their health and that
19 of their families and economic security. My own
20 tradition, Judaism, is emphatic about the rights
21 of low wage workers to proper treatment to quote
22 from Hebrew scripture "you shall not abuse a needy
23 and destitute laborer whether a fellow countryman
24 or a stranger in one of the communities of your
25

1
2 land." Violation of this principle is seen as so
3 severe that it was likened by the rabbis of the -
4 - as akin to murder, that is one who mistreats a
5 worker is as though one has deprived him of his
6 very life. Similar ethical teachings are to be
7 found in Islam and in Christianity as well as
8 other faith traditions. A paid sick days
9 ordinance in New York City not only makes sound
10 public health sense, but just as importantly from
11 the standpoint of religious ethics, it is the
12 right thing to do. Let us through the passage of
13 this legislation commit ourselves to the pursuit
14 of wellbeing and justice for all workers in our
15 city that all might live with dignity, health and
16 economic security for themselves, their families
17 and their communities and I'd just add in the few
18 day run up to Passover, we could say let my people
19 go... home when they are sick. Thank you very much.

20 COUNCIL MEMBER HALLORAN: Thank
21 you, Rabbi. Finally, it took to like the 17th
22 panel, but we got humor finally. I appreciate it.

23 HEMAN SINDU: I don't know if I can
24 top that, but good afternoon. My name is Dr.
25 Heman Sindu. I am a delegate from CIR SEIU

1 Healthcare and also a fellow in hematology,
2 oncology at a safety net hospital in Brooklyn.
3 When a patient comes to see me, they either
4 suspect or they know that they have a blood
5 disorder or cancer, and the terms that we use as a
6 team when we are diagnosing these patients is
7 things that people dread hearing such as leukemia,
8 sickle cell anemia, cancer. We all know that in
9 these cases, early detection is paramount;
10 however, we also know that those who have paid
11 time off from work are more likely to access
12 preventive measures than those who don't
13 irrespective of their health insurance status.
14 When you are dealing with any of these diseases of
15 course the early treatment in addition to the
16 diagnosis are important otherwise it makes the
17 early detection pretty much useless. I know
18 personally because this happened to me with a
19 patient of mine who I saw in my third year of
20 residency by the name of Mr. G, who presented to
21 us with significant weight loss, abdominal pain
22 and severe anemia and when we assessed him it was
23 clearly that we suspected malignancy. We started
24 the workup. That afternoon the patient asked me
25

1 if I could speed up the process because he needed
2 to be discharged home. I sat with the patient
3 trying to explain to him the dire nature of our
4 suspected illness for him, and he pleaded with me
5 to let him go because he had gotten word from a
6 fellow coworker that his boss would fire him if he
7 didn't return to work within a day. I still tried
8 to sit with the patient and explain to him all of
9 the consequences including the fatality that could
10 ensue, and the patient then pleaded with me again
11 and said that I need to put food on the table for
12 my family. The next morning when I came back he
13 had already checked himself out, signed out
14 against medical advice, and we couldn't reach him.
15 I am just going to wrap this up by saying we can't
16 underestimate the ordeal that someone who is
17 undergoing treatment for cancer must face. It is
18 often physically, emotionally, and financially a
19 trying experience. We know that paid sick days
20 have been enacted in other cities without dire
21 financial cost to businesses, but every time a
22 patient's skipped out on preventative care, every
23 time they defer treatment and every time one
24 succumbs to an aggressive form of cancer that we
25

1
2 can treat, every one of those times we all bear a
3 heavy cost to society. Thank you.

4 COUNCIL MEMBER HALLORAN: Thank you
5 very much. Next.

6 ARMANDO URIBE (through
7 interpreter): Hello, my name is Armando Uribe. I
8 am a member of the New York Communities for Change
9 Worker Committee. I am from Mexico. I live and
10 work with my family in Brooklyn, and I worked hard
11 ever since I got here, and I now work at a 99 cent
12 store. Before I worked in a Key Foods
13 supermarket. I have never worked for a business
14 that offered me paid sick days. When I worked at
15 Key Foods supermarket, my coworkers and I
16 regularly worked when we were sick taking pills to
17 get through the day. I was afraid to take the day
18 off when I got sick because I was scared to lose
19 my job. Aside from the fact that we forced
20 ourselves to work and suffered physically bearing
21 the work even though sick, we knew that we could
22 also be getting customers sick since we handle all
23 the products in the supermarket. Our workers
24 deserve paid sick days so that we don't have to
25 choose between going to work sick or living in

1
2 fear that tomorrow we may not have a job that
3 makes it possible for us to feed our families. If
4 the Council votes to accept the paid sick days
5 bill, abuse against workers won't end, but it will
6 mean that if we or our children are sick, we will
7 have the right to ask for a day off without
8 worrying that we are losing a day's pay or even
9 worse, our jobs.

10 COUNCIL MEMBER HALLORAN: I don't
11 have any questions. I don't know if the Chair
12 does, but I thank you very much. We had
13 erroneously called them up. We called them up
14 once when it was an opposite panel, so I apologize
15 to them again for that mistake, and thank you for
16 your testimony.

17 CHAIRPERSON NELSON: If anybody
18 else is here to testify besides Richard Aviles,
19 Nora Neilis [phonetic], Lisa Davis and was anybody
20 else--con--anyone that is in other words against
21 the bill? Not K-A-H-N, but C-O-N.

22 NORA NEILIS: All by lonesome here,
23 yeah. Goodness.

24 COUNCIL MEMBER HALLORAN: Now you
25 know how I feel on the City Council.

1
2 NORA NEILIS: Feeling a little
3 lonely here today myself.

