

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

LABOR AND INDUSTRY COMMITTEE
PUBLIC HEARING

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WEDNESDAY, JUNE 13, 2018
9:00 A.M.

PRESENTATION ON
HOUSE BILL 861
PREEMPTION OF LOCAL LABOR MANDATES

BEFORE:

HONORABLE ROB KAUFFMAN, MAJORITY CHAIRMAN
HONORABLE SHERYL DELOZIER
HONORABLE MARK GILLEN
HONORABLE SETH GROVE
HONORABLE FRED KELLER
HONORABLE DAVID MALONEY
HONORABLE ERIC NELSON
HONORABLE JESSE TOPPER
HONORABLE JOHN GALLOWAY, DEMOCRATIC CHAIRMAN
HONORABLE MORGAN CEPHAS
HONORABLE DANIEL DEASY
HONORABLE MARIA DONATUCCI
HONORABLE LEANNE KRUEGER-BRANEKY
HONORABLE JEANNE MCNEILL
HONORABLE DAN MILLER
HONORABLE GERALD MULLERY
HONORABLE ED NEILSON
HONORABLE ADAM RAVENSTAHL
HONORABLE PAM SNYDER

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*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

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I N D E X

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P R O C E E D I N G S

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MAJORITY CHAIRMAN KAUFFMAN: Good morning, folks. I want to call this meeting of the House Labor and Industry Committee to order. And if we can all begin by standing for the Pledge of Allegiance.

(The Pledge of Allegiance was recited.)

MAJORITY CHAIRMAN KAUFFMAN: Thank you all for being here. I'd like to welcome everyone to this meeting today. Of course, the meeting is being recorded, and, Members and guests, if you could kindly silence your cell phones and electronic devices.

Would the Secretary please call the roll?

(Roll was taken.)

MAJORITY CHAIRMAN KAUFFMAN: Thank you. Representative Maloney is entering the room, so please add him to the roll today.

We will be discussing Representative Grove's legislation, House Bill 861, to preempt local ordinances governing employer policies and practices. At this time, I'd like to invite Representative Grove to address the

1 Committee briefly just to go over the background of the
2 bill, and then we will proceed.

3 Representative Grove?

4 REPRESENTATIVE GROVE: Thank you, Mr. Chairman.

5 House Bill 861 is a preemption law that would bar
6 local governments from passing labor law policies on
7 private sector employees. It would not affect on their
8 ability to manage their employees or govern their contracts
9 with private employees or private employers.

10 The scope of this bill is ensure that local
11 governments focus on what they should be focusing on.
12 Primarily, local governments were created to focus on
13 private safety, infrastructure, planning, zoning. Local
14 labor laws is a new entity they've entered in, and it
15 creates a patchwork of inconsistent rules and regulations
16 throughout the Commonwealth, which hurts our ability to
17 grow economically, and obviously businesses suffer,
18 particularly ones that are in multiple jurisdictions.

19 So the scope of this bill is to provide
20 consistent regulations throughout the Commonwealth of
21 Pennsylvania, as well as provide a place in Pennsylvania
22 that welcomes businesses so they can grow jobs and grow our
23 economy and obviously grow our revenue through private
24 sector job growth and not tax-and-spend policies.

25 Thank you, Mr. Chairman.

1 MAJORITY CHAIRMAN KAUFFMAN: Thank you,
2 Representative Grove.

3 And Representative Gillen has entered the room,
4 so please add him to the roll. Representative Galloway has
5 entered the room. Please add him to the roll as well.

6 Now, I'd like to invite the first panel to join
7 us by sitting at the desk right in front of us, and that is
8 Jennifer White, Director of Training and Development, the
9 Briad Group; Xavier Veliz, General Manager of Wendy's
10 restaurants and the Briad Group; and Rebecca Oyler, who is
11 Legislative Director of NFIB of Pennsylvania.

12 I would like to ask our witnesses here today to
13 please summarize your testimony in a five-minute statement.
14 We do have limited time today. The House convenes at 10
15 o'clock. And one of our legislative assistants, Shannon
16 Walker to my right, will signal you when you have about 30
17 seconds remaining, so at that time you can begin concluding
18 your remarks. So I will allow you all to begin however you
19 like. You can do it in the order I announced you, or if
20 you have an alternative order, I'm fine with that as well.
21 So you may proceed.

22 MS. WHITE: Good morning. My name is Jennifer
23 White. I'm the Director of Training for a company that
24 operates a group of Wendy's in Pennsylvania, New Jersey,
25 and New York. I am responsible for leading initiatives

1 that motivate and develop our people on a company level. I
2 spend the majority of my time working in Wendy's kitchens
3 with team members and managers, identifying restaurant
4 opportunities and coaching the teams on best practices. I
5 have a very unique perspective because I attend meetings
6 with Directors and executives, while also working directly
7 with our teams serving the guests.

8 I work directly with 22 Wendy's restaurants in
9 New York City that are required to comply with New York
10 City predictable scheduling laws. There are over 100 other
11 Wendy's restaurants which I work with that are not subject
12 to these laws. Today, I wanted to share with you what I
13 have learned from my experience there because these
14 experiences are why I support the State preemption bill
15 H.B. 861.

16 Since these laws took effect in late November
17 last year, my team has been tasked with the management of
18 the documentation required to stay compliant with these
19 laws. Each day, a full-time manager and myself review each
20 restaurant's schedule from the day before and compare it to
21 the time clock records. We look for any inconsistencies
22 that could possibly result in premium pay under New York
23 City law. Among the 22 restaurants, we find about 165
24 inconsistencies each day. Once this is done, we then
25 collect documentation from every manager for each instance,

1 as required by law. In a little over six months, since the
2 laws were put into effect, we have processed over 30,000
3 documents. Due to the high volume of documents, this
4 process becomes incredibly time-consuming.

5 In addition to my assistance, we have a full-time
6 document manager, as well as two human resource managers
7 who coach managers and perform monthly internal audits. We
8 project that at the rate we are going year-to-date, we will
9 spend over \$100,000 in processing documentation to remain
10 compliant with these laws, and over 1,400 labor hours have
11 been dedicated so far to managing documentation. This does
12 not include the administrative labor that the restaurant
13 teams will spend each day filling out, scanning, and filing
14 documentation.

15 These processes have become a reality for the
16 foreseeable future. Thus far, we have held 39 meetings on
17 compliance, as well as nine conference calls, with biweekly
18 calls scheduled every two weeks to review our practices,
19 coach our teams, and discuss results. Despite our best
20 efforts to enforce schedules as originally written, we have
21 spent over \$100,000 in premium payments.

22 From a people perspective, I have worked in the
23 restaurant with the crews, and I have found that these laws
24 have put strain on the relationship between employee and
25 manager. In cities, we often experience a higher rate of

1 lateness, since many workers use mass transit to commute to
2 work. Managers also use mass transit, so typically when an
3 employee is running late due to trains or bus delays, it is
4 a nonissue, but now that these laws are a reality, we must
5 have each employee who is late sign documentation stating
6 they were late so that we do not need to pay the \$75
7 premium pay for working a shorter shift than originally
8 scheduled.

9 In this situation, we have had numerous employees
10 complain that they feel it is unfair they need to sign a
11 document stating they were late, and that doing so makes
12 them fear for their jobs. Some have even quit. When a
13 mother needed to leave abruptly to go pick up her child, we
14 used to be able to let her leave at the drop of a hat to
15 take care of her family, but now we are forced to run and
16 print a form that we are legally required for her to fill
17 out and sign before she leaves to confirm, in the event of
18 an audit, that she decided to end her shift early
19 voluntarily to explain the schedule discrepancy. These
20 moments happen in each restaurant every day, and it
21 counteracts the trust and bond that our managers work so
22 hard to build with our teams which, in my opinion, is
23 invaluable.

24 One of the most attractive features of our
25 industry is the flexibility of our scheduling. Many young

1 people seek employment in our industry for their first job
2 simply because the shifts are flexible and schedules are
3 easily changed at a moment's notice when things like a
4 soccer game, school assignments, or school activities pop
5 up at the last second. Predictable scheduling laws require
6 that every day's schedule must be posted 14 days in
7 advance. This means we have to have a minimum of three
8 weeks of schedules up at any given time to ensure each day
9 on the schedule until the end of the schedule has a minimum
10 of 14 days ahead of it. Now, employees must know and
11 communicate their exact availability four weeks in advance
12 so that the manager can coordinate everyone's requests and
13 make the schedule to have it posted in a timely manner.

14 Many interviewees are surprised and disappointed
15 to hear this. Some even turn the job down on the spot once
16 they've learned about the predictable scheduling laws.
17 There have also been a great deal of new hires that haven't
18 felt comfortable signing the good-faith estimate form
19 required by law that asks the employer and employee to
20 agree upon a certain availability and a number of hours to
21 work each week. Most of them are surprised at how much
22 commitment is now involved in a quick-service position.

