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EXAMINING JOB-BASED HEALTH INSURANCE AND DEFINING FULL-TIME WORK

HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING JOB-BASED HEALTH INSURANCE AND DEFINING FULL-TIME WORK

JANUARY 22, 2015

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EXAMINING JOB-BASED HEALTH INSURANCE AND DEFINING FULL-TIME WORK

THURSDAY, JANUARY 22, 2015

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The committee met, pursuant to notice, at 9:35 a.m., in room 430, Dirksen Senate Office Building, Hon. Lamar Alexander, chairman of the committee, presiding.

Present: Senators Alexander, Enzi, Burr, Collins, Murkowski, Scott, Roberts, Cassidy, Murray, Mikulski, Sanders, Casey, Franken, Whitehouse, Baldwin, Murphy, and Warren.

OPENING STATEMENT OF SENATOR ALEXANDER

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will come to order.

Yesterday we had one of our two new members here, Senator Collins. Today we have the other one in his Mardi Gras tie, Senator Cassidy. So we welcome both of them to the committee.

This morning we're holding a hearing examining job-based health insurance and defining full-time work. Senator Murray and I will each have our opening statement, and then we'll introduce our panel of witnesses. After our witness testimony, Senators will have 5 minutes of questions. Today I'm going to defer my questions and call first on Senator Collins who, along with Senator Donnelly, Senators Manchin and Murkowski, have introduced the bipartisan bill to solve the problem that we're here to discuss today.

Let me begin by mentioning some things that are happening in Tennessee. In Murfreesboro, Middle Tennessee State University has started limiting hours for part-time workers. This means students can no longer accept multiple on-campus work assignments, and graduate assistants might have to wait tables instead of picking up extra on-campus, grant-funded research projects that would better further their careers.

In Knoxville, Regal Entertainment Group, which is headquartered there, the Nation's largest movie theater chain, announced last year it was cutting employee hours from 40 to below 30 in order to comply with Obamacare. According to a news report,

> "One Regal Theater manager said the move has sparked a wave of resignations from full-time managers who have seen their hours cut by 25 percent or more."

In Johnson City, TN, Pam Cox, the director of Finance for Johnson City Public Schools, told a local news outlet about a year ago that her district will have to hire more people to work fewer hours. She said,

> "It will be challenging to find people. It will also hurt the employees because where they have been able to work as much as they wanted in these types of positions with no benefits attached to it, now you're going to be saying we can't let you work even though you want to and you're good at your job. We can't give you the hours or give you the pay, because we can't afford to give you the insurance."

That's the Johnson City Public Schools.

So why are these things happening in Tennessee and across the Nation? Well, the answer is that Obamacare requires businesses with 50 or more full-time employees to provide health insurance to those employees or pay a penalty at tax time. That penalty is $2,000 for each employee whom the government says should have been covered by an employer plan, or $3,000 for every employee who receives a subsidy in the exchange. The law, passed without any Republican support, defined "full-time" as an employee who works more than 30 hours a week, a strange definition, one that sounds more like France than the United States.

The average American between the ages of 25 to 49 works 8.8 hours per day, or 44 hours a week, according to the American Time Use Survey, published by the Bureau of Labor Statistics. The Obamacare definition of "full-time" is nearly one-third lower.

Many businesses can't afford Obamacare's mandate and must reduce their number of full-time employees. The result of all this is that thousands of workers are getting a pay cut. Their work schedules are being reduced to 29 hours a week and below. This isn't enough money for these workers to earn a living. Many must take second jobs. A Hoover Institution study found that the 30-hour definition puts 2.6 million working-age Americans with a median income under $14,333 for individuals and $30,000 for families at risk of losing jobs and hours. The study found that 89 percent of those affected don't have a college degree. Sixty percent are between 19 and 34.

Most at risk of lost hours are women, of which half have a high school diploma or less. These are Americans who are often working one of their first jobs, trying to work their way up the ladder. You have to start with a lower paying job, a job that doesn't require as many skills, and hope that someday your hard work will lead to a higher paying one. Many of these Americans are working in a service industry such as hospitality, retail and restaurants. We're going to hear from their employers today. But the Obamacare provision is affecting all kinds of employers.

In September of last year, Investor's Business Daily reported that at least 451 employers, county governments, public schools, community colleges and universities have laid off staff or reduced employee work hours. Our public schools can't charge higher prices to cover these mandates. They have to cut special education teachers, coaches, and bus drivers. Three surveys published by the Federal Reserve Bank in August found that employers are increasing their proportion of part-time workers.

There is bipartisan support for repealing this provision. As I mentioned earlier, this legislation is introduced by four Senators, two Democrats, two Republicans, one of them Senator Collins, whom we'll hear from in just a minute. Republicans have talked a lot about wanting to move as responsibly and rapidly as we can to repair the damage caused by Obamacare. We have also talked about wanting to get results. This bill should be an important step in doing both.

In fact, this bill reminds me of why many of us like being on this committee, because the issues we work on affect so many Americans. When we talk about fixing No Child Left Behind, we're talking about 50 million children and 100,000 public schools. When we're talking about making it simpler to apply for a Pell Grant to go to college, we're talking about simplifying a form that 20 million families fill out each year. When we talk about modernizing the Food and Drug Administration, making it easier for Americans to access life-saving drugs, we're talking about something that affects nearly every American. And today, we're focused on 2.6 million Americans who are mostly low-income, disproportionately women, and at risk of losing jobs and hours.

I look forward to what our witnesses have to say.

Senator Murray.

OPENING STATEMENT OF SENATOR MURRAY

Senator MURRAY. Thank you very much, Chairman Alexander.

Thank you to everyone joining us here today, especially our witnesses. And in particular, I am very proud to have a Washington State business owner here today, Joe Fugere, of Seattle's Tutta Bella Pizza.

Joe, thanks so much for coming all the way across the country to be here today.