4 CHAIRPERSON NELSON: We try to shun
5 him as much as possible, but it's not always
6 possible.

7 NORA NEILIS: My name is Nora
8 Neilis. I am with the National Cleaners
9 Association. Richard Aviles, who is one of our
10 members, had to leave because he covers the
11 counter in the afternoon, so come 12:30 he had to
12 head out to take care of business. Yes. Exactly.
13 My name is Nora Neilis, and I represent the New
14 York City members of the National Cleaners
15 Association. I'd like to thank you for this
16 opportunity to offer our thoughts and comments,
17 and I'd also like to particularly thank Gale
18 Brewer, who worked with us in making changes to
19 this proposal based on input we gave last time
20 around, and it made it better, but we have still
21 got a ways to go. While we applaud the noble
22 intent of this proposal, we believe that it is ill
23 timed and in many respects has the potential to do
24 more harm than good to both the employees in New
25 York City small businesses and their owners.

1
2 There are many here today who will tell you that
3 the current precarious economic climate in concert
4 with a host of federal and state government
5 actions will increase the cost of doing business
6 in the coming year, making it the wrong time to
7 impose yet another economic burden on the city's
8 struggling entrepreneurs, and they are right. No
9 single one of these looming changes is enough to
10 signal a business' death now, but in combination,
11 they surely become a slowed death by 1,000 cuts.
12 It's the tendency of those who have never owned a
13 small business to assume that the business owner
14 is successful, leads a wonderful life, has a
15 beautiful house, drives a Mercedes, takes great
16 vacations and has no money worries. Money worries
17 are always the problem of the employee and never
18 the employer. The fact of the matter is that is
19 not the case in the dry cleaning industry. For
20 most drycleaners they have bought themselves a
21 job. If you think about your own neighborhood
22 drycleaner he is open 52 weeks a year. He is
23 there at six o'clock in the morning to start the
24 boiler. He is there at six or seven o'clock at
25 night to close the store up. His cost of doing

1
2 business--insurance, fuel, rent, compliance with
3 other government regulations, and a host of other
4 expenses have risen during the economic downturn
5 and his sales volume has dropped. He has not
6 raised his prices to keep pace. He is afraid that
7 if he increases his prices as a discretionary
8 item, he will lose even more business. He has
9 certainly lost more than one night's sleep
10 worrying about how he is going to make payroll or
11 pay the rent on his store or home. He regularly
12 thinks about selling, closing, moving or laying
13 someone off in order to try and make ends meet.
14 He is in survival mode. He is stretched to his
15 limits to such an extent that he cannot even
16 afford to take the time to attend this hearing and
17 plead his own case. He operates a time sensitive
18 business. Unlike an office where his work can
19 wait until tomorrow or be spread around the people
20 who are there, he has a commitment to his consumer
21 to return their garments, so when someone is out
22 he either has to work longer hours himself or he
23 has to pay another employee to cover. A pair of
24 pants gets pressed in a certain amount of time.
25 If you have got one worker who you figure had

1
2 seven hours' worth of pants pressing to do, and he
3 didn't show up today, somebody has to be paid to
4 press the pants, and I sat here all day scratching
5 my head at \$0.18 and said to myself somebody has
6 to tell me how that is happening in dry cleaning
7 because it is not. This proposal will have him
8 paying twice for the work done. Though he wishes
9 it were otherwise, if he is not offering some kind
10 of paid sick leave for his employees, it is
11 because he doesn't have it. Frankly several of
12 our more financially successful members higher
13 priced cleaners who can afford and do currently
14 offer paid time off ask me why I was planning on
15 appearing to oppose. Their feeling is that these
16 hardworking struggling can barely pay their bills
17 cleaners are artificially keeping the price of dry
18 cleaning down, and it wouldn't be such a bad thing
19 if this measure culled the herd a bit and forced
20 them out of business. I have other members who
21 are financially stable offering paid time who
22 remember the days of them struggling to grow their
23 business and make ends meet, and it is them and
24 the struggling members who I'm here on behalf of.
25 They want us to oppose to because they recognize

1 the measure may do more harm than good. The
2 number of workers who may lose their jobs because
3 an employer has been carrying them out of
4 compassion is an emotion that the employer will no
5 longer be allowed to have sway him. The number of
6 workers whose hours will be cut as they are forced
7 to find a way to make up the difference, the
8 number of recordkeeping challenged cleaners--and I
9 will tell you they are a legion; recordkeeping is
10 not a strong suit--who will be paying fines down
11 on John Street will become legend for paperwork
12 snafus, the increased number of hours an employer
13 himself will have to give to the business without
14 recompense or reward in order to keep those
15 records and avoid fines, the number of consumers
16 who may be put at risk because a cleaner cuts
17 their costs by cutting back on their - - or other
18 insurances. These cleaners cannot personally
19 afford to cover this new cost. He is afraid to
20 raise prices. Where is the money coming from?
21 Cost cutting is his only answer if he wants to
22 stay in business and after five years of belt
23 tightening the opportunities for cost cutting will
24 mostly be found in payroll and the employees who
25

1
2 you are looking to protect. Now is not the time
3 to enact Intro 97-A in its current form. 40 hours
4 is an unfair benefit for part time workers as
5 opposed to full time. The right to ask for
6 medical backup for extended leaves has to be
7 addressed. Five employees is too small a staff to
8 warrant being subject to this proposal and that is
9 just a few. We would be happy to discuss with
10 you, and we appreciate the opportunity to give
11 testimony.