23 We have also seen these laws cause turnover. The
24 new scheduling practices have made it so that some
25 employees who work more than one job are no longer able to

1 coordinate two jobs' schedules to work together, forcing
2 them to choose between places of employment. One example
3 is two nurses that were working at a restaurant on Utica
4 Avenue in Brooklyn. Both were nurses working part-time for
5 extra money at Wendy's. The entire time they worked with
6 us, they had always called their manager on Thursday to
7 give them their nursing schedules for the following week so
8 that their hours could be coordinated between the two jobs.
9 They are now unable to get their nursing schedules earlier.
10 Unfortunately, due to this, they had to leave us to work in
11 another industry.

12 On the surface, the laws sound helpful, but we
13 have learned through these experiences that they are an
14 obstacle and often feel like a penalty for our managers and
15 our team members. I wish I could say that with all of this
16 time, money, and effort that there has been a positive
17 effect for the team members who this law was intended for,
18 but unfortunately, every time I bring up these laws, I am
19 met with phrases such as "What are you going to do about
20 it? When are they going to stop the laws?" And I am never
21 sure how to answer my teams in New York City, but I am
22 hoping that by supporting this bill I can have an impact
23 for my teams in Pennsylvania. Thank you.

24 MR. VELIZ: Good morning. As the General Manager
25 of the Wendy's restaurant located in Queens Village, New

1 York, I have faced many challenges in our business
2 regarding the new restrictive scheduling law. I work side
3 by side daily with my entire team and management.
4 Together, we have met our business goals and personal
5 growth goals.

6 However, as of November 26, 2017, a date to
7 remember, this new restrictive law was put in effect, and a
8 lot of things have changed not only to harm the business,
9 including the moral and the flexibility of our operation
10 and entire team. Below, I will mention a few key points of
11 what we have faced as a restaurant with our team.

12 I understand this new law was put in effect, and
13 lawmakers thought it would help our crewmembers. Yet it
14 does the opposite and has hurt our team and affected the
15 moral of our working environment.

16 The first key point is flexibility of the
17 scheduling; employee and management moral, being afraid;
18 family culture piece destroyed little by little; employee
19 crew turnover increases; excessive paperwork being
20 processed; working in a tense atmosphere. Before this law,
21 we had a flexible family culture and environment in our
22 restaurant. If a crew member needed to change their
23 schedule, they could call in advance speak to the manager,
24 and the manager could make a change to their schedule or
25 they could swap a shift with their crew members and advise

1 management of the change and management would update the
2 schedule. Now, with this new law crew members cannot be
3 flexible with their schedule and cannot make a change on
4 the last minute. And in the case of an emergency, it will
5 brings on more challenges regarding the scheduling and
6 making sure that the crew members have their required hours
7 for the week.

8 I recently had an incident where it broke my
9 heart when a female employee came to work with a severe flu
10 and with fever, taking transportation for minimum of one
11 hour just because she was afraid of getting a write-up for
12 not coming or sign required documentation.

13 Another example of how this restrictive law is
14 hurting our employees in their personal life, an opener,
15 Narinder, her schedule was 7:00 a.m. She lives like a mile
16 away. She was running late and she was speeding up to get
17 to the store on time. The police pull her over and gave
18 her a speeding ticket, and she came crying because she was
19 doing it for her not to clock in late and get a notation.
20 My heart was broken to hear this incident again.

21 I really feel that this law, instead of
22 protecting, is destroying our crew members' minds. As the
23 manager in charge, that day, the lady with the severe flu,
24 I sent her home I showed her that she was not going to get
25 in trouble and to please take care of herself and go to the

1 doctor.

2 We have similar stories of high school students
3 and crew members that don't know in advance when
4 appointments or school activities will arise. Per the
5 restrictive scheduling law, the schedules need to be made
6 three weeks in advance, and sometimes, they have to miss
7 these appointments or activities because they know that
8 they are responsible to work the shifts that they are
9 scheduled. Now my employees feel that they are working
10 under obligation rather than be flexible.

11 My restaurant turnover last year was less than 10
12 percent for the entire year, and it has been six months
13 with the restrictive scheduling law this year, and I
14 forecast it to be more than 75 percent crew turnover.
15 Flexible scheduling in a family environment boosts morale
16 and limits turnover. Prior to this new law, I was able to
17 hire part-time college students, part-time high school
18 students. Now, that group of potential candidates are no
19 longer available.

20 I sometimes feel bad for those high
21 school/college students that we had working for us and that
22 I know are academically doing well in school and they are
23 trying to help their parents with putting in the Friday or
24 Saturday day of work because those are the only days it can
25 be done in order to maintain their grades. The New York

1 law has now limited our ability to keep those teammates
2 previously hired employed.

3 I know when I was starting in this business, I
4 was a student working part-time for three years while
5 attending college. That was the only way for me to have
6 extra cash to pay for books, clothes, and lunch money. The
7 work environment is no longer a family fun place to work.
8 Not only is the scheduling a concern, there is so much
9 documentation and paperwork that has to be done on a day-
10 to-day basis. Documentation is required for every
11 situation, for lateness, for schedule changes, for staying
12 past your scheduled time, for wanting to leave early due to
13 bad weather or not being able to come in to work for bad
14 weather, for being sick, for leaving due to an emergency.

15 Any changes to the crew member schedule require
16 documentation and a signature from the crew member. More
17 workload and pressure is added, and we are faced with the
18 possibility of losing that great teammate. We now have a
19 city that prevents employers from making the last-minute
20 decisions for the well-being of their staff. Management
21 will get penalized for adjusting or calling someone in
22 order to relieve pressure or the stress from those that are
23 being valued as loyal to their job.

24 The restricted scheduling has been extremely hard
25 to manage. Teammates don't feel the need to work many

1 hours anymore, which has increased the numbers of call-outs
2 and requests to leave early, and management has to
3 document, which requires more paperwork. The crew members
4 feel as though they are being targeted and their jobs are
5 in jeopardy. Management has explained over and over the
6 laws and how this is not a company policy; it is a New York
7 law. However, the crew members do not see it that way.
8 Our organization has a culture, and it is being jeopardized
9 by this new law. My personal opinion is that business will
10 not survive with this new restrictive law, and so our crew
11 members working on this tense atmosphere will seek other
12 employment.

13 MS. OYLER: Good morning. I'm Rebecca Oyler.
14 I'm Legislative Director for NFIB Pennsylvania.

15 NFIB represents 14,000 small and independent
16 businesses in the Commonwealth in virtually every sector of
17 the economy. We appreciate the opportunity to come and
18 discuss House Bill 861, which we believe would prevent
19 local micromanagement of labor laws to the detriment of
20 business and economic development here in Pennsylvania.

21 Businesses depend on a certain amount of
22 uniformity across boundaries to ensure predictability and
23 to stay competitive. Local labor mandates create an uneven
24 playing field and stack the deck against businesses located
25 inside the affected municipalities. Businesses with

1 locations in and out of the affected municipality find it
2 hard to manage their workforce policies when dealing with
3 labor rules that differ across multiple jurisdictions.

4 Outside of those covered by Federal law, labor
5 rules are the purview of State Government. They should
6 apply equally to all workers in the State. It is
7 impractical to expect Pennsylvania's over-2,500
8 municipalities to have expertise to research and evaluate
9 full impacts of local labor ordinances and their effects on
10 local businesses and economies. In fact, labor rules
11 adopted in our larger cities have regional impacts
12 affecting Pennsylvania's economy as a whole: unemployment,
13 State wage and tax collection, and even whether businesses
14 choose to locate here in Pennsylvania. They can undermine
15 policies set at the State level and even hamper the overall
16 business climate here.

17 Small businesses are especially vulnerable to the
18 impact of local labor mandates. Small-business owners
19 typically have no administrative staff, little human
20 resources experience, and certainly no regular access to
21 legal counsel. They often struggle to decipher the
22 mysteries of overlapping, sometimes even conflicting,
23 Federal, State, and local laws.

24 Understanding and complying with these mandates
25 is expensive, both in terms of time and money, as you heard

1 from my fellow panelists. Workplace compliance costs small
2 businesses 36 percent more per employee than it costs large
3 businesses. Overlapping layers of mandates also divert
4 owners from their primary function, which is providing
5 goods and services and jobs to local economies.

6 You have heard from my fellow co-panelists about
7 the importance of flexibility. The vast majority of small-
8 business owners treat their employees and customers like
9 their extended family. They work hard to do what is right,
10 but their informal and unstructured nature and more limited
11 financial resources require greater flexibility in creating
12 policies and solutions that work for their business.
13 Burdensome and duplicative labor mandates shut off an
14 avenue through which small businesses can find flexibility
15 and really shine.

16 There is one business that will benefit from a
17 patchwork of costly labor mandates across the State, and
18 that is the litigation industry. Where confusion and
19 conflicting rules arise, lawsuits abound. Honest paperwork
20 or accounting mistakes by hardworking and well-meaning
21 business owners often turn into lawsuits that can put an
22 entrepreneur completely out of business. Even the threat
23 of a lawsuit can lead to a costly settlements that threaten
24 these businesses.