I'm looking forward to the opportunity to hear from all of you about how we can do more to strengthen our health care system for our workers and our families. I believe strongly that the work did not end when we passed the Affordable Care Act. Far from it. There is more we need to do to build on the law and make our health care system work better, and I'm ready to work with anyone on either side of the aisle who has good ideas about how to make health care coverage more accessible and more affordable.

Unfortunately, just weeks into the new Congress, we have already seen bill after bill introduced that would roll back the progress we have made when it comes to providing millions of Americans with affordable, quality health care and improving coverage for those who already had it, and fighting back against the worst insurance company abuses.

The legislation the Chairman is focusing on today is no different. By allowing businesses to get out of offering health insurance to any employee working less than 40 hours, this bill will actually create the problems it claims to solve. As conservative experts have noted, because of how it changes work-week requirements, this bill would actually give companies incentive to cut workers' hours and deny them health care.

As a result, the Congressional Budget Office projects this bill could eliminate job-based health insurance for up to a million Americans, 500,000 of them who could lose their insurance altogether. Think about how that would impact workers. What about a nurse who works three 12-hour shifts, or the extra hours that teachers put in after class? They shouldn't have to worry about their health care coverage being threatened.

And this bill isn't only bad for workers. It also would shift the cost of providing coverage from business to taxpayers, driving up the deficit by $53.2 billion over the next decade. In other words, this legislation puts big corporations and their profits ahead of working families and their health care. If it ever became law, workers across the country will have to worry about their health care being cutoff, their hours being rolled back, and their jobs being eliminated for part-timers. We should be rewarding hard work, not punishing it.

It's also important to note that in addition to denying workers health care coverage and driving up the deficit, the legislation my Republican colleagues are proposing would put businesses like Joe's, businesses that want to help their workers stay healthy and economically secure, at a serious disadvantage. As he will talk about, Joe has offered health care coverage to his hourly employees, including many working below the current 30-hour threshold, since 2008. And as Tutta Bella has gone from one location to five in and around Seattle, Joe has seen firsthand that businesses succeed when their workers succeed. The Affordable Care Act offered businesses like Joe's a more level playing field.

But by letting businesses game the system and dump the cost of their workers' health care onto the taxpayer, my Republican colleagues' proposal would undo a lot of that progress. Their proposal would represent a very clear step in the wrong direction for workers who don't want to see their hours or benefits cut, and for the many businesses around the country who want to do the right thing and help their employees stay healthy.

So I hope that during today's discussion my Republican colleagues will seriously consider the harm the 40-hour proposal could actually do, because the bottom line is the last thing any worker wants is fewer hours and higher health care costs. In fact, 66 percent of respondents to last week's Fox News poll said they thought people who worked 30 hours a week should receive guaranteed health insurance from their employer, and Americans have been very clear they aren't interested in partisan political fights about dismantling this law. They want to see Congress working together to build on the Affordable Care Act to make our health care system work better. They want patients and working families to be put first, not insurance companies, not big corporations trying to cut their costs at workers' expense, but patients and working families, and that's what I and many of my colleagues will be focused on.

I hope our Republican colleagues will reconsider the approach we've seen so far and work with us to move our health care system forward, not backward, because I'm confident that if they do, there is a lot we could get done together.

Thank you, Mr. Chairman.

The CHAIRMAN. Thanks, Senator Murray.

As I indicated earlier, I'm going to give Senator Collins my place in the order for questions. We'll have a round of 5-minute questions. The procedure we're following is those who were here at the gavel will go in the order of seniority, and after that it's first to arrive. So after Senator Collins will be Senator Warren, then Senator Enzi, then Senator Baldwin, then Senator Scott, and then Senator Sanders. Those are the first six.

We'll ask the witnesses to summarize their statements in 5 minutes because we have lots of Senators here who will want to ask you questions and we'd like to take full advantage of that.

So the first thing we want to do is to hear from the witnesses. And I believe, Senator Murray, you have a witness to introduce.

Senator MURRAY. Well, again, thank you very much, Mr. Chairman.

I want to welcome a witness from my home State of Washington, as I mentioned, Joe Fugere. He is the founder of Seattle's Tutta Bella Neapolitan Pizza that is the Pacific Northwest's first certified authentic Neapolitan pizzeria, which he first opened back in 2004, and he now has, as I said, five neighborhood locations in the greater Seattle area, my favorite pizza place in Seattle, just so you know.

He has modeled Tutta Bella to not only be a respected pizzeria but also a meaningful business that sets the standard for taking care of workers and social stewardship. Under his direction, Tutta Bella regularly leads socially responsible small business initiatives, and he's been honored by a number of our local councils, organizations, and the White House.

Joe, thanks so much again for coming all the way across the country today. It's great to see you.

The CHAIRMAN. And, Senator Warren, I believe you have a witness to introduce.

Senator WARREN. I don't think so, Mr. Chairman.

The CHAIRMAN. You don't? I'm sorry.

Senator WARREN. But I'd be glad to introduce anyone.

[Laughter.]

The CHAIRMAN. That was yesterday.

Senator WARREN. That was yesterday. That's right.

The CHAIRMAN. All right. I'm a day behind.

Senator Collins has a witness to introduce.

Senator COLLINS. Thank you, Mr. Chairman.

The CHAIRMAN. Excuse me.

STATEMENT OF SENATOR COLLINS

Senator COLLINS. I'm very pleased to introduce Dr. Betsy Webb to this committee. Dr. Webb is the superintendent of schools in Bangor, ME, a position that she has held since 2008. Under her guidance, the Bangor School Department has earned a national reputation for academic excellence. In 2013, Dr. Webb was named Maine's Superintendent of the Year, a fitting tribute to her total dedication to her students, community involvement, professionalism, and fiscal management.

In addition to being a well-respected authority on education policy, Dr. Webb also was the leader who brought to my attention the real-life problems that the 30-hour definition would cause in school systems. There's been a lot of focus on the for-profit world. She opened my eyes to what the impact would be on school systems across the United States.