12 CHAIRPERSON NELSON: Thank you.
13 Couldn't help but notice how well-tapered and
14 well-ironed your clothes are.

15 NORA NEILIS: Well, when I got the
16 job, I got the word too.

17 CHAIRPERSON NELSON: Thank you so
18 much with your patience. Please Jason Coates
19 [phonetic] from the National Hispanic Council on
20 Aging, Donna Dolan [phonetic] New York Paid Leave
21 Coalition CWA, Heidi Siegfried NOW New York State,
22 Ron Regens [phonetic] and Barbara Young, National
23 Domestic Workers. While we are at it maybe there
24 is a Sasha Hooja [phonetic] from Planned
25 Parenthood. I suppose also Tyi Jones [phonetic]

1
2 yes, ma'am, good.

3 [background conversation]

4 CHAIRPERSON NELSON: Okay, we can
5 put one more seat I suppose so Socheatta Meng.
6 Good okay. So we can do that. Thanks 'cause
7 this chair has got to leave.

8 [background conversation]

9 CHAIRPERSON NELSON: I have one
10 constituent of the Jewish faith who I have got to
11 see before Shabbos.

12 [background conversation]

13 CHAIRPERSON NELSON: Okay. Please
14 whichever side - - to begin first, go right ahead.
15 Okay.

16 SASHA HOOJA: Good afternoon.
17 Thank you for still being here. My name is Sasha
18 Hooja, and I am testifying on behalf of Planned
19 Parenthood of New York City. Planned Parenthood
20 of New York city urges the New York City Council
21 to ensure that all New Yorkers have access to paid
22 sick days. As a leading reproductive health
23 provider in New York City, we know all too well
24 the realities faced by uninsured and underinsured
25 New Yorkers. Our doors are open to everyone

1
2 regardless of their immigration status, gender and
3 ability to pay. We see our clients make difficult
4 decisions about how to best manage resources to
5 care for themselves and their families every
6 single day. Paid sick days will provide some of
7 the hardest working New Yorkers with a sense of
8 security during these times of economic
9 uncertainty. We know that it will mean so much to
10 so many. New Yorkers who currently lack paid sick
11 days resemble our clients, young women, working
12 mothers, low income New Yorkers. We know that
13 paid sick days are especially critically for
14 single working mothers, a group of New Yorkers who
15 face impossible choices between taking home a full
16 paycheck and caring for themselves and their
17 children. Access to paid sick days would prevent
18 a woman from having to decide between her health
19 and her livelihood. As a healthcare provider, we
20 recognize the intersection of economic security
21 and reproductive health. In particular access to
22 the time sensitive services that we provide for
23 example should not be forsaken out of fear of
24 retaliation from an employer or result in lost
25 wages. Thank you.

1
2 CHAIRPERSON NELSON: I appreciate
3 it. We are I guess going to have to enforce as
4 much as possible the two minute rule again, so we
5 all can get out of here before they close the
6 bridges.

7 BARBARA YOUNG: Good afternoon. My
8 name is Barbara Young, and I want to thank you for
9 allowing me to testify - - . I stand in support
10 of the paid sick time act, Intro 97-A. As a
11 domestic worker representative and former domestic
12 worker, I know the hardships of working and not
13 having paid sick days. Thousands of domestic
14 workers through their dedication and love of
15 caring from the children, homes and elderly
16 parents of their employees have no way of taking a
17 day off when sick. It would mean not being able
18 to pay rent or buy food. These are the same
19 domestic workers who keep New York strong by their
20 labor allowing their employers to pursue their
21 professions daily, but because of exclusions from
22 major labor laws, we don't have the ability or the
23 rights to join a union or advocate for paid sick
24 days. It is the responsibility of you, the
25 lawmakers to set these guidelines and laws for the

1 protection of workers, the health of the workers
2 and to protect the health of the public, and so I
3 join Councilwoman Gale Brewer in asking you to
4 pass this piece of legislation in support of paid
5 sick days. This is not a special treatment. The
6 mayor and the governor of New York often say that
7 New York is the greatest city in the country and
8 the world. There are many states and cities that
9 have already passed this measure, and it is time
10 for New York to work on behalf of its workers and
11 pass this legislation.
12

13 CHAIRPERSON NELSON: Thank you,
14 ma'am.

15 HEIDI SIEGFRIED: Good afternoon.
16 I am Heidi Siegfried. I am legislative vice
17 president of NOW New York State, and the National
18 Organization for Women is an organization with
19 chapters in all 50 states. It is an activist
20 organization that seeks to affect change through
21 lobbying, advocacy, education and protest. We are
22 the largest women's political action organization
23 in New York. We represent over 40,000 women and
24 men in 24 chapters. Paid sick days is an
25 important economic issue for women of New York,

1 and that is why NOW New York State has long
2 supported paid sick days legislation at both the
3 state and the city levels. For more than the one
4 million New York City workers who lack paid sick
5 days, this legislation is long overdue, and I mean
6 I can remember working on this like seven or eight
7 years ago, so it is hard to believe that we are
8 still fighting for it. We see paid sick days as a
9 human right, and the men and women of New York
10 should no longer have to make the impossible
11 choice between keeping their jobs and the income
12 they need to pay their bills and staying healthy
13 or caring for sick children. We see this as a
14 public health issue. It has already been
15 mentioned that people who don't have paid sick
16 days go to work. They let their children go to
17 work. Twice as likely to send them to school or
18 daycare, and five times as likely to report taking
19 their child or family member to an emergency room.
20 In drafting the bill the office of prime sponsor
21 Manhattan Councilwoman Gale Brewer has listened to
22 many different communities, and I understand this
23 is the second time we have had these hearings
24 including the business community. It has been
25

1
2 amended to address some of the concerns that have
3 been raised. The bill is sponsored by 38 Council
4 Members now, a super majority. We think it's long
5 past time for New York City to join its sister
6 city, San Francisco, Washington D.C., Milwaukee,
7 Philadelphia, Seattle and now Portland in passing
8 this important legislation.