25 Given the detrimental impact to small businesses

1 of a myriad of local labor laws across the State, NFIB is
2 pleased the Committee is considering this bill as a remedy.
3 We have a few minor suggestions which are included in our
4 testimony.

5 Overall, Pennsylvania has not fared well in the
6 economic competition among the States. Being the sixth-
7 largest economy in the Nation, it ranks 48th in creating
8 new jobs. Passing House Bill 861 would signal that the
9 State is not willing to becoming a complex and burdensome
10 patchwork of local labor ordinances. It ensures
11 consistency and predictability for businesses looking to
12 keep and create jobs in local communities.

13 Thank you. We will be happy to answer questions.

14 MAJORITY CHAIRMAN KAUFFMAN: Thank you very much.
15 I appreciate the panel's input.

16 Since we last recognized folks, Representative
17 Keller, Representative Nelson, and Representative Donatucci
18 have entered the room and should be added to the roll.

19 We have about 10 to 15 minutes for questions, and
20 so I will recognize those who'd like to address the panel.
21 Who would like to be first?

22 Representative Grove?

23 REPRESENTATIVE GROVE: Thank you, Mr. Chairman.

24 I really appreciate the testifiers, particularly our
25 friends from New York coming down and testifying on the

1 implications of local labor law compliance up in New York.

2 I am going to start with Ms. Oyler. Part of this
3 is also the regulatory backbone to actually implement all
4 of these little patchwork effects, right? So the local
5 government has these requirements. They have to beef up
6 all their bureaucracy, so taxpayers are on the hook for a
7 higher bill. The businesses are on the hook for thousands
8 of documentations of paperwork. Have you looked at the
9 cost of these? Particularly Philadelphia has done some of
10 these prior to and after the amount of new paperwork
11 required in those entities, as well as the cost to
12 taxpayers on a bigger, more bloated bureaucracy doing
13 central planning for private business?

14 MS. OYLER: I don't have a specific number with
15 me here today. We might be able to provide that for you in
16 the future. But you're absolutely right, Representative
17 Grove. Those overlapping and duplicative layers of
18 bureaucracy and paperwork absolutely increase cost of doing
19 business. They create a competitive disadvantage for the
20 businesses who are affected by them, and ultimately, they
21 do result in higher prices for consumers, fewer jobs in
22 those local municipalities, and less benefits for workers
23 and, as you heard, a loss of flexibility, which really is a
24 benefit for many businesses and especially small businesses
25 that can use flexibility. So increasing costs and the

1 complexity of the regulatory environment absolutely will
2 have a detrimental impact on local economies. And we may
3 be able to provide some more specific impact numbers for
4 you.

5 REPRESENTATIVE GROVE: Okay. Mr. Veliz, with all
6 the new mandates that you have in New York, I assume you
7 spend more time doing paperwork. Did you have to hire new
8 people to help you handle that paperwork? And I assume
9 it's to the detriment of your employees. Instead of giving
10 them a pay raise, providing any other kind of financial
11 support to your current employees or hiring new people that
12 you might actually need to operate your business, you're
13 shifting more cost over to your regulatory side, to your
14 paperwork side, which obviously doesn't provide more
15 customer service, more job training, or even more pay to
16 your employees. Have you seen that with these mandates?

17 MR. VELIZ: That's correct, yes. Well, Jennifer
18 can talk about, you know -- because our organization have
19 hired someone special for that, for this new restricted law
20 to audit and keep us on track, so I just manage one
21 restaurant. So just managing one restaurant, it's very
22 hard for me to come in every day and just see so much
23 papers, red flags, emails, so, yes, it's very difficult to
24 manage that on a daily basis.

25 MS. WHITE: In the typical restaurant, you may

1 need to -- like in his restaurant, we may need an extra
2 shift supervisor just because we need somebody to watch the
3 floor while there is a more administrative and manager in
4 the back filing paperwork, filling out paperwork, printing
5 forms, figuring out who needs to fill out those forms,
6 reviewing those forms. We tried to take as much stress off
7 the restaurant as possible and do that as an organization
8 by having a full-time document manager who coordinates with
9 whatever manager is in the restaurant that day.

10 REPRESENTATIVE GROVE: So you're kind of blessed
11 because you have a franchise --

12 MS. WHITE: Yes.

13 REPRESENTATIVE GROVE: I have got to imagine a
14 lot of small businesses don't have the ability of having
15 that corporate hub. And probably your big, big
16 corporations easily can handle those calls within their
17 entire system. Obviously, it's increase cost but small
18 mom-and-pop businesses, the regulatory burden probably just
19 is devastating to them I would imagine.

20 MS. WHITE: Even other Wendy's, there are some
21 owners who only own one Wendy's restaurant or two Wendy's
22 restaurants. They are their own H.R. department, their own
23 payroll department, and they're always asking us what kind
24 of forms do you use, how do you process all this? Well, we
25 have somebody to do that, and they just have to add that

1 their list of things to do as they manage their business.

2 REPRESENTATIVE GROVE: All right. Thank you.

3 Thank you, Mr. Chairman.

4 MAJORITY CHAIRMAN KAUFFMAN: Representative

5 Krueger-Braneky.

6 REPRESENTATIVE KRUEGER-BRANEKY. Thank you,

7 Mr. Chairman.

8 Thank you, all three of you, for testifying here
9 today.

10 For Mr. Veliz and Ms. White, so your testimony
11 today, your written testimony focuses primarily on the
12 challenges that you face with documentation and excessive
13 paperwork due to New York's fair scheduling law. And yet
14 your proposed solution here today would actually preempt
15 all local labor laws in Pennsylvania, including paid sick
16 leave, pay equity, "ban the box," nondiscrimination
17 ordinances, sexual harassment, et cetera. So I'm
18 wondering, isn't there an easier route for you to solve
19 what seems to be a documentation issue than to preempt
20 every single local labor law here in Pennsylvania?

21 MS. WHITE: We're kind of just reacting to
22 specifically what we're seeing with our own restaurants in
23 Philadelphia, so we would like to see a broader resolution
24 that works for everybody because we have restaurants both
25 in and out of Philadelphia, some of them very close

1 together, and we have employees who move back and forth.
2 If there's a restaurant that's very busy in the city, we
3 might bring some employees from outside the city. And if
4 there are different laws in and out of the city, that's
5 going to make everything very confusing and cumbersome to
6 deal with.

7 REPRESENTATIVE KRUEGER-BRANEKY. So I noticed
8 neither of you in your testimony talked about the impact of
9 paid sick leave, and there's about 2,000 workers in
10 Philadelphia that would actually lose access to paid sick
11 leave if this bill were enacted. Can you talk about the
12 impact of workers coming to work sick in the fast food
13 industry? What's the impact on public health if that
14 happens?

15 MS. WHITE: Generally, we don't have employees
16 who come in sick. We have policies against that. If
17 you're feeling sick, there are certain symptoms we're told
18 to ask about, and if you have those symptoms, we ask you to
19 stay home.

20 REPRESENTATIVE KRUEGER-BRANEKY. In Pennsylvania
21 do your workers currently get paid sick leave?

22 MS. WHITE: To be honest, I'm not a payroll
23 person, I'm a trainer, so I'm here because I asked to be
24 here because the crewmembers in New York City asked me to
25 represent what they're going through. And I don't know a

1 lot about paid sick leave to be honest.

2 REPRESENTATIVE KRUEGER-BRANEKY. It would be
3 helpful to get some information from your company about
4 whether -- if those workers are told to stay home because
5 they're sick, whether they would be paid for that.

6 Second question for Ms. Oyler, so you talk about
7 small businesses, yet I note that the two businesses that
8 are testifying here today are from a publicly traded
9 company that's from outside of Pennsylvania. And in your
10 testimony you say that it's impractical to expect that
11 Pennsylvania's over 2,500 municipal governments will have
12 the expertise to research and evaluate the full impact of
13 local labor ordinances on their local businesses and
14 economies. I want to point out the testimony from the
15 Pennsylvania Municipal League, which represents 98 of those
16 municipalities, actually coming out in opposition to this
17 bill.

18 And we do have some constitutionality questions
19 on it actually because of the preemption statute. So I
20 guess my question for you is do you believe that this bill
21 is in compliance with the Pennsylvania State Constitution?

22 MS. OYLER: I don't have any information to
23 believe otherwise. I can tell you, Representative, that we
24 strongly believe in consistency of labor laws across the
25 State because it's important for our businesses to have

1 that consistency for predicting their business climate and
2 for managing, as we talked about earlier, the multitude of
3 regulations that businesses already deal with. So it's
4 difficult for them to understand and manage the regulations
5 that they already have, so insuring some consistency across
6 the State I think is absolutely essential for ensuring that
7 they can deal with the labor regulations as they currently
8 exist.