First-class education is a team effort, and Betsy is a top-notch team leader. As a citizen of Bangor, I'm very grateful for Betsy's contributions to our community and delighted that she's testifying before us today. I would also note, Mr. Chairman, that she got up at 3 a.m. in order to catch the 5:30 plane to be here today.

The CHAIRMAN. Thank you very much.

I'll introduce two other witnesses.

Mr. Andy Puzder is chief executive of CKE Restaurants, which is the parent company of Hardy's and Carl Jr. fast food restaurants. He's been CEO of CKE Restaurants for 15 years. His company currently owns or franchises about 3,375 restaurants in the United States and 28 foreign countries, and, with its franchisees employs over 70,000 people in the United States.

Third to testify will be Dr. Douglas Holtz-Eakin. Dr. Holtz-Eakin is President of the American Action Forum, a domestic policy think tank here. Dr. Holtz-Eakin is the former director of the Congressional Budget Office, also served as chief economist on President George W. Bush's Council of Economic Advisors.

Welcome to all four of you.

The order in which we'd like to go, please, is Dr. Webb, Mr. Puzder, Dr. Holtz-Eakin, and Mr. Fugere. So, let's go in that order.

Dr. Webb.

STATEMENT OF BETSY M. WEBB, SUPERINTENDENT, BANGOR SCHOOL DEPARTMENT, BANGOR, ME

Ms. WEBB. Chairman Alexander, Ranking Member Senator Murray, Senator Collins, and distinguished members of the committee, my name is Betsy Webb and I am the superintendent of schools in Bangor, ME. Thank you for asking me to testify today on the impact of the Affordable Care Act's definition of full-time work on public schools.

The Bangor School Department educates 3,800 students in seven elementary schools, two middle schools, and a high school. Our system employs 644 individuals, including 337 teachers, 110 educational technicians, and nearly 300 additional workers in various capacities who are critical to our mission of academic excellence. We also have approximately 30 tutors and 70 substitute teachers who are not included in the numbers I provided.

We are fortunate to come from a community that places a high value on quality education for every child. The people of Bangor provide schools with extraordinary support, both financially and through the countless volunteer hours of hundreds of parents and community members. I am extremely proud of the faculty and staff commitment and the results our students achieve.

Our students consistently score above average on standardized tests and are considered out-performers, especially when looking at our demographics. Our cost per pupil is $1,000 lower than the State average.

Two of our schools have been recognized as National Blue Ribbon Schools of Excellence. Bangor High School has graduated more National Merit and Semi-Finalists than any other high school in Maine, public or private, and hundreds of teens from Bangor High have won State and national championships in a wide range of academic and athletic competitions.

We do all of this on a budget of about $43 million a year, an amount that has grown by just 3 percent during my tenure over 7 years. We are recognized for making ends meet by being highly efficient, staying flexible, and pursuing what we call Bangor solutions in the best interests of students. We obviously watch our pennies very closely.

The Affordable Care Act's definition of full-time deprives us the flexibility critical to our success. For example, we have a core group of substitute teachers who often work more than 30 hours a week, filling in for teachers, some of whom are out for extended periods, such as for maternity leave. They help us maintain continuity in the classroom, which is so important to our students' learning.

Given our limited resources, we cannot afford to offer health benefits to these substitutes that would cost nearly $6,000 each, nor can we afford the $2,000 penalty for failing to do so. Unfortunately, unless something is done to adjust the 30-hour rule, we will be forced to limit their hours.

The 30-hour rule will also affect our 110 educational technicians who work more than 30 hours a week, and we have no intention of reducing their hours. The pay ranges from $14 to $18 an hour, and even though the district pays 77 percent of their health coverage or the majority of the cost, for many ed techs the employee share exceeds the affordability limits in the Affordable Care Act, triggering a $3,000 penalty on the district for each ed tech who rejects our plan and gets subsidized coverage in the exchange.

We can't afford this $3,000 penalty, nor can we afford to pay a larger share of their health care benefits to avoid the penalty since doing so would potentially cost an additional $110,000 a year.

Further, we are concerned about the combinations of positions and are worried that we will have to limit people to only work one position.

I am hopeful my testimony helps explain why it is so important to adjust the 30-hour rule and to restore 40 hours as the threshold for full-time.

Senator Collins and Senator Donnelly have proposed the 40 Hours is Full Time Act, and myself and my colleagues are hopeful that members of the committee will support this bipartisan legislation. Thank you.

[The prepared statement of Ms. Webb follows:]

Prepared Statement of Betsy M. Webb

SUMMARY

Dr. Betsy Webb is the Superintendent of Schools in Bangor, ME. The Bangor school system educates 3,800 students in seven elementary schools, two middle schools, and one high school. The system employs 644 individuals—including 337 teachers, 110 ed techs, and nearly 300 additional workers in various capacities. The district also employs about 30 tutors and 70 substitute teachers.

Bangor's students consistently score above average on standardized tests, while the district's cost per-pupil is $1,000 lower than the State average. Two of Bangor's 10 schools have been named National Blue Ribbon Schools of Excellence. Bangor High School has graduated more National Merit and Semifinalists than any other high school in Maine, public or private. Teams from Bangor High have won State and national championships in a wide range of academic and athletic competitions.

The district's budget is about $43 million a year, an amount that has grown by just over 3 percent since Dr. Webb became superintendent in 2008. Bangor achieves its results by being as efficient as possible, staying flexible, and by watching its pennies very carefully.

The ACA's definition of "full-time" work will deprive the district of flexibility critical to its success. For example, the district has a core group of substitute teachers who work more than 30-hours a week filling in for teachers who are out for extended periods, such as maternity leave. These substitute teachers help maintain continuity in the classroom, which is so important to students. Bangor can't afford to offer health benefits to these substitutes—that would cost $6,000 each—nor can Bangor afford the $2,000 penalty for failing to do so. Unless something is done to fix the 30-hour rule, the district will be forced to reduce the hours of these substitute teachers.