9 CHAIRPERSON NELSON: Thank you.

10 RONALD REGENS: Good afternoon,
11 gentlemen, and thank you for having me here to
12 show my support for the earned sick time act. My
13 name is Ronald Regens, and I am a community member
14 advocate who works for underserved people living
15 with HIV and AIDS in the boroughs of Brooklyn,
16 Manhattan and the Bronx. I also participate in
17 many community based organizations as a volunteer
18 and event organizer. One fulfilling community
19 group I participate in is the Action Center at
20 GMHC. It is the gold standard of programs for
21 those who are infected and affected by HIV and
22 AIDS, and the Action Center, which is overseen by
23 GMHC's public policy department I have been
24 introduced to the processed of city government and
25 its legislative processes and protocols. Being

1 involved in actions on behalf of people living
2 with AIDS has been liberating, educational and
3 cathartic. The altruistic approach of fighting
4 injustice regardless of demographic or
5 socioeconomic status has been most rewarding.
6 This brings me to the issue of sick pay for all
7 workers. At a former action, I was introduced to
8 many of these voiceless and faceless men and women
9 who struggled daily with providing for their
10 individual families on limited incomes and medical
11 coverage. I have witnessed the reality of this
12 horror when I spoke with a man who was fired from
13 his job as a deli worker for taking a day off from
14 work so he could see a doctor. Mind you this was
15 after his boss gave him verbal consent to do so.
16 As a man who lives with HIV and AIDS daily and
17 survived over two decades through compliance and
18 adherence to my prescriptions and doctor's care,
19 my health and wellness is a priority. Many of
20 these disenfranchised workers have jobs that put
21 them directly in the face of people like me,
22 exposing us and everyone else to all types of
23 cross contamination. Something as simple as a
24 cold have unintended exposed the public and the
25

1
2 worker's family to sickness and disease. I feel
3 that it is morally wrong for someone to be
4 confronted with the dilemma of income and personal
5 and public health each and every day. Childcare,
6 medical care, dental care, inoculations and
7 vaccines should not be regulated to an
8 afterthought. Neither should the decision to work
9 or lose the opportunity to work. With profound
10 regret I watch as this injustice is ignored and I
11 vow not to rest until this matter is - - resolved.
12 As a member of the Action Center and a member of
13 humanity I will represent and support any and
14 everyone who is not afforded this moral right.
15 Thank you.

16 CHAIRPERSON NELSON: Thank you,
17 sir.

18 DONNA DOLAN: Good afternoon. My
19 name is Donna Dolan. I chair the New York Paid
20 Leave Coalition, and I'd like to thank you for the
21 opportunity to testify this afternoon. The paid
22 leave coalition here in New York is part of the
23 family values at work multi state consortium
24 consisting of 20 states working together on paid
25 sick time, family leave insurance, paid family

1 leave and workplace flexibility. You have already
2 heard many times all of the different
3 jurisdictions across the country that have already
4 passed paid sick time. We are here today to urge
5 you to make New York City the sixth city in the
6 nation to pass earned paid sick time. A little
7 history, the New York City Paid Sick Days
8 Coalition kicked off back in March 2009. We had
9 20 organizations at our first organizational
10 meeting that signed on in support of the earned
11 paid sick time. Now today we have over 260
12 organizations and approximately 370 individuals
13 signed on support of this. Our supporters include
14 women, labor, public health, economic justice,
15 small businesses, business associations, faith
16 based groups, LGBT, HIV/AIDS, seniors, advocacy,
17 immigrants' rights, civil rights, research
18 economists, educators and children's advocates.
19 We are talking about economic justice for those
20 1.2 million workers within the city that don't
21 have one day of paid sick time, and so many
22 workers you have heard their stories today, but I
23 want to underline one that I don't think we have
24 mentioned today. Last summer, the story of the
25

1 worker Felix Trinidad. He lost his life at age 34
2 because he did not get his stomach cancer
3 diagnosed and treated as soon as he had symptoms.
4 He was worried that if he took time off to go to
5 the doctor, he would lose his job and not be able
6 to support his wife and children, and it was so
7 unfortunate that he lost his battle with stomach
8 cancer last summer. So many workers in the city
9 have come to this coalition and there are so many
10 more that we don't even know about--probably three
11 or four times as many that have been fired or lost
12 pay because they needed a few days off to recover
13 from the flu or other illnesses. As elected
14 representatives of the people of the city of New
15 York, we maintain that you have a moral obligation
16 to end this horrific treatment of these workers.
17 They prepare and serve our food in restaurants,
18 provide homecare to seniors, provide childcare to
19 our children, work in retail, and provide security
20 in our buildings. We urge you to do the right
21 thing. This bill needs to go to the floor for a
22 vote. It will not only help businesses by
23 reducing turnover. It is going to put more money
24 in the pockets of workers thereby giving this
25

1
2 economy today in New York City a boost. The paid
3 sick time act deserves a vote now. Thank you for
4 your consideration.