9 REPRESENTATIVE KRUEGER-BRANEKY. Well, I believe
10 there's a number of places where our State Government is
11 currently failing workers, failing our citizens by failing
12 to give them equal pay, paid sick leave, benefits, and
13 support for nursing mothers. All three of those are
14 examples of legislation that have been held up in this
15 Legislature and not enacted. And in places where State
16 Government is failing, local government has the ability to
17 come up with local solutions to those problems. I believe
18 this bill would actually impede their right to do that. So
19 thank you, Mr. Chairman.

20 MAJORITY CHAIRMAN KAUFFMAN: Thank you.
21 Representative Ravenstahl, Representative Neilson, and
22 Representative Cephas have entered the room. And we're
23 moving on to Representative Nelson.

24 REPRESENTATIVE NELSON: Thank you, Mr. Chairman,
25 and thank you for your testimony, both the empathy and the

1 pain you feel from having employees that are crying and
2 concerned about losing their positions or, you know, the
3 challenges of operations.

4 Ms. White, would having, you know, as you touched
5 on, employees shifting between business locations that may
6 cross municipal lines and the difficulty that this presents
7 both for the employees in understanding the laws in those
8 areas and then as a business, part of the opposition
9 against preemption is the concept of local control versus a
10 State-level control and, you know, what could be considered
11 a well-framed illusion that providing local control
12 improves situations for businesses and the people that are
13 inside those businesses, you know, versus the consistency
14 argument.

15 So, first, if you could touch on some of those
16 challenges that you see from employees or prohibitions for
17 employees to cross a county line and maybe have different
18 work rules, and then if from an NFIB perspective, you know,
19 NFIB normally is a proponent of, you know, local control
20 and independent businesses and how this illusion of having
21 local control over this is actually creating greater
22 hardship.

23 MS. WHITE: So we operate restaurants, 31 of them
24 in Pennsylvania, some of them right inside the city, some
25 of them right out. Some of them they're right across the

1 street from the city. It's very close. So it's oftentimes
2 that crewmembers and managers will want to pick up a shift,
3 oh, that restaurant is understaffed, can I go help there?
4 And if the laws don't match, it's just going to make it
5 harder to manage paperwork and they are not going to
6 understand when I go there, what time do I have to be
7 there, I have to be there, I can't come 30 minutes late, I
8 had to pick up my kid, oh, well, just so you know, there's
9 going to be a law in effect, and just having to train them
10 and have them understand what's going to be expected of
11 them, you know, a few blocks away from where they typically
12 work.

13 REPRESENTATIVE NELSON: And do you anticipate
14 that, you know, with the onset of a documentation manager
15 in one county and another, is that going to impact pricing
16 from one store on this township line and one store over
17 here?

18 MS. WHITE: I would imagine. It has in New York.

19 REPRESENTATIVE NELSON: Okay.

20 MS. OYLER: Thank you, Representative Nelson.

21 You are right. Managing the inconsistencies between local
22 labor regulations is really a problem for especially those
23 businesses, like you say, who cross boundaries. We've
24 heard some concern about -- as I think we've already
25 mentioned. So if you have two separate business locations,

1 one located inside and one outside a municipality, how do
2 you, for example, count hours worked in one municipality
3 versus the other when the employee is based in one and not
4 the other and one is subject to labor rules that the other
5 is not? So that is one thing that the small businesses are
6 particularly concerned about tracking those types of
7 requirements across municipal boundaries.

8 And, as I also mentioned, these types of rules
9 also create competitive disadvantage for the businesses
10 that are located in that municipality, and that's an issue
11 and a big concern for us as well.

12 REPRESENTATIVE NELSON: And, Mr. Chairman, if I
13 can, one last question?

14 MAJORITY CHAIRMAN KAUFFMAN: I'm sorry, we need
15 to move on.

16 REPRESENTATIVE NELSON: Okay. Well --

17 MAJORITY CHAIRMAN KAUFFMAN: I have a list here.
18 Thank you. Representative Keller.

19 REPRESENTATIVE KELLER: Thank you, Mr. Chairman.

20 I guess I have a question for the people in the
21 restaurant that came to testify. When you open another
22 store or another restaurant, do you sometimes move
23 employees for training purposes, you know, to help the new
24 store get up and running?

25 MS. WHITE: All the time.

1 REPRESENTATIVE KELLER: Okay. So not
2 understanding the laws or having different laws from one
3 municipality to another is a problem for doing that at --

4 MS. WHITE: It discourages us to do things like
5 that in the future.

6 REPRESENTATIVE KELLER: So it would discourage
7 you maybe to open up a restaurant in another area because
8 of the restrictions, so then you would not employ people in
9 that area that might need jobs?

10 MS. WHITE: Yes.

11 REPRESENTATIVE KELLER: Okay. The other question
12 I have is for the NFIB. The question I have is in
13 Philadelphia, you represent restaurants in Philadelphia?

14 MS. OYLER: Yes, we have some members in
15 Philadelphia who already deal with, as Representative
16 Krueger-Braneky mentioned, paid sick leave ordinances.

17 REPRESENTATIVE KELLER: Yes. And again, your
18 employers care about their employees. I mean, they want
19 them to do well because then they're successful.

20 MS. OYLER: Absolutely.

21 REPRESENTATIVE KELLER: What have your businesses
22 seen since the soda tax in Philadelphia? Have they seen a
23 problem with that?

24 MS. OYLER: Yes. Yes. We have seen an impact
25 from the soda tax in Philadelphia, and that is one of the

1 concerns that we have. We've seen businesses actually
2 leave Philadelphia and go to the outer rim of the city to
3 purchase the soda and sweetened drinks. And unfortunately,
4 for the businesses in the city, they're not just buying the
5 drinks, so they're losing quite a bit of business from
6 those customers that are going outside the city because of
7 the increased cost involved with the soda tax. So although
8 that's a separate issue than what we're --

9 MAJORITY CHAIRMAN KAUFFMAN: That is definitely a
10 separate issue. We need to move along.

11 REPRESENTATIVE KELLER: I'd like to make the
12 point that when municipalities go and make individual
13 mandates on businesses, it creates an uneven -- it makes
14 competition between our municipalities and makes it
15 difficult for businesses to be able to do things, and
16 that's just one example how something that sounded very
17 well to raise revenue in Philadelphia and it's having the
18 exact opposite effect. And I think this is a preemption
19 bill which would, you know, be the same thing, trying to
20 make things uniform so our businesses know how to behave in
21 the Commonwealth.

22 MS. OYLER: Yes.

23 MAJORITY CHAIRMAN KAUFFMAN: Point well taken.

24 MS. OYLER: Thank you.

25 MAJORITY CHAIRMAN KAUFFMAN: Thank you.

1 Representative Donatucci.

2 REPRESENTATIVE DONATUCCI: Thank you,
3 Mr. Chairman.

4 So I see again we're visiting a slippery slope
5 with local control. A bill like this would ultimately
6 negate home rule charters. I mean, that's what you're
7 basically doing here. You know, we try to solve our own
8 problems. That's what the State tells us to do, and
9 everybody just wants to go at us, bill after bill after
10 bill with preemptions. You know, I think the whole State
11 has more than just 36 restaurants that you're talking
12 about.

13 I'm the Chairwoman of the Philadelphia
14 Delegation. Not one person has come to talk to me about
15 this to see if there was anything to do or any kind of
16 negotiations with a bill like this. So my question is
17 would this legislation also preempt local governments'
18 discrimination laws?

19 MS. OYLER: I'm not the best person to answer
20 that question, but I'm looking at the language in the bill,
21 and it does apply to policies or practices, including but
22 not limited to, and there's a list of items. So we'd have
23 to look at the specific situation --

24 REPRESENTATIVE DONATUCCI: Right.

25 MS. OYLER: -- to see whether specific --

1 REPRESENTATIVE DONATUCCI: Because I know the
2 LGBT community is very concerned with this bill.

3 MAJORITY CHAIRMAN KAUFFMAN: It does grandfather
4 anything in prior to I think January 1st of 2015, so there
5 is a grandfather -- so if it was after January 1st, 2015,
6 then it wouldn't be grandfathered.

7 MS. OYLER: That's true. Thank you.

8 REPRESENTATIVE DONATUCCI: We'll take a look.
9 Thank you.

10 MAJORITY CHAIRMAN KAUFFMAN: All right. Moving
11 on, Representative Delozier.

12 REPRESENTATIVE DELOZIER: Thanks. I have just
13 some quick number questions, and it might be directed to
14 the folks that have the restaurants, as well as Rebecca.
15 Do you have more full-time or part-time employees?

16 MS. WHITE: Are you talking in Philadelphia or
17 New York City?

18 REPRESENTATIVE DELOZIER: In general with your
19 company.

20 MS. WHITE: It's about an even split depending --

21 REPRESENTATIVE DELOZIER: Okay. Full-time --

22 MS. WHITE: -- on the area.

23 REPRESENTATIVE DELOZIER: -- and part-time?

24 MS. WHITE: Right.

25 REPRESENTATIVE DELOZIER: Okay. So with the

1 part-time employees that you have, I have a constituent
2 that owns Papa John's and they have 12 stores in six
3 municipalities in the central Pennsylvania area. He's very
4 concerned about the fact of having to deal with more
5 administrative work to try and balance out his employees
6 because he shifts them around quite a bit.