The 30-hour rule will also affect Bangor's 110 ed techs, who work more than 30 hours a week at rates of pay ranging from $14 per hour to $18 per hour. Even though the district pays most of the cost of their health coverage, for many ed techs the employee-share exceeds the "affordability" limits in the ACA, triggering a $3,000 penalty on the district for each ed tech who rejects the district's plan and gets subsidized coverage in the exchange instead. Bangor can't afford this $3,000 penalty, nor can it afford to pay a larger share of the ed tech's health benefits to avoid the penalty, since doing so could cost $110,000 a year.

Dr. Webb is also concerned about Bangor's hall monitors, who sometimes serve as assistant coaches or have other part-time school jobs. The 30-hour rule will force them to drop one job entirely, just to stay under an arbitrary limit that no one truly believes is "full-time."

Dr. Webb hopes members will support bipartisan legislation introduced by Senator Collins and Senator Donnelly, the "Forty Hours is Full-Time Act," to fix the 30-hour rule and restore 40-hours as the threshold for "full-time" work under the ACA.

Chairman Alexander, Ranking Member Murray, Senator Collins, distinguished members of the committee, my name is Betsy Webb, and I am the Superintendent of Schools in Bangor, ME, our State's third largest city. I have had the privilege of serving in this position since 2008.

Thank you for providing me the opportunity to testify today on the impact on our public school system of the Affordable Care Act's definition of "full-time" work. Before I describe that impact, allow me to set the stage with some background information: the Bangor school system educates 3,800 students in seven elementary schools, two middle schools, and one high school. Our system employs 644 individuals—including 337 teachers, 28 administrators, 110 ed techs, and nearly 300 additional workers in various capacities who are critical to our educational mission, such as food service workers and lunch aides, secretaries, IT workers, custodians, and coaches. In addition, we have about 30 tutors and 70 substitute teachers who are not included in the numbers I just listed.

All of our employees work together to provide an outstanding education to the students in our system. We are fortunate to come from a community that places a high value on quality education for every child, and contributes to our efforts both financially and through the countless volunteer hours of hundreds of parents and dedicated school supporters. We have an incredible Parent-Teacher Organization and Parent Boosters network.

I am proud of the work we do together, and the results we have achieved. Our students consistently score above average on standardized tests, while our cost perpupil is $1,000 lower than the State average. Two of our ten schools have been named National Blue Ribbon Schools of Excellence. One of these, the James F. Doughty Middle School—earned this distinction despite the fact that roughly 60 percent of its students are eligible for free or reduced lunch. The other—Bangor High School—has graduated more National Merit and Semifinalists than any other high school in Maine, public or private, and has been recognized by Newsweek with a top 5 percent high school rating. The academic excellence for which Bangor High is noted has carried over to State and national championships in Speech & Debate, JETS, JROTC and Poetry Out Loud competitions, while teams from the school have also won State championships in Basketball, Baseball, Football, Soccer, Swimming, and Track.

We do all of this on a budget of about $43.3 million a year, an amount that has grown by just over 3 percent during my tenure—less than one-third the rate of inflation. This is truly a bare-bones-budget. In fact, in 2011 and 2012, funding for the school system was cut, in absolute terms, and this past August I was forced to freeze all non-essential spending due to an unanticipated spike in the price of natural gas. We manage to make ends meet by being as efficient as possible, staying flexible, and by pursuing what I like to call "Bangor solutions." Suffice it to say we watch our pennies very carefully.

Which brings me to the topic of today's hearing. The fact is, by setting the definition of "full-time" work at just 30 hours a week, the Affordable Care Act deprives us of the flexibility we need to stay within our budget while continuing to achieve excellence in education. For example, we have about 70 people on our substitute teacher list who can be called-in on an as-needed basis. We value each and every one of these teachers, but we especially rely on a core group who teach more than 30 hours a week and will be considered "full-time" under the Affordable Care Act. This core-group of substitutes allows us to maintain continuity and excellence in the classroom by taking the place of full-time teachers who are out for extended periods, often on maternity leave. The district cannot afford to offer health coverage to these substitutes—which would cost us $6000 each—nor can we afford the $2,000 employer mandate penalty for failing to do so. Unfortunately, unless something is done to fix the 30-hour rule, we will have little choice but to reduce the hours of these substitute teachers.

We should not be forced into this no-win situation by the 30-hour rule. The district doesn't win—we want these substitute teachers in the classroom. The substitutes don't win—they want to work more than 30-hours. And our students don't win—they deserve to learn in classrooms that aren't disrupted by the comings and goings of different substitutes every few days.

Another example of how the 30-hour rule forces us into no-win choices is how it affects the 110 ed techs who work in our schools. These ed techs work more than 30 hours a week, at rates of pay ranging from $14 per hour to $18 per hour. The school district pays 77 percent of the cost of coverage for these ed techs, leaving them with 23 percent as their employee share. Yet even this amount exceeds the "affordability" limits in the Affordable Care Act, triggering a $3,000 penalty on the district for each ed tech who rejects our plan and gets subsidized coverage in the exchange instead. The district cannot afford this $3,000 penalty, nor can we afford to pay the additional $700 to $1000 per employee that we would need to pay to make our plan "affordable" to these employees, since doing so could cost us $110,000 annually. Once again, as a consequence of the ACA's 30-hour rule, we will be forced to cut back the hours of employees who want and deserve to work more.

Another group of employees that I am worried about aren't provided benefits under our plan today, but could be affected by the 30-hour rule. For example, "hall monitors" often work another part-time job for the district, such as serving as the assistant coach for one of our athletic teams. Taken together, these two part-time jobs will put some of these individuals over the 30-hour a week threshold. Since we won't be able to afford to extend health coverage to these part-time workers, the 30-hour rule will force them to choose to drop one job entirely, just to stay under an arbitrary limit that no one truly believes is "full-time."