5 CHAIRPERSON NELSON: Thank you.

6 JASON COATES: Hello. My name is
7 Jason Coates, and I work with the National
8 Hispanic Council on Aging. Thanks for the
9 opportunity to testify. Hispanic older adults
10 face substantial challenges to aging and economic
11 security and the best possible health. Limited
12 education and English speaking ability combined
13 with a lack of financial literacy means that many
14 Hispanics enter old age with little in the way of
15 savings. In 2011, nearly one in five Hispanic
16 older adults lived in poverty. Without social
17 security, this number would be more than doubled.
18 Additionally, Hispanics are more likely to rate
19 their health status as fair or poor than the
20 general population of older adults. They are also
21 less likely to receive preventative care that can
22 help small health issues from become larger
23 complications. Overall about 30 percent of
24 Hispanics lack health insurance and this means
25 that they enter old age already in poor health.

1
2 Many health and economic barriers that Hispanic
3 older adults face could be lowered by having
4 access to paid sick days. This policy would
5 encourage the use of affordable, preventative
6 healthcare and keep workers healthy so that they
7 do not develop conditions that are expensive to
8 treat. Paid sick days will also help
9 intergenerational households by allowing adult
10 children to stay home from work to take care of
11 their older adult parents. The public health
12 benefits of paid sick days will also be
13 particularly beneficial for older adults as they
14 are most affected by illness. As
15 intergenerational households become more common,
16 so too do conflicts between the need to go to
17 work, and the need to stay home to care for a
18 loved one. Last year, National Hispanic Council
19 on Aging met a worker whose mother passed away due
20 to preventable illness. After hearing about our
21 efforts to promote paid sick and family leave, the
22 worker states that such a policy would have
23 allowed her to take time off to take her mother to
24 a doctor and get the treatment that she needed.
25 Despite working hard for a lifetime many older

1 adults are simply not able to save enough to
2 retire. In 2011, I met a 59 year old agricultural
3 worker from Texas. She had multiple chronic
4 conditions like diabetes, but not enough money
5 saved to afford healthcare to manage those
6 conditions. Paid sick days would have given her a
7 better chance to see a doctor and prevent those
8 conditions that she has today. Thank you.

10 CHAIRPERSON NELSON: Thank you.

11 Ms. Jones, I like what you wrote here. It's very
12 small. It's condensed, and that is not the only
13 reason because it just somehow really says a lot.

14 TYI JONES: Thank you. Hi, thank
15 you for that, and hearing us out impatiently. My
16 name is Tyi Jones. I live in Brooklyn, and I am a
17 member of the Retail Action Project. I have
18 worked in retail for several years, and I have
19 never received a paid sick day. When I have been
20 sick I have always been forced just to go into
21 work sick or I have to find someone to cover my
22 shift. My last job was at American Apparel where
23 I was actually shocked to find out that we had no
24 paid sick days and I have always just went in sick
25 no matter how awful I felt, so clearly since I

1 worked while I was sick it took me longer to get
2 better, and companies that don't provide paid sick
3 days not only put workers at risk for getting more
4 sick, but it also affects the customers that can
5 also catch the germs. In closing, we desperately
6 need paid sick days in New York City. Retail
7 workers are counting on the leadership of the New
8 York City Council to grant us just a few days of
9 paid sick time a year, and might I add that when a
10 company is building their business plan, they also
11 set aside a certain amount for their employees in
12 salaries, so if they are aware of the worst case
13 scenario being that the most critical employee may
14 be at risk to not come in, they set aside a
15 certain amount to have that coverage. Thank you.

17 CHAIRPERSON NELSON: You're
18 welcome. I wasn't feeling too good today either,
19 but if I didn't come in I still get paid, and it
20 is always in the back of my mind, but I always
21 think of somebody coming in. We have all had it.
22 We have all had people come in coughing, sneezing
23 and we say if not to them, we say to ourselves,
24 gee, thanks for coming in. I appreciate you being
25 here. I am going to try to be in the next room.

1
2 To me that was the tipping point why I signed on
3 in the first place. I began. I am hearing both
4 sides, and both sides have compelling arguments,
5 but I thank you all so much. Councilman Halloran,
6 do you have one question?

7 COUNCIL MEMBER HALLORAN: [off mic]

8 CHAIRPERSON NELSON: Thank you,
9 sir. That is good. The lady in the back that we
10 called. There is another panel.

11 SOCHEATTA MENG: Good afternoon.
12 My name is Socheatta Meng and I am legislative
13 counsel for the New York Civil Liberties Union.
14 Thank you for providing the opportunity to testify
15 on this legislation today. I am here today on
16 behalf of the NYCLU to express our strong support
17 for this bill. This bill is critically important,
18 and if passed would improve the quality of life
19 for millions of workers and their families. As
20 others have indicated in our city approximately
21 1.5 million workers lack paid sick leave. For
22 these workers this means that when illness
23 strikes, they must choose between work or staying
24 home and losing pay. For workers in New York City
25 the latter is an option that many cannot afford.