7 My question goes to the point that we have part-
8 time employees that are working to try and get more and
9 more hours. I know in my own household I have a 17-year-
10 old that can't get enough hours, and so they are shifting
11 him around for his work. My question goes to the point
12 that I think it would be very hard for that small-business
13 owner because he's doing the admin and not having the big
14 corporation to help versus that many part-time employees
15 that do want to get more hours and do want to shift around.
16 Have you seen the ability for them not to get the hours
17 that they're looking for because they can't necessarily go
18 across the border?

19 MS. WHITE: So when we first hire somebody, we
20 have to fill out a good-faith estimate where the employer
21 and employee decide what number of hours that we can offer
22 to that employee --

23 REPRESENTATIVE DELOZIER: Okay.

24 MS. WHITE: -- so if we were to say, look, I can
25 only offer you about 20 hours --

1 REPRESENTATIVE DELOZIER: Okay.

2 MS. WHITE: -- we would sign that, and I cannot
3 deviate from that more than 20 percent. So if an extra
4 shift opened up but it was a six-hour shift and that's
5 going to take you from 20 to 26 hours, that's in violation
6 of your good-faith estimate, so I can't ask you to take
7 that.

8 REPRESENTATIVE DELOZIER: But you can't go
9 higher?

10 MS. WHITE: Higher or lower.

11 REPRESENTATIVE DELOZIER: Oh, okay. And my
12 question goes to the fact of a lot of times we have young
13 people that are in part-time positions that are trying to
14 earn money and trying to get more hours. If we had more
15 and more laws that stipulate that you can only work in the
16 Lemoyne store, that Lemoyne store may not need you for more
17 hours and everything else. So I think it will pull back on
18 the earning capability of a lot of our people that are
19 trying to help their families out and everything else.

20 So I disagree that this would be a problem for
21 our workers because I think in having the ability for them
22 to cross boundaries easily, that would establish the
23 ability to earn more money. So the ability for us -- how
24 many hours -- so then it varies as to how many a person can
25 earn, like you're saying, 20 hours, so somebody else might

1 have had that in an agreement for 30 hours or 15 hours more
2 or less, so it's just a matter of --

3 MS. WHITE: Right.

4 REPRESENTATIVE DELOZIER: Okay. So not everybody
5 gets 25 hours a week guaranteed?

6 MS. WHITE: Right, it depends. It's an agreement
7 made when the person is hired.

8 REPRESENTATIVE DELOZIER: The individual, okay,
9 and their ability to move around. So I would just put out
10 there the fact that having the most common ground and
11 having employees that can shift around because they want to
12 work, they want to get more hours, and they want to have
13 that ability to have that flexibility, and I think the
14 owners do as well. I don't know if -- Rebecca, do you have
15 any more?

16 MS. OYLER: Yes, thank you, Representative
17 Delozier. I just wanted to add that that flexibility that
18 you mentioned is a benefit not only for the worker but also
19 particularly small businesses who might not have many
20 employees and really need the ability to add additional
21 hours where necessary or, you know, flex some time around
22 or use different employees across different locations.

23 And this, like I said, is particularly important
24 for small businesses who might be limited in their number
25 of employees. So we see that as a major issue with this

1 sort of patchwork quilt idea, and that's part of the reason
2 why the bill is so important because it would provide the
3 flexibility that small businesses really value.

4 REPRESENTATIVE DELOZIER: Okay. Thank you.

5 MAJORITY CHAIRMAN KAUFFMAN: Thank you.

6 REPRESENTATIVE DELOZIER: And I think it's a
7 Catch-22 because I've talked to a lot of small businesses
8 that can't find enough employees, and then others are
9 saying, okay, well, we need to generate more, you know,
10 sales in order to balance out the employees that they need,
11 so I'm seeing both in our central Pennsylvania. So thank
12 you.

13 MS. OYLER: Yes.

14 MAJORITY CHAIRMAN KAUFFMAN: Thank you,
15 Representative Delozier.

16 Representative Cephas.

17 REPRESENTATIVE CEPHAS: Thank you, Chairman.

18 So I just have a series of questions. Being a
19 Representative from Philadelphia and being relatively new,
20 I had an opportunity to travel throughout the State, and
21 just kind of reinforces the differences within the 67
22 counties that exist in Pennsylvania.

23 So when we look at the series of differences, I
24 mean, you can look at racial makeup, you look at cost of
25 living, you look at property taxes, you look at the way

1 Philadelphia attracts businesses versus, you know,
2 Lackawanna County. You also look at crime rates, you look
3 at, you know, workforce development opportunities, again,
4 what businesses are attracted to where in Pennsylvania
5 based on their geography. And essentially, it just
6 reinforces that, you know, one size does not fit all. Even
7 how we look at our funding formula or do our education
8 funding, we realize one size does not fit all.

9 As we're having our gun violence conversation, we
10 realize gun violence in Philadelphia is not the same type
11 of gun violence experienced again in Lackawanna County.
12 And we recognize that we have to examine the differences in
13 the series of counties.

14 And I know we're constantly bringing up the soda
15 tax issue, but we all know that this preemption bill will
16 impact more than that. When we are having the criminal
17 justice conversation, it will impact the issues that we
18 have been gaining traction on around "ban the box." It
19 will again have issues as it relates to family sick leave.
20 We also just had an opportunity, thankful to one of our
21 powerful unions in the City of Philadelphia, to negotiate a
22 living wage for our workers down at the airport, which I'm
23 assuming will impact this as well, and please correct me if
24 I'm wrong.

25 Also, when it comes to the sexual harassment or

1 harassment or discrimination laws that we're currently
2 examining and trying to enforce on a lot of our businesses
3 in Philadelphia with Starbucks and now with Lowe's --
4 again, correct me if I'm wrong -- that this will also
5 impact that.

6 But, you know, I just stress again that this one-
7 size approach does not fit all. And I know again we keep
8 bringing up paid sick leave and family sick leave. Have we
9 done a full examination -- and this might not be a question
10 that you can answer but the maker of the bill. Have we
11 done a full examination of the series of laws since we're
12 putting a magnifying glass on Philadelphia on what this
13 would impact, how many residents this would impact?

14 Because, as you know, Philadelphia doesn't just only serve
15 Philadelphians but also serves residents in the surrounding
16 counties in Pennsylvania. So have we done a deeper dive,
17 looked at how, again, this will impact not just
18 Philadelphians but those in southeastern Pennsylvania, as
19 well as, you know, what this would essentially cost
20 residents in the County of Philadelphia?

21 MAJORITY CHAIRMAN KAUFFMAN: We are having this
22 hearing today, and I will let you know. You'll see the
23 list of testifiers, but we invited the City of
24 Philadelphia. We invited the Pennsylvania Municipalities
25 League. We worked very hard to try to get folks who oppose

1 this bill to come and talk about it --

2 REPRESENTATIVE CEPHAS: No, I know.

3 MAJORITY CHAIRMAN KAUFFMAN: -- and a lot of them
4 did not come to help us with this study. So we're trying
5 to get a full picture of this. I don't know if --

6 REPRESENTATIVE CEPHAS: So outside of
7 Philadelphia -- and I'm aware that they declined to
8 testify. But have we examined what the impact would be
9 beyond Philadelphia? I mean, we have 67 counties, which
10 I'm assuming other counties have similar local legislation
11 that governs, you know, the workplace. So have we done
12 anything beyond Philadelphia?

13 MAJORITY CHAIRMAN KAUFFMAN: Yes. That was one
14 thing we encourage the municipal league to speak to. So I
15 guess we're not going to go to session today because that's
16 not important, but sure, go ahead, Mr. Chairman.

17 DEMOCRATIC CHAIRMAN GALLOWAY: I just want to
18 point out that everybody that was not able to be here today
19 submitted written testimony.

20 MAJORITY CHAIRMAN KAUFFMAN: Yes, it's in the
21 packet.

22 All right. We have got to move on to the next
23 panel. If you have questions that you were not able to
24 address, please forward them to my office and we will
25 submit them in writing.

1 Representative Neilson and Representative Mullery
2 both had questions they wanted to address.

3 REPRESENTATIVE NEILSON: Mr. Chairman, since we
4 were unable to ask some questions and we are running out of
5 time, could I ask you to have another hearing on this same
6 bill so we can get some more time?

7 MAJORITY CHAIRMAN KAUFFMAN: You can ask, but I
8 don't know that we're going to get to that. We've spent
9 two months trying to get to this date. This was scheduled
10 once, scheduled again, scheduled a third time, so I accept
11 your request.

12 REPRESENTATIVE NEILSON: I'm open all summer
13 long, Mr. Chairman. I'll be around --

14 MAJORITY CHAIRMAN KAUFFMAN: Yes, I'm sure
15 everybody will be here during the summer. You and I will
16 be the only ones.