I am hopeful that my testimony will help highlight why it is so important to fix the 30-hour rule and restore 40-hours as the threshold for "full-time" work under the ACA. I know that Senator Collins and Senator Donnelly have proposed doing exactly that with the "Forty Hours is Full-Time Act," and I am hopeful the members of the committee will support that bipartisan legislation.

Again, I thank you for the opportunity to testify on this important issue, and I look forward to answering your questions.

The CHAIRMAN. Thank you, Dr. Webb, and thank you for sticking so closely to the 5 minutes.

Mr. Puzder.

STATEMENT OF ANDREW F. PUZDER, CHIEF EXECUTIVE OFFICER, CKE RESTAURANTS, CARPINTERIA, CA

Mr. PUZDER. Chairman Alexander, Ranking Member Murray, and members of the committee, thank you for inviting me to testify on an issue of importance to all American workers, the 40 Hours is Full Time Act.

CKE Restaurants has 2,920 domestic restaurants in which we employ about 20,000 people. Our franchisees employ roughly another 55,000. As CEO, our restaurant managers often tell me how difficult the Affordable Care Act's 30-hour threshold makes it for them to give crew members the hours they need just to get by.

In an effort to keep consumer prices down, remain competitive and earn their bonuses, our general managers, who are 62 percent minorities and 66 percent women, are always doing what they can to keep costs down. That's the way American business men and women succeed.

The ACA's math is simple: three employees working 40 hours a week will produce 120 hours. Five employees working 24 hours a week also produce 120 hours. Under the ACA, employers must offer the three full-time employees health insurance or pay a penalty. They have no such obligation to the five part-time employees, making part-time employment less costly. In this way, the ACA unintentionally encourages our general managers to reduce employees' hours to under 30 a week. This result shouldn't come as a surprise to anyone. If you make something more expensive, people will use less of it. If you make something less expensive, people will use more of it. This is the rationale behind sin taxes, and it applies to other costs, including labor.

For example, when passing the Fair Labor Standards Act in 1938 and establishing the modern 40-hour work week, Congress and President Roosevelt didn't make working over 40 hours a week illegal. They simply required that employers pay overtime to employees who worked over 40 hours, making employees who work over 40 hours less economical than employees who worked 40 or fewer hours. The result was the commonly accepted 40-hour work week.

By making employees who work 30 or more hours a week less economical than employees who work under 30 hours a week, the ACA has the same economic impact, encouraging businesses to reduce employees' hours to less than 30.

We like to see our employees insured. For many years, and as long as I've been CEO, we've offered our general managers and above ACA-compliant insurance. We felt that employees at this level were likely to be the prime support for their families and, as a group, far more desirous of receiving their compensation partly in the form of health insurance than the employees they supervised. We have 1,447 who have enrolled for coverage.

We also elected to offer coverage to over 5,000 additional employees who work 30 hours or more a week rather than paying the employer penalty and sending them to the exchanges. Only 420 enrolled.

Since I've been CEO, we've also offered employees who are ineligible for our company-sponsored insurance access to inexpensive group coverage. Currently we offer our part-time employees access to group coverage through what is called indemnity medical insurance. About 200 of our 13,100 part-time employees have enrolled.

As these numbers indicate, it's difficult to get our employees to sign up for insurance. First, they're young. They don't believe they need insurance. And if the penalty is cheaper, they'll just pay it, assuming the IRS can collect it.

Second, they believe they can get medical care for free at the emergency room.

And finally, they believe that if they become seriously ill, they can simply wait for the next open enrollment date and get insurance on one of the exchanges because insurers can no longer turn them down or charge them more if they're sick.

The tradeoff for this low enrollment rate has been a reduction in the hours of thousands of our employees, and I believe hundreds of thousands, if not millions, of American workers. I respectfully submit that the tradeoff isn't worth it. I'm strongly in favor of making more insurance options available to more employees, particularly if this can be done in a way that offers coverage to those who want it without hurting employment opportunities for those who don't.

Should we return to a 40-hour work week, the White House is concerned, and Senator Murray, that businesses would reduce the hours of 40-hour-a-week employees. I'd submit this is a minimal risk. First, we offered general managers and above ACA-compliant coverage before the ACA without an hourly threshold. For us, that's 1,447 employees, or 78 percent of those who enrolled. We would continue to do so even if the threshold increased to 40 hours a week.

Of the 420 additional employees who enrolled, only 197, or about 1 percent, work 40 hours a week. Reducing their hours would be problematic as we need their expertise in the restaurants and we could lose them to competitors. However, even if we marginally reduced the hours of all 197 employees, the benefits of potentially increasing the hours and incomes of thousands of our other lower wage employees would, I believe, again more than offset this cost.

In closing, I respectfully urge you to consider the negative impact of the ACA's 30-hour-a-week coverage threshold and the benefit to American workers of a fix, returning that threshold to 40 hours.

Thank you, and now I can take a breath.

[Laughter.]

[The prepared statement of Mr. Puzder follows:]