1 The absence of a mandatory paid sick leave is
2 harmful to all workers, but it has an especially
3 significant impact on low income workers of color,
4 many of whom cannot take a paid day off. It is
5 for the above reasons that the NYCLU supports this
6 legislation. I would also like to describe one
7 concern that we have regarding the bill's
8 implementation. This bill's changing shifts
9 provision would allow an employee who has called
10 in sick to pick up another shift in the same
11 period. If an employee exercises this option, she
12 is not paid for that sick day. We are concerned
13 that this provision may potentially compromise the
14 ability of shift workers to use paid sick days
15 including the city's 200,000 restaurant workers,
16 many of whom are low wage. This concern arises
17 from the pervasive pressure that workers face to
18 exchange shifts with someone who is sick. Our
19 concern regarding compliance with the bill if it
20 becomes enacted is not just limited to the
21 changing shifts provision. There is reason to
22 believe that employers may not comply with the
23 paid sick day mandate at all. We have also urged
24 the City Council to include affirmative measures
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1
2 in the bill that would help ensure compliance and
3 to amend it so that the Council's Committee on
4 Oversight and Investigation is mandated to conduct
5 a citywide field investigation. This
6 investigation would evaluate compliance with the
7 new law and should be undertaken one year from its
8 effective date. All of New York's working
9 families need paid sick days. It is a human right
10 that would significantly improve the quality of
11 life for millions of workers. The NYCLU urges
12 speaker Christine Quinn and the City Council to do
13 the right thing. Please put this bill up for a
14 vote.

15 CHAIRPERSON NELSON: Thank you,
16 ma'am, and I thank the entire panel so much for
17 your patience and staying here this long. There
18 was one question from Council Member Halloran.

19 COUNCIL MEMBER HALLORAN: Glad to
20 see the NYCLU here. I have a question for you,
21 since you are supposed to be our guardians of
22 liberties. You don't see any curtailment
23 separations of powers issues as a state level
24 question. Nowhere in your brief or in any of the
25 work that I have seen from the NYCLU on this have

1
2 you touched or addressed the question raised by
3 some of us who concern ourselves with separation
4 of powers and whether or not this is a power that
5 would actually fall under the rubric of a local
6 municipality or rather the umbrella of the state
7 role in regulating at will employment through
8 curtailment of the at will employment common law
9 status of our state. So has the NYCLU looked at
10 that issue at all or do you not care or is it one
11 of those situations where the end justifies the
12 means, so you are not going to really bother
13 yourself with the whole issues of preemption?

14 SOCHEATTA MENG: I would be able to
15 get back to you on that issue.

16 COUNCIL MEMBER HALLORAN: I would
17 encourage you to when you go back and look at it
18 to make sure that whoever makes that assessment is
19 not the same person who told me at a hearing that
20 the crisis pregnancy center bill was
21 constitutional 'cause some liberal judge in the
22 first circuit struck it down as being
23 unconstitutional when the NYCLU told me it was
24 perfectly constitutional. So just make sure you
25 use somebody who actually might know something

1 COMMITTEE ON CIVIL SERVICE AND LABOR 305
2 about constitutional law.

3 CHAIRPERSON NELSON: Fair
4 questions, some are complex and deserving of an
5 answer. A lot of complications involved in what
6 we do.

7 SOCHEATTA MENG: We can get back to
8 you on this issue.

9 CHAIRPERSON NELSON: Thank you,
10 Council Member Halloran. Thank you so much again.
11 We know that Derek Chandler [phonetic] is here,
12 Housing Works, and we are just going to call off
13 names and if you are one of the names please come
14 forward. Debra Cooper [phonetic] Democratic State
15 Committeewoman 67th district, Kelwin Diaz
16 [phonetic] and Marty Copleman [phonetic] and Mel
17 Wymore [phonetic], Stew O'Brien [phonetic]
18 Association of Plumbing Contractors, Shara Siegel
19 [phonetic] of the New York Academy of Medicine,
20 Susan Thersaleck [phonetic]--I am sorry if I
21 mispronounced it--MD. That I can see. I watch
22 Gray's Anatomy, so I can say MD from Bellevue
23 Hospital, Department of Pediatrics, which my
24 daughter is going to be a pediatrician in about a
25 month or two. We have Erica Rothschild

1 [phonetic]. Okay and Zayed Hamad - - Retail
2 Action Project. I think this is everybody.
3 Terrific. Okay. So whoever would like to start.
4 Mr. Chandler?
5

6 DEREK CHANDLER: Starts off to say
7 good morning, but that was...

8 CHAIRPERSON NELSON: Pretty soon it
9 will be good morning again.

10 DEREK CHANDLER: Hi. I am Derek
11 Chandler. I am the - - organizer at Housing
12 Works. Housing Works is a - - community people
13 living with and affected by HIV/AIDS. Our mission
14 is to end the dual crisis of homelessness and AIDS
15 through relentless advocacy to provisional
16 lifesaving services and entrepreneur businesses
17 that sustain our efforts, and yes, we believe that
18 employers should provide paid sick time to all of
19 their employees. We know that many of the folks
20 that we serve poor and low income New Yorkers
21 living with HIV are more than likely to be
22 employed in jobs that do not have paid sick days.
23 It is absolutely awful that these folks and folks
24 with other chronic health conditions may have to
25 choose between taking care of their health or

1 getting a full paycheck that helps them to pay
2 their rent, put food on their table and perhaps
3 even pay for the medications that would make them
4 well. The same can be said for single mothers
5 with children and for folks of transgender
6 experience. Indeed the failure to ensure that
7 those who are working hard for themselves and
8 their families are afforded paid sick days as I am
9 fortunate to have should make us feel ashamed. We
10 are living in New York City in the year 2013 and
11 we as society should demand better than this.
12 Ensuring paid sick days should not even be up for
13 debate. We believe that the only reason that this
14 has become an issue is because the City Council
15 Speaker, who gets compensated when she is without
16 sick, would rather cater to the business community
17 in order to win an election than do what is right
18 by the poor and marginalized in our city.
19 Political expedience should never trump political
20 will and we join the chorus of others in this city
21 and demand that this bill be brought to the floor
22 for passage. Thank you for allowing me to
23 testify.