17 REPRESENTATIVE NEILSON: No doubt.

18 MAJORITY CHAIRMAN KAUFFMAN: Thank you.

19 REPRESENTATIVE NEILSON: Thank you, Chairman.

20 MAJORITY CHAIRMAN KAUFFMAN: We're going to move
21 on to the next panel. Secretary Oleksiak from the
22 Pennsylvania Department of Labor and Industry and Amal
23 Bass, a staff attorney with the Women's Law Project, I'll
24 invite you both to step forward and give your testimony.
25 If you can just summarize your testimony in about five

1 minutes so we can move on to questions, I would appreciate
2 it.

3 I'm certain that you both are friendly, but
4 you're sitting on opposite sides here. It's where the
5 microphone was, I'm sorry.

6 MS. BASS: Sorry. Can everybody hear me?

7 MAJORITY CHAIRMAN KAUFFMAN: It's just an
8 interesting picture from this angle. Mr. Secretary, if you
9 would like to start, I would appreciate it.

10 SECRETARY OLEKSIAK: Sure. Good morning,
11 Chairman Kauffman, Chairman Galloway, Members of the
12 Committee. Thanks for the opportunity to be here. As many
13 of you know, the Department of Labor and Industry's Bureau
14 of Labor Law Compliance enforces and administers 12 State
15 labor laws. The Department does not enforce, oversee, or
16 monitor workplace-related ordinance approved by local
17 governments, which are obviously the subject of the bill
18 being discussed today. However, we believe it's important
19 to convey how State preemption efforts can stall progress
20 and harm workers.

21 In 2006, Pennsylvania's Minimum Wage Act was
22 amended to include a preemption clause that prevents local
23 municipalities from raising the minimum wage above the
24 statewide rate. Under that law, our State minimum wage
25 rate remains at \$7.25 per hour, the lowest allowable rate

1 under Federal law, and it is the lowest of all surrounding
2 States. About two-thirds of Pennsylvania minimum-wage
3 earners are adults over the age of 20. These are just some
4 of the reasons why the Governor strongly supports a minimum
5 wage increase to \$12 an hour.

6 But House Bill 861 goes much further by
7 preventing local governments from regulating any employer
8 practices or procedures. We are concerned that, if passed,
9 it would have far-reaching applications on not only workers
10 and businesses but on overall economic and job growth.

11 Local governments have taken steps to modernize
12 and improve labor standards, including preventing
13 discrimination on the basis of sexual orientation or gender
14 identity and promoting opportunities for individuals
15 reentering the workforce after incarceration, programs like
16 "ban the box." This bill would roll back many of those
17 local protections that already exist, and instead of
18 encouraging economic activity, could reduce family-
19 sustaining jobs. It would also undermine local authority.
20 The role of State Government has been to set minimum
21 standards for workplace protections, not maximums. A
22 common argument is that the so-called patchwork employment
23 rules are a burden on business, but businesses have long
24 operated under a system in which rules differ across towns,
25 cities, and States.

1 As this bill retroactively nullifies all local
2 ordinances passed after January 1st, 2015, House Bill 861
3 seems designed in large measure to negate the City of
4 Philadelphia's employment ordinances, including paid sick
5 leave, "ban the box," and equal pay. If House Bill 861
6 passes, nearly 200,000 -- 200,000 -- workers may be
7 stripped of paid sick leave they are already earning under
8 a law enacted three years ago. Rollbacks of local leave
9 time measures would be particularly hard on low-wage
10 workers and people of color because access to sick leave is
11 not evenly distributed across the income scale. The Wolf
12 Administration would like to help even more workers receive
13 access to earned sick time, not less. This is time which
14 they need to care for themselves and their families.

15 Philadelphia also approved an equal pay measure
16 in 2016 that was subject to court rulings but ultimately
17 prohibits employers from using prior salary history as the
18 sole basis of a job offer. The Wolf Administration is
19 supportive of these kinds of efforts to close the gender
20 pay gap and, consistent with the Governor's recent
21 executive order, it supports legislation in both the House
22 and Senate that would modernize our equal pay law.

23 The bill could also drive away jobs and
24 businesses seeking to locate here. Regrettably,
25 Pennsylvania has no statewide LGBTQ antidiscrimination

1 laws, so at least 46 local governments have chosen to enact
2 their own protections. This bill will rollback many of
3 those ordinances and prevent new ones.

4 Such an action may imperil Pennsylvania's
5 attempts to attract major Fortune 500 companies. Last
6 year, PayPal canceled plans to build its headquarters in
7 North Carolina because of legislation that discriminated
8 against LGBTQ citizens, which cost North Carolina more than
9 \$2.5 billion in lost economic activity, including canceling
10 a Bruce Springsteen concert, which really upset me.

11 Amazon, which is currently considering two
12 Pennsylvania cities for its second headquarters, has been a
13 strong supporter of LGBTQ protections. In 2017, State
14 officials in Texas considered a bathroom bill. Amazon was
15 one of dozens of companies that opposed the bill, joined by
16 other large corporations, including AT&T, ExxonMobil,
17 Halliburton, and Apple. By stripping municipalities of the
18 ability to protect workers, House Bill 1861 may undercut
19 Pennsylvania's reputation and our ability to recruit top
20 companies like Amazon from around the world, harming our
21 ability to compete for new jobs and new businesses.

22 To make it in the 21st-century economy we want
23 and need a 21st-century workforce. The companies mentioned
24 here have realized that competent and qualified employees
25 are attracted to a fair workplace. Good corporate citizens

1 are attracted to areas that promote these policies.

2 In closing, I urge you to carefully consider the
3 implications of this bill on both residents and businesses.
4 I also encourage you to vet this bill with additional State
5 agencies and local governments to more accurately determine
6 its impact on our social and economic development goals. I
7 value the opportunity to speak before you today. I've read
8 this pretty quickly, and I and my department are certainly
9 glad to continue the conversation after the hearing. So
10 thank you, Chairman.

11 MAJORITY CHAIRMAN KAUFFMAN: Thank you,
12 Mr. Secretary.

13 And just so folks know so you don't have to rush
14 off, I did receive permission from the Speaker's office to
15 run into session, so you can have your testimony and we'll
16 have a few minutes for questions, so I don't want anyone to
17 rush off thinking they're going to miss session. The
18 Speaker is, I don't believe, holding votes immediately upon
19 the 10 o'clock convening, so, Amal, please proceed. Thank
20 you.

21 MS. BASS: Thank you. Good morning, everyone.
22 Thank you to Chairpersons Kauffman and Galloway and Members
23 of the Committee for inviting me to present this testimony.
24 I'm Amal Bass. I'm a staff attorney at the Women's Law
25 Project, a nonprofit legal advocacy organization based in

1 Pennsylvania, in Philadelphia and Pittsburgh, and we seek
2 to advance the status of women and girls through impact
3 litigation, public policy advocacy, community education,
4 and individual counseling.

5 The Women's Law Project strongly opposes House
6 Bill 861. This bill would prohibit local governments from
7 passing laws to meet the needs of communities and would
8 decrease the quality of life of working people and their
9 families across the Commonwealth, including in
10 Philadelphia, where House Bill 861 would retroactively
11 strip workers of their right to paid sick days.

12 The Women's Law Project testified in support of
13 Philadelphia's paid sick days ordinance, which City Council
14 passed and the Mayor signed on February 12th, 2015, after a
15 multiyear process that drew upon the recommendations of the
16 task force representing many perspectives on this issue,
17 including employers. The ordinance that resulted from this
18 process is vital to the health and well-being of
19 individuals and families in Philadelphia and the
20 surrounding counties, giving paid sick leave to more than
21 200,000 workers.

22 The benefits of paid sick leave are clear.
23 Access to paid sick days not only gives workers the ability
24 to take care of themselves and their families, but it also
25 helps businesses by improving employee morale, increasing

1 productivity, and reducing turnover at work. People with
2 paid sick days visit emergency rooms less often and utilize
3 health screenings and preventive care more often, reducing
4 medical costs in the future.

5 Access to paid sick days also saves lives. The
6 American Public Health Association estimates that 7 million
7 influenza infections and 1,500 deaths during the 2009-2010
8 H1N1 pandemic were the result of people working while sick.
9 Recently, my colleagues from the Women's Law Project and
10 attorneys from the Partnership for Working Families discuss
11 these benefits in a friend-of-the-court brief that they
12 filed with the Pennsylvania Supreme Court in support of
13 Pittsburgh's paid sick leave ordinance, which hasn't yet
14 gone into effect.

15 In this brief, they discuss how a lack of paid
16 sick leave disproportionately harms low-wage women workers
17 and people of color, saying "The lack of paid sick days
18 protection inflicts severe distress on low-wage workers who
19 cannot afford to lose even a single day's pay." These
20 workers are disproportionately women and people of color.
21 For families confronted with a cancer diagnosis, a sudden
22 disabling condition, or the onset of an addiction where
23 caregiving responsibilities are immediate and a matter of
24 life or death, paid sick leave is a compelling necessity.