PREPARED STATEMENT OF ANDREW F. PUZDER

SUMMARY

- CKE owns the Carl's Jr. and Hardee's restaurant brands. In our 800 domestic company-owned restaurants we employ about 20,000 people. Our franchisees employ roughly 55,000 additional people in their 2,120 domestic restaurants.
- The Affordable Care Act ("ACA") encourages employers to reduce workers' hours to less than 30 a week, reducing the incomes of low-wage workers who can least afford it. Three employees working 40 hours per week will produce 120 labor hours. Five employees working 24 hours per week also produce 120 labor hours. Under the ACA, employers must offer the three full-time employees health insurance or pay a penalty. They have no such obligation to the five part-time employees, making part-time employment less costly.
- I believe this has resulted in employers reducing hundreds of thousands (if not millions) of jobs to under 30 hours a week. By raising the ACA's coverage threshold to 40 hours a week, the Forty Hours is Full Time Act would remove this incentive and encourage employers to increase low wage workers' hours and incomes.
- The White House is concerned that increasing the threshold for coverage to 40 hours would (i) cause a substantial number of people to lose their coverage and (ii) encourage employers to reduce employees' hours to under 40 hours a week to avoid offering them coverage. Based on our experience, these concerns are unfounded.
- Of our 20,000 employees, 6,900 were eligible for coverage, 1,447 already had ACA compliant coverage leaving 5,453 eligible employees of whom only 420 chose to enroll. That's 2 percent of our total employees or 6 percent of eligible employees.
- While these 420 employees potentially could lose their coverage if the standard were 40 hours, this change would have the benefit of encouraging our managers to increase working hours and incomes for thousands of our other employees.
- With respect to reducing the hours of employees who currently work 40 hours a week, we offered 1,447 of such employees (78 percent of those insured) ACA compliant coverage without an hourly requirement or any other government compulsion and would continue to do so should the standard change to 40 hours a week.

• Of the 420 additional employees, only 197 (less than 1 percent of our employees) work 40 hours a week. Reducing their hours would be problematic as we need their expertise in the restaurants and could lose them to competitors.

• However, even if we marginally reduced the hours of all 197 employees (which we would not), the benefit of potentially increasing the hours and incomes of the thousands of our other employees would again more than offset this cost.

• Accordingly, I respectfully urge you to consider the negative impacts of the ACA's 30 hours a week coverage threshold on working Americans and the benefits to such workers of a fix that would return the threshold to 40 hours.

INTRODUCTION

I want to thank Chairman Alexander, Ranking Member Senator Murray and the members of the Health, Education, Labor, and Pensions Committee for giving me the opportunity to discuss the Forty Hours is Full Time Act, legislation that is of importance to American workers and businesses alike. My name is Andrew F. Puzder and I have been the CEO of CKE Restaurants Holdings, Inc. ("CKE") for over 14 years.

I'm hopeful that this hearing will help open a dialog between legislators, workers and the business community on the unintended adverse impact on the American workforce of the Affordable Care Act's ("ACA") definition of full-time employment as 30 hours a week. It has encouraged employers to reduce workers hours, particularly in the retail segment, lowing wages and reducing consumer spending.

The Forty Hours is Full Time Act represents a bipartisan solution to this problem. By protecting the best interests of the people the ACA was intended to benefit, Congress can provide immediate relief to employees who need more hours to meet their economic needs.

COMPANY DESCRIPTION AND JOB CREATION IMPACT

CKE is a quick service restaurant company headquartered in Carpinteria, CA with regional headquarters in Anaheim, CA, and St. Louis, MO. Carl N. Karcher, an Ohio native with an 8th grade education, and his wife Margaret, a California native, started our Company in 1941 with a hot dog cart in South Central Los Angeles.

There are 3,560 Carl's Jr. and Hardee's restaurants in 42 States and 33 foreign countries. Our franchisees are planning on opening restaurants in two additional States (New York and New Jersey) during the first quarter of this fiscal year. Of our 3,560 restaurants, 2,920 (82 percent) are in the United States. All of our international restaurants are franchised. Our company currently owns and operates approximately 800 of our domestic restaurants and our franchisees own and operate the remaining 2,120 (73 percent of our domestic restaurants). Our domestic restaurants (company and franchised, Carl's Jr. and Hardee's) average over $1.2 million in sales per year. Each restaurant employs about 25 people and has one general manager.

We employ approximately 20,000 people in the United States. Our domestic franchisees employ roughly an additional 55,000 people. As such, along with our franchisees, we account for about 75,000 jobs in the United States.

We provide significant employment opportunities for minorities. About 62 percent of our company employees are minorities. We also provide significant employment opportunities for women. About, 62 percent of our employees are women. We're proud of the company's diversity.

The average hourly rate for restaurant level employees is $9.28. Last year, CKE spent $329 million on restaurant level labor or about 28 percent of total company-owned restaurant sales.

As CEO, I've watched young men and women enter the labor force in our restaurants for over 14 years. I've seen the pride and determination that leads to success in their careers and lives. Some move on to other jobs and challenges equipped with the experience you can only get from a paying job. Others stay, aspiring to move up to managerial positions. There's nothing more fulfilling than seeing new and unskilled employees work their way up to managing a restaurant.

On average, our general managers each run a $1.3 million business with 25 employees and significant contact with the public. They're in charge of a million-dollar facility, a profit-and-loss statement and the success or failure of a business. If that business succeeds, they benefit just as the owner of a small business would.

Our company-owned restaurant general managers are 62 percent minorities and 66 percent women. They are 41 years old on average. However, their ages range from 21 to 65. They earn a management-level salary starting around $36,000 and going as high as $65,000—the average is around $45,000—plus benefits. They additionally have the potential to earn a substantial performance-based bonus.

They can progress through our management ranks as high as their ambition may take them. Our executive vice presidents responsible for Carl's Jr. and Hardee's both started as crew employees who worked their way up to general managers. Several of our senior vice presidents started as restaurant employees and learned the business as restaurant general managers.

Our franchisees, who are generally small business owners and entrepreneurs themselves, also often started out as general managers in our restaurants or our competitors' restaurants. Many run family businesses that have passed from one generation to the next. We have 230 franchisees nationwide. A few of our franchisees own a hundred or more restaurants, but most own 20 or less. Of our 230 franchisees, 44 own one restaurant and 20 own two restaurants (generally putting them at or near the ACA's 50 employee applicability threshold). All of these franchisees exemplify the American entrepreneurial spirit on which we built our Company and they instill that spirit in their 55,000 employees and managers.

While we and our franchisees directly account for about 75,000 jobs in the United States, our company's impact on the Nation's employment rate goes well beyond the number of people we directly employ. The hundreds of millions of dollars we and our franchisees spend on capital projects, services and supplies throughout the United States create thousands of additional jobs and generate broader economic growth.