24
25 CHAIRPERSON NELSON: Thank you,

1 sir. I guess the Doctor or...

2 SHARA SIEGEL: Hi. My name is
3 Shara Siegel. I am a policy associate at the New
4 York Academy of Medicine and I am delivering this
5 testimony on behalf of Dr. Jo Ivey Boufford, who
6 is the president. The New York Academy of
7 Medicine is an independent organization that has
8 been advancing the health of peoples and cities
9 since 1847 through research, community engagement
10 and policy leadership. Current priorities include
11 supporting health aging, strengthening systems
12 that prevent disease and promote the public's
13 health and working to eliminate health
14 disparities. NYAM supports the implementation of
15 a paid sick leave policy in New York City. New
16 Yorkers without paid sick leave may be forced to
17 choose between their income and their health. We
18 can see the impact of this forced choice across
19 three areas; infectious disease, chronic disease
20 and injuries. Staring with infection disease--
21 social distancing that is staying away from other
22 people is the key public health intervention
23 against the spread of viruses. When employees go
24 to work sick they stay sick longer and they make
25

1 their co-workers and fellow commuters sick.
2
3 Adults without paid sick days are 1.5 times more
4 likely than adults with paid sick days to report
5 going to work with a contagious illness like the
6 flu or a viral infection. Chronic disease--heart
7 disease, stroke, cancer and diabetes are among the
8 most prevalent, costly and preventable of all
9 health problems. Workers without sick days often
10 delay doctor visits, which can lead to worse
11 health outcomes. The CDC sites a national study
12 concluding that workers with paid sick leave are
13 more likely to have seen a doctor in an office or
14 clinic for any reason in the last year than
15 workers without paid sick leave. Injuries--
16 evidence is emerging that workers with access to
17 paid sick leave are 28 percent less likely to
18 suffer a work related injury. Workers who are
19 sick on the job are more likely to be injured due
20 to the loss of concentration and ability to make
21 sound decisions and fatigue, not to mention the
22 drowsiness that can accompany taking medication.
23 We should also note the impact of this paid sick
24 leave policy failure on New York's children. Low
25 income children are more likely to face marked

1 health problems and consequently need parental
2 care. I'd also like to note that forcing workers
3 to use emergency departments to gain access to
4 care after work hours also affects the viability
5 of our healthcare system. Thank you, and we
6 encourage you to support the paid sick leave
7 policy.

8
9 CHAIRPERSON NELSON: Thank you.

10 Yes, ma'am.

11 DEBRA COOPER: Hi. I am Debra
12 Cooper. I am the democratic state committeewoman
13 for the 67th Assembly District, and I was one of
14 the original signatories on the letter, and the
15 New York Times ad asking that this bill be brought
16 to the floor, which is why I have preserved and
17 stayed here all day long. So I think the time for
18 paid sick leave is now. This hearing is long
19 awaited, and I am glad to be one of the many
20 people who have supported this absolutely crucial
21 measure, and this about health in more than one
22 sense. Let me say upfront it is about the health
23 of this society. It is about the literal health
24 of the society and the people of the city. It is
25 also about the economic health of this city, and

1
2 crucially it is about the political health of the
3 city government. So let me get to each one. A
4 million New Yorkers do not have paid sick days--I
5 do know that was a disputed figure for Mr.
6 Halloran--the majority of whom are women and
7 immigrants--of which I am actually one, a woman
8 and an immigrant--people who need the most
9 protection; however, the rest of us also need
10 protection from illness as well. People should
11 not be put into the position of having to choose
12 between their health or their family's health and
13 the loss of pay or money for rent or maybe even
14 the loss of their job. That is just simply
15 unjust; however, by forcing people to work when
16 they are sick, the health of the rest of us is
17 endangered as well. Disease - - spread to
18 everyone in scores of pathways. In New York we
19 live close to each other, we ride crowded public
20 transportation, and we recently had a bad flu
21 season, which was made much worse by the fact that
22 sick low income workers had to come into work, as
23 many of them have testified here already. One of
24 the important measures of economic output is
25 productivity. It is obvious that productivity is

1 enormously impacted in a negative way by illness,
2 and I heard a doctor say that. This brings us to
3 the economics of paid sick leaves. The opponents
4 of paid sick leaves contend that the economics
5 don't work, that it harms the economy, but this is
6 the same kind of argument that has been used about
7 the minimum wage though much recent evidence shows
8 that indeed that increasing the minimum wage helps
9 the economy, and in one of the ways that paid sick
10 leave would help the economy would certainly be to
11 increase productivity and the other would be to
12 decrease the negative impacts for instance on the
13 New York City health system and its hospitals and
14 its private hospitals. The final measure of
15 health is political. Democracies measure their
16 vitality by how well they govern and how well they
17 represent the will of the governed. When a
18 measure is both sound and popular, it should be
19 allowed to come to a vote, and if it loses, it
20 loses, and if it wins, it wins. Historically I
21 was here all day--so I added something. A lot of
22 people who are against the bill say this is a good
23 thing to do, but government shouldn't do it, but
24 that is the same kind of argument that said in the
25

1
2 past that children shouldn't work from dawn to
3 dusk and we need to have a 40 hour workweek, and
4 it's the right thing to do, but government
5 shouldn't mandate it, and the elderly should live
6 in dignity, but government shouldn't have to
7 provide or we think pollution is bad for the air
8 and we shouldn't have to breathe it, but
9 government shouldn't stop people from doing it,
10 but if those things had been done, there would be
11 no reason for government to do any of it, and if
12 paid sick days were provided to the huge number of
13 people who don't have it then there would be no
14 reason for government to do it. And obviously
15 that is not the case, and that is why we need to
16 have a paid sick leave bill now. I'm done.
17 That's it.