25 While Pittsburgh continues to fight for this

1 compelling necessity for its workers, House Bill 861
2 threatens to take it away from Philadelphia's workers, paid
3 sick leave that has already gone into effect, three years.
4 If passed, House Bill 861 will force Philadelphia's workers
5 to work while sick; to pass contagious illnesses to
6 coworkers and customers; to forego necessary relief to
7 address domestic violence, sexual assault, or stalking; to
8 skip health screenings and medical appointments; and to
9 sacrifice taking care of their sick loved ones who need
10 them.

11 Local paid sick days ordinances are not the only
12 local laws that House Bill 861 threatens. It is a very
13 broad bill that aims to preempt a wide range of workplace-
14 related laws not only in Philadelphia and Pittsburgh but in
15 municipalities across the Commonwealth. More than 40
16 municipalities, for example, have local ordinances
17 prohibiting discrimination on the basis of many protected
18 characteristics, including sexual orientation, which our
19 employment laws at the State and Federal levels do not
20 explicitly cover.

21 Several municipalities, including Ambler Borough,
22 Bridgeport Borough, Carlisle, Dickson City, Mount Lebanon,
23 Kennett Square, Narberth, Phoenixville, Royersford,
24 Stroudsburg, and Wilkes-Barre have passed
25 antidiscrimination laws after 2015 and could trigger House

1 Bill 861's retroactive preemption. The bill could also
2 prohibit every municipality from altering their
3 antidiscrimination laws in the future and could subject
4 these municipalities to liability for having passed
5 legislation to help their communities.

6 House Bill 861 removes decision-making authority
7 from local governments, which are closely connected to
8 their communities, and prohibits local innovation that
9 keeps communities healthy and allows local economies to
10 thrive. House Bill 861 would prohibit local efforts to
11 respond to urgent problems, such as sexual harassment in
12 the workplace or the opioid crisis.

13 In the first panel, we heard from people who
14 claim that the problem with local authority is that it
15 results in a patchwork of regulations that is difficult for
16 businesses to navigate the paperwork problem, but it's
17 always been the case and businesses have continued to
18 thrive despite having to deal with different local, State,
19 and Federal standards. And paid sick leave, for example,
20 is not new to Philadelphia or Pittsburgh. It's been passed
21 in many other municipalities, and where it started in
22 municipalities, it then spread to States. San Francisco
23 was the first, and California passed it shortly thereafter.
24 So this is not an issue where the paperwork was so
25 problematic that the laws weren't otherwise justified.

1 House Bill 861 would undo and prohibit progress
2 at the local level, taking rights away from citizens of
3 Pennsylvania without filling the void with statewide
4 legislation. Justice Louis Brandeis said that States are
5 the "laboratories of democracy," which can experiment with
6 social and economic policies for the benefit of the country
7 as a whole. Similarly, municipalities are the laboratories
8 of democracy for the State.

9 While we wait for the Pennsylvania General
10 Assembly to pass legislation that uniformly raises labor
11 and employment standards for everyone, it is important for
12 our local governments to retain the power to respond to the
13 needs of their people. Thank you.

14 MAJORITY CHAIRMAN KAUFFMAN: Thank you very much
15 for your testimony, and we're going to move on to
16 questions. Representative Neilson, you are first.

17 REPRESENTATIVE NEILSON: Thank you, Chairman.
18 Amal, thank you for your testimony. I've heard it once
19 before at City Council, and I appreciate it. And as a
20 disclaimer, I was one of the votes that passed the paid
21 sick leave in Philadelphia as a councilman. And I
22 appreciate your hard work.

23 We heard earlier testimony about how laws in and
24 out of the city are prohibited, and they talked about if we
25 have a different labor law here -- I know you mentioned --

1 almost City Line Ave. is what we would call it because
2 that's right where that goes where Montgomery County is on
3 one side, Philadelphia is on the other. They said these
4 different labor laws in different municipalities were
5 hurting their businesses and they couldn't grow. Do you
6 see a difference with the different taxing in different
7 municipalities? Because I would think that taxing would be
8 an issue because on one side of the street they had to pay
9 one tax if they have city wage on one.

10 I mean, it's more about lack of computer
11 programming is what I saw. I didn't get to ask the
12 question because it seems like a keystroke away. We're in
13 2018 now. My person is in Philadelphia, my person is in
14 Montgomery, Bucks, wherever it is, and it came up
15 Philadelphia. Do you have anybody that complains about
16 that kind of different issues? Because there's taxes,
17 business taxes in every municipality, in every little
18 township across licensing and all that, but we didn't hear
19 any of that testimony. It's just about the labor law it
20 seems they're --

21 MS. BASS: Yes.

22 REPRESENTATIVE NEILSON: -- focusing on.

23 MS. BASS: Yes, thank you for your question. I
24 do not hear from people who complain, businesses who
25 complain about the different regulations, but you make a

1 good point that there are lots of different laws that have
2 always been around, and taxes are one of them. Zoning laws
3 are different as well in different places and all kinds of
4 different things that you have to deal with because local
5 governments have local authority and pass different laws on
6 a variety of different areas. And, you know, it is not a
7 new thing. In Philadelphia, paid sick leave is not new
8 either at this point, and Philadelphia continues to thrive
9 as well. So you make a really good point.

10 I don't hear from the businesses, though. I hear
11 from employees in other parts of the State, for example,
12 who really need paid sick leave, who need the kinds of laws
13 Philadelphia has.

14 REPRESENTATIVE NEILSON: Mr. Secretary, thank
15 you. And I wanted to -- don't you see this as a slippery
16 slope for PA to take? I mean, I know you said it a little
17 bit in your testimony. Could you give us a little more
18 now? I mean, we just talked about taxes a little bit. I
19 mean once we start, we don't start. This is preemption for
20 everybody, I mean, you know, everybody. Most people want
21 to focus on what they call soda tax, but we know it's not a
22 soda tax. It's a sugary syrup tax. And it just so happens
23 they keep on putting it on there as a soda tax but that's
24 for the Mayor's plate.

25 And while I have the microphone, last question,

1 Mr. Chairman, is I want to make sure, the Mayor of
2 Philadelphia does have written testimony in there. I'm
3 sure you read it, Mr. Secretary. You met him on quite a
4 few occasions on this issue and much more.

5 SECRETARY OLEKSIAK: Right, I think the question
6 I heard, and tell me if this is not the question, it is a
7 slippery slope. You know, North Carolina is the perfect
8 cautionary tale. I made some reference to that when the
9 City of Charlotte recently passed the antidiscrimination
10 policy regarding sexual orientation and gender identity in
11 2016, that was preempted by the State Legislature.

12 And shortly after that, PayPal canceled a
13 facility they were ready to build, CoStar, Deutsche Bank,
14 Adidas all backed out of plans to build facilities in North
15 Carolina. The NBA opted not to host the All-Star game, the
16 NCAA refused to schedule tournament games there, and I
17 mentioned Springsteen, among others, canceled concerts
18 there. So there are similar examples of what happened in
19 Texas in 2017 when the bills were passed that were
20 considered a bathroom bill. AT&T, ExxonMobil, Halliburton,
21 Apple all expressed their opposition to the bill.

22 So this is a slippery slope, and it does prohibit
23 our local communities from making decisions for their local
24 communities.

25 REPRESENTATIVE NEILSON: So like right now, we're

1 trying to get Amazon --

2 SECRETARY OLEKSIAK: Right.

3 REPRESENTATIVE NEILSON: -- and we know Amazon is
4 very inclusive, and that could be 50,000 to 100,000 on the
5 offshoot jobs in Pennsylvania. Do you feel that a law like
6 this being passed may hurt those chances?

7 SECRETARY OLEKSIAK: I think we can only go by
8 the experience we've seen from Apple in other States, and
9 my answer would be yes, it would have an impact.

10 REPRESENTATIVE NEILSON: Thank you. Thank you,
11 Mr. Chairman.

12 MAJORITY CHAIRMAN KAUFFMAN: Thank you. I wasn't
13 sure if you were done yet, so I just paused there a moment.
14 I've was giving you a lot of latitude there, Ed. Oh, all
15 right. We'll go onto Representative Grove.

16 REPRESENTATIVE GROVE: Thank you both for your
17 testimony.

18 Mr. Secretary, what is the economic growth in
19 North Carolina and Texas compared to Pennsylvania's jobs,
20 revenue, et cetera?

21 SECRETARY OLEKSIAK: I couldn't answer that
22 question right now, but I'd be happy to get that
23 information for you.

24 REPRESENTATIVE GROVE: Okay. And while you look
25 at those two, Michigan, Iowa, Indiana, Kansas, Tennessee ,

1 Alabama, Florida all have broad-based preemption laws on
2 their local governments. They have the most broad. Can
3 you do a comparison of those? And I'll send it to you in
4 writing so you don't have to write it down now. And I am
5 giving you homework because you were a schoolteacher.