THE ACA—HOW MANY EMPLOYEES ENROLLED?

The ACA's employer mandate took effect January 1st for employers with 100 or more full-time employees. The last open enrollment date for our company was December 4, 2014. As of the enrollment date, our company had approximately 20,000 employees, 6,900 (34.5 percent) of whom were managers or worked 30 or more hours per week and were eligible for our employer-sponsored ACA compliant health insurance. We elected to offer them coverage rather than paying the employer penalty and sending them to the ACA's health-insurance exchanges where, if the workers qualified, they could obtain Federal subsidies to help pay for insurance.

The remaining 13,100 (65.5 percent) of our employees do not qualify for ACA compliant coverage as they work under 30 hours a week.

Of the 6,900 eligible employees, 1,447 already had ACA compliant insurance through our pre-existing company plans. That left 5,453 employees eligible to enroll for our employer-sponsored ACA compliant insurance.

Out of these 5,453 eligible employees, only 420 actually chose to enroll. That's 2 percent of our total employees or 6 percent of eligible employees.

The ACA *will impose a penalty* on the 5,033 eligible employees who elected not to enroll, unless they have compliant health insurance from another source. Of these 5,033 employees, 2,640 (53 percent) were single and over 26 years of age. So, assuming that the remaining 2,393 all had insurance coverage through a spouse or a parent (which is clearly not the case as not every parent or every spouse would have insurance), at a bare minimum, 2,640 will pay the penalty. That's over 6 times as many people as enrolled.

For 2015, the penalty will be equal to the higher of $325 or 2 percent of their yearly household income above about $10,000. The 5,033 employees who declined insurance make, on average, $24,663 a year ($13.55 an hour assuming a 35 hour work week). As such, the employees without insurance generally will pay the $325 penalty as you have to make about $26,250 before the 2 percent penalty is higher.

The employee portion of the annual premium available to our full-time employees for our least expensive "bronze plan" is $1,104. As our very low enrollment rate indicates, if you don't believe you need health insurance, $325 is better than $1,104. Unfortunately, the employees the ACA compels to pay this penalty can ill afford it and still won't have compliant insurance.

Although the ACA does not require us to do so, we also offer our 13,100 part-time employees access to inexpensive group health care coverage that, while not compliant under the ACA's strict guidelines, may adequately meet their particular needs. The policies are called Indemnity Medical Insurance. Insurers are able to offer these policies because they are excepted benefits as defined by *IRS*, *Labor Department* and Public Health Service Act regulations and, as such, are not governed by the ACA. The insurer pays a set amount each time the insured receives a covered service. The insurer pays the same amount regardless of the fees charged by the provider. (I've provided the committee a copy of the benefits description pamphlet which also includes access to dental, life, disability, accident and vision insurance). About 200 part-time employees are enrolled.

In addition, when we hire new shift leaders or crew people, we provide them with a letter entitled "2015 GET INSURED" (I've provided the committee with a copy). When these newly hired variable-hour or part-time employees call our Call Center to enroll or find out about coverage, our Benefit Specialists walk them through the ACA's requirements and the individual mandate. The Benefit Specialists explain that the Medical Indemnity Plan does not help them to meet the individual mandate. They also offer these employees the option to get a quote through the Insurance Exchange. It is our intent to give all our employees easy and informed access to explore their options.

THE EMPLOYER MANDATE

Because the ACA requires that employers either offer health insurance to their employees who work 30 or more hours per week or pay up to a $3,000 per employee penalty, it has had the unintended consequence of encouraging employers to convert full-time jobs to part-time jobs (more particularly, jobs where employees work less than 30 hours a week).

The logic for businesses is simple. If you have three employees working 40 hours per week they will produce 120 labor hours. Five employees working 24 hours per week also produce 120 labor hours. Employers must offer the three full-time employees health insurance or pay a penalty. They have no such obligation to the five part-time employees, making part-time employment less costly.

I believe this has resulted in employers reducing hundreds of thousands (if not millions) of jobs to under 30 hours a week. Make something more expensive and employers will use less of it; make something less expensive and they will use more of it. While this is common sense and consistent with comments from the business community, there is some disagreement about the impact of the ACA's 30-hour threshold.

Part of the problem lies in interpreting the Bureau of Labor Statistics ("BLS") employment data. The BLS and the ACA define part-time employment differently. The BLS defines "full-time workers" as "[p]ersons who work 35 hours or more per week." (*BLS Glossary of Terms*). So, the BLS considers individuals working under 35 but above 30 hours per week part-time while the ACA considers them full-time. There are a significant number of such individuals. In fact, according to BLS, in December 2014, American workers averaged 34.6 hours a week. (*BLS Economic News Release ("ENR") Table B–2*).

If employers reduce the hours of employees who work less than 35 hours a week to under 30 a week (say from 34 hours to 24), there is no change in the BLS data on full- or part-time employment but, under the ACA, such workers transition from full- to part-time employment. The impact on the workers' earnings is obviously significant. As such, the BLS data on part-time and full-time jobs understates the ACA's impact.

Another problem with the data is that the BLS "counts persons, not jobs." (*BLS, Industry Hours and Employment, 5/1/14*). For example, the BLS would count someone who works two 20-hour-a-week part-time jobs as one full-time worker. We have many employees who now work part-time in our restaurants and also part-time in competitors' restaurants as a means to increase their hours.

According to the BLS, in 2014 (on average per month) there were nearly 2 million (1.955 million) multiple job holders working two part-time jobs. This is higher than in any year since 1994 when the BLS began tracking the data. This number has steadily increased over the past 5 years and is 150,000 people higher than it was in 2010 despite the fact that the number of people the BLS counts as part-time has declined. The highest month on record was October 2014 (2.172 million people), the second highest was November 2014 (2.127 million people). Over twice as many women work two part-time jobs. By definition, each of these 2 workers actually works two part-time jobs (accounting for 4 million part-time jobs). But, BLS counts the ones working a combined 35 hours or more as one full-time worker. As such, there are more part-time jobs than show up in the BLS part-time workers data. (*ENR Table A–16, historical data*).