18 CHAIRPERSON NELSON: Terrific.

19 Thank you very much. I appreciate it, and Doctor,

20 DR. SUSAN THERSALECK: Yes. Thank
21 you. I am Susan Thersaleck representing the
22 American Academy of Pediatrics for the New York
23 City chapters. I share many of the concerns of
24 some of the other healthcare providers that - - to
25 have spoken before, so I won't restate some of

1
2 those, but let me just say I am a pediatrician and
3 in my day job I work at Bellevue Hospital and
4 teach medical students and residents for the NYU
5 School of Medicine, and I have to say I do see
6 effects of lack of paid family leave in my
7 everyday work. Most of the children I care for
8 come from low income families. As I said many of
9 the issues have been raised before, but I just
10 want to stress a couple of things really pertinent
11 to children. I have seen families absolutely
12 devastated when a child needed to be hospitalized
13 either for a chronic condition that may have been
14 neglected for lack of follow up care or for
15 something new where one parent needs to stay with
16 the hospitalized child, the other parent needs to
17 keep the family going, and for some of these
18 families, it is just such a fragile balance that
19 anything like this thrown into the mix disrupts
20 the whole thing, and again, in addition to being
21 detrimental to children and families these kinds
22 of instances really raise our healthcare costs so
23 we need to think about that. I am a newborn
24 person. I am the medical director of the newborn
25 nursery at Bellevue as well, and just another

1
2 issue that this affects is breastfeeding. In the
3 21st century we now consider breastfeeding to be an
4 important public health priority rather than a
5 lifestyle choice as in the past. The research is
6 pretty rock solid on it, so we spend a lot of time
7 and effort trying to help new mothers breastfeed.
8 I am constantly teaching my residents and students
9 about it, yet many of our low income mothers
10 either do not initiate breastfeeding or will
11 breastfeed very short durations of time because
12 they will say I really don't want to start. I
13 have to go back to work in very short time
14 periods. Now I know this paid sick leave is
15 talking about a short period of time, but it is
16 really detrimental, and again the research
17 demonstrates this and the research also
18 demonstrates that when efforts are made to support
19 low income women some of these disparities are
20 reduced, so let me just end by stressing that I
21 feel this is an important public health measure.
22 It is beyond just economics. It is important to
23 the public health and again for the wellbeing of
24 our families and children, so please remember the
25 children. They don't vote, but they will someday.

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Thank you.

CHAIRPERSON NELSON: Thank you,
Doctor. I want to thank everybody.

COUNCIL MEMBER HALLORAN: First let
me say thank you to all of you for having stuck
around this long. We appreciate it, and to my
friend who is a democratic district leader from
somebody on the other side of the aisle, let me
just tell you I appreciate the fact that you are
here willing to express not only your opinion and
your reason for it, and understanding that there
is sometimes an ideological issue on the other
side that needs to be talked about. To our
gentleman is where I have my question. We have
had several panels up here today and several
Council Members, and every one of them has
acknowledged that in the original draft of this
bill there would have been some serious negative
consequences to businesses in New York City that
might have resulted in actual economic damage had
that version of the bill, the original one drafted
in 2010 been the bill that we were passing, so
with all due respect to your perception that
Christine Quinn has delayed this, I am sitting

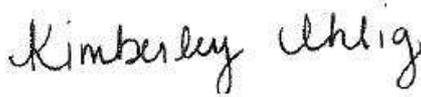
1 here as a republican on the opposite of the aisle
2 of her, who has not endorsed her, who has endorsed
3 someone else for mayor, to tell you I am very
4 grateful to her for having not put that bill
5 forward because we would be sitting here today
6 with damage to businesses that may be irreparable
7 in some instances, and at least at this point,
8 they have made I believe 27 or so - - amendments
9 to the bill as it was originally proffered. That
10 sends a signal to me that somebody realized there
11 were some really significant flaws in the bill, so
12 while I understand being frustrated, believe me as
13 a republican I am the most frustrated person on
14 this Council in getting things done, but I will
15 tell you clearly and unequivocally and I can hope
16 you understand it that I don't believe for a
17 minute it was political posturing per se. I think
18 Christine was trying to balance the interests of
19 business, the people, getting it done in a way
20 that would be - - and correct and I hope that we
21 will still take a few more minutes before this
22 gets done to clean up issues I think I have with
23 this and that other business people have shared
24 with us even at this hearing.
25

1 CHAIRPERSON NELSON: Positive
2
3 objectivity. That was certainly well said. I
4 want to thank Councilman Halloran for being here
5 with us the entire time, and for filling in for me
6 when I had to go out and do various things as
7 well. I want to thank Matt Carlin, counsel to the
8 Committee, who did all the heavy lifting so to
9 speak and for all of you for staying so long
10 because your hearts are in this obviously. It's
11 not just a fleeting fancy. You want to do the
12 right thing and on both sides of the issue, both
13 excellent arguments. There is many other people
14 to thank, which we just don't seem to have time,
15 but a lot of people working on this Council staff
16 as well. So on behalf of myself I'd like to thank
17 you all so much, and we can commence this hearing
18 on March 22nd, 2013 of the Civil Service and Labor
19 Committee. Thank you. Have a safe trip home.

C E R T I F I C A T E

I, Kimberley Uhlig certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature _____

Date _____ 4/13/13