6 SECRETARY OLEKSIAK: I can do that.

7 REPRESENTATIVE GROVE: And then Wisconsin, Ohio,
8 Montana, Kentucky, Arkansas, Mississippi, and Georgia all
9 also have broad local preemption, not as much as the first
10 rung, but I would like to see an economic comparison
11 between them in Pennsylvania on job growth, all the
12 economic statistics.

13 SECRETARY OLEKSIAK: We will certainly provide
14 that for you, Representative.

15 REPRESENTATIVE GROVE: Yes.

16 SECRETARY OLEKSIAK: I can't guarantee how
17 quickly.

18 REPRESENTATIVE GROVE: Yes.

19 SECRETARY OLEKSIAK: That's a broad-based task
20 but we will --

21 REPRESENTATIVE GROVE: But I also do know that
22 North Carolina and Texas have seen huge economic job
23 growth. Just from population shifts, Texas is looking at
24 actually gaining Congressional seats because people want to
25 move there, same thing with North Carolina. They're both

1 looking at gaining. Pennsylvania will once again is
2 looking at losing another Congressional seat because we
3 have net migration out of this State. One of the reasons
4 is local labor laws and just the business climate in
5 Pennsylvania is still atrocious.

6 When we hear from actual businesses that say they
7 have to spend more time on regulatory burdens by government
8 than they need to instead of hiring increasing wages
9 unilaterally I think puts us at a huge disadvantage
10 compared to other States, and we're seeing it. I'm pretty
11 sure when you run the demographic models of economics of
12 those States' job growth, all the economic indicators,
13 you're going to see how far advanced many of those States
14 are compared to us. So I would appreciate it. And I'll
15 send it to you in writing.

16 SECRETARY OLEKSIAK: Thank you.

17 REPRESENTATIVE GROVE: Thank you.

18 MAJORITY CHAIRMAN KAUFFMAN: Representative
19 Donatucci.

20 REPRESENTATIVE DONATUCCI: Thank you,
21 Mr. Chairman, and thank you for your testimony.

22 Okay. So I'm going to go back to sick leave in
23 Philadelphia. It would be preempted under this rule. A
24 few years back in the Senate there was a preemption bill
25 for Philadelphia sick leave, so I offered a statewide bill.

1 I talked to Senators, the Pennsylvania Restaurant and
2 Lodging Association. I went as far as to ask them to give
3 me language that would make it better and what they could
4 live with.

5 You know, I don't know how far we go. I've
6 offered it every session since I've been here. And I don't
7 know about anybody else in this room, but I do not want the
8 flu served with my meal in a restaurant, and I think it's
9 important. I think it's also important that if somebody
10 has a life-changing disease or a heart attack, that
11 sometimes those few days of sick leave keep them from
12 sinking. And I think this is something that everybody
13 needs to think about because it affects our constituents
14 greatly, and I think they deserve better than that.

15 And now I'm going to go back to the
16 discrimination question. So we're protected in
17 Philadelphia because it's before the date. If we wanted to
18 amend one of those laws, would we be able to, or would this
19 not allow it?

20 MS. BASS: That's a very good question. This is
21 such a broad preemption bill I think it would make it very
22 difficult to amend it and possibly impossible.

23 REPRESENTATIVE DONATUCCI: Okay. And then
24 nowhere else in the State could they come up with a new
25 law?

1 MS. BASS: They couldn't.

2 REPRESENTATIVE DONATUCCI: I'm sorry.

3 SECRETARY OLEKSIAK: No, I'm sorry. I'm just
4 agreeing --

5 MS. BASS: Yes.

6 SECRETARY OLEKSIAK: -- with the answer.

7 REPRESENTATIVE DONATUCCI: I mean, and the
8 questions could go on and on, but I think everybody knows
9 what direction I'm going into, so thank you, Mr. Chairman.

10 MS. BASS: Right. And --

11 MAJORITY CHAIRMAN KAUFFMAN: Representative --

12 MS. BASS: -- I think --

13 MAJORITY CHAIRMAN KAUFFMAN: Oh, I'm sorry. I'm
14 sorry.

15 MS. BASS: -- part of the point of that is that
16 while we do talk a lot about Philadelphia, and paid sick
17 leave is obviously a huge piece of this and a clear law
18 that will be affected very clearly, this preemption bill
19 affects the entire Commonwealth of Pennsylvania. This is
20 not just about Philadelphia and it's not just about
21 Pittsburgh. This is about everywhere.

22 SECRETARY OLEKSIAK: And if I could add, another
23 question came up where else there are ordinances that could
24 have an impact. I have a list that I would be happy to
25 share with the Committee as well.

1 MAJORITY CHAIRMAN KAUFFMAN: Thank you,
2 Mr. Secretary.

3 And Representative Cephas.

4 REPRESENTATIVE CEPHAS: And both of you two just
5 geared up my last question. Again, as a Nation, we are
6 grappling with a lot of issues as it comes from a society
7 perspective and how we treat workers, how we treat, you
8 know, everyday citizens. I mean, again, when we are now
9 having a conversation about discrimination laws and the
10 laundry list of ordinances that this would impact, I forgot
11 to mention the discrimination laws for the LGBTQ community.

12 When we talk about the five African-American
13 women that were discriminated against on the golf course in
14 York, it again raises the question how would this
15 preemption bill impact York's ability to handle
16 discrimination when it comes to those types of businesses?

17 So, again, as we like to put an hourglass or a
18 magnifying glass on the City of Philadelphia, I want to
19 look at all of our counties and what issues this will
20 impact. Again, we talk about equal pay for women, so we
21 know that this will impact the pay equity bills. We
22 constantly talk about paid sick leave, but again, I can't
23 stress more than enough, but when we had the conversation
24 around criminal justice reform as it relates to "ban the
25 box," it will impact that. So we have to take a deeper

1 dive and, you know, that's one of the great things about
2 this bill and this legislative body is that we have the
3 opportunity, we have the brainpower to take a deeper dive
4 into these issues.

5 So I just feel before we, you know, move forward
6 with this effort, we as a general body, as well as our
7 departments, need to take a deeper dive into the 67
8 counties to see what legislation will be impacted, how that
9 will impact the constituents that we all serve before we,
10 you know, move forward on a measure like this because I
11 myself did not know that 46 other counties had laws related
12 to LGBTQ discrimination, which has been bubbling up as an
13 issue. So I just would hope that we would take that deeper
14 dive, get a better understanding outside of Philadelphia.
15 I know we always like to talk about my home city, but as
16 people expressed throughout their testimony, this will
17 impact the entire Commonwealth of Pennsylvania. So thank
18 you.

19 SECRETARY OLEKSIAK: If I could comment briefly?
20 One of the things I had the opportunity to be a part of
21 since I have become Secretary of Labor is being a member of
22 the Middle Class Task Force with Secretary Davin from DCD,
23 Secretary Rivera from the Department of Education.
24 Business leaders of the Chamber was there, industry folks,
25 local businesses, labor, education. We were able to tour,

1 do exactly what you suggest, Representative Cephas. We met
2 I think six or seven times at various areas around the
3 State and looking at what are the barriers to entering the
4 middle class and the issues that we're talking about, equal
5 pay for equal work, paid sick leave, "ban the box,"
6 transportation issues, healthcare issues, childcare issues.
7 These were all the things that came up that were
8 impediments to folks who are looking to enter the middle
9 class. And a lot of the things we learn from that Middle
10 Class Task Force are part of what the Governor is proposing
11 in his budget.

12 REPRESENTATIVE CEPHAS: No, I appreciate that.
13 And I think as of course the State of Pennsylvania, as we
14 sit between New York and Washington, D.C., we have to
15 always recognize that we need to be competitive, but we
16 also want to make sure that we balance that priority with
17 ensuring that businesses aren't picking and choosing their
18 workers or picking and choosing how they protect them. So,
19 again, as we move forward with this legislation, we need to
20 ensure that we look at what the impact will be beyond the
21 City of Philadelphia.

22 MAJORITY CHAIRMAN KAUFFMAN: Thank you very much.
23 Representative McNeill, I'll go to you. I
24 thought we were done, but if you could please keep it
25 brief.

1 REPRESENTATIVE MCNEILL: Thank you, Mr. Chairman.

2 One of my concerns about this bill, one of many,
3 is that my own county in Lehigh County just recently a few
4 months ago past antidiscrimination laws, and apparently
5 with this 2015 grandfather law, my county would be going
6 backwards instead of forward.

7 MAJORITY CHAIRMAN KAUFFMAN: Thank you very much.

8 Well, I can see the overwhelming support for
9 local municipal control, and with that in mind, I'll let
10 the Committee know I'm in possession of a bill that would
11 allow municipalities to opt out of prevailing wage in
12 Pennsylvania, so I'm sure we'll have great bipartisan
13 support for that.

14 With that, this meeting stands adjourned.

15 SECRETARY OLEKSIAK: Thank you.

16

17 (The hearing concluded at 10:17 a.m.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

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