There have been a number of articles discussing the ACA's impact on businesses reducing workers hours below 30 a week. I've written two articles on this issue. *ObamaCare and the Part-Time Economy, WSJ*, 10/10/13; *Take It From a Restaurant Executive, ObamaCare is Shifting Workers into Part-Time Jobs, Forbes*, 9-17-14.

Investors Business Daily ("IBD") compiled a list of job actions showing "strong proof" that the ACA's "employer mandate is behind cuts to work hours or staffing levels." As of September 5th, IBD's "ObamaCare scorecard included 450 employers that have reduced employees' hours with more than 100 school districts among them." *ObamaCare Employer Mandate: A List Of Cuts To Work Hours, Jobs*, IBD 9–5–14.

Even the *Urban Institute has acknowledged* that completely eliminating the employer mandate,

> "would not reduce insurance coverage significantly, but it would eliminate the labor market distortions that have troubled employer groups and that could have negative effects on some workers."

Why Not Just Eliminate the Employer Mandate? The Urban Institute, 5-9-14.

Notably, the BLS also reported that in December 2014, 6.8 million Americans were working part-time for economic reasons (*i.e.*, their hours were cut back or they were unable to find full-time jobs) and not by choice. (*ENR Table A–8*); (*BLS Labor Force Characteristics*).

To address this issue, on January 7, 2015 the House passed the "*Save American Workers Act* by a bipartisan vote of 252 to 172. This bill would change the definition of "full-time employee" back to the traditional 40 hours a week threshold from the ACA's full-time definition of 30 hours a week. The bill would redefine a full-time employee as one who works 40 hours a week or 174 hours a month based on a 52-week year.

Here on the Senate side, co-sponsors Senators Collins (R–ME), Donnelly (D–IN), Murkowski (R–Alaska) and Manchin (D–WV) have introduced the bipartisan *Forty Hours is Full Time Act* which would accomplish the same goal.

This bill is not intended to repeal or replace the ACA nor would it eliminate the employer mandate (as the Urban Institute advocates). It is simply intended as a fix for an unintended consequence that is negatively impacting American workers.

Nonetheless, the White House has expressed concern that this legislation would (i) meaningfully reduce the number of Americans with employer-based health insurance coverage and (ii) encourage employers to reduce the hours of employees currently working 40 hours a week to avoid providing coverage. (*White House Statement 1/7/15*). I respectfully submit that, based upon the experience at our company, such concerns are unfounded.

HOW MANY EMPLOYEES WOULD LOSE THEIR EMPLOYER-SPONSORED HEALTH INSURANCE COVERAGE?

As noted above, a very small percentage of our Company's eligible employees would lose coverage if the standard where changed to 40 hours a week. Of our 20,000 employees, 6,900 were eligible for our ACA compliant health insurance coverage, 1,447 already had ACA compliant insurance through our pre-existing company plans leaving 5,453 employees eligible to enroll.

Only 420 enrolled.

That's 2 percent of our labor force and 6 percent of eligible employees. The other 94 percent of eligible employees declined the opportunity.

Of the 5,033 who failed to enroll, at a bare minimum 2,640 (53 percent) elected to pay the penalty for not having insurance. As noted above, the actual number of individuals paying the penalty is certainly much higher. Again, at a bare minimum, that's six times as many people of the ACA's 30-hours threshold.

Consistent with the *Urban Institute's findings*, our experience indicates that a relatively limited percentage of employees would lose their employer-sponsored health insurance should Congress move the ACA's definition of full-time from 30 hours a week back to the traditional 40 hours. At our company, 420 employees could lose their employer-sponsored insurance if the ACA's coverage threshold were 40 hours a week (although, as noted below, not all would lose their coverage). I respectfully submit that the benefit of potentially increasing the hours and incomes of the thousands of our other employees would more than offset this cost.

HOW MANY 40 HOUR A WEEK EMPLOYEES ARE IMPACTED?

With respect to reducing the hours of employees who currently work 40 hours a week, the White House is concerned that moving to a 40 hour standard would "create incentives for employers to shift their employees to part-time work" by reducing 40 hour a week employees to 39 or fewer hours. (*White House Statement 1/7/15*). This concern is also unfounded.

Part of the problem again appears to be a misunderstanding with respect to the BLS reporting on full-time employment. As stated by the White House, "[a]ccording to data from the Bureau of Labor Statistics, since the Affordable Care Act became law, more than 90 percent of the increase in employment has been in full-time jobs." (*White House Statement 1/7/15*). However, as noted above, the BLS defines "full-time workers" as "[p]ersons who work 35 hours or more per week" and in December 2014, Americans workers averaged 34.6 hours a week.

As such, there are a large number of workers that BLS defines as full-time that work 35 to 39 hours a week rather than 40 and would not have their hours reduced should the standard change.

In addition, because the BLS counts persons not jobs, it would count an individual working two part-time jobs totaling 35 hours a week as a full-time worker even though neither job is full-time. According to the BLS, there were nearly 2 million multiple job holders working two part-time jobs. (*ENR Table A–16, historical data*).

Simply stated, because of how the BLS defines full-time workers and the fact that it counts workers not jobs, the BLS data is an unreliable indicator of either the percentage of "full-time" jobs where people are working 40 hour a week or the impact of the ACA's 30-hour threshold on full-time employment.

With respect to our employees who actually work 40 hours a week, of our 1,867 employees who have enrolled for ACA compliant coverage, 1,447 (78 percent) already had such coverage through our pre-existing company plans. We offered these employees such insurance pre-ACA without an hourly requirement or any other government compulsion. If the hourly requirement went to 40 hours, we would continue offering these employees employer-sponsored group coverage regardless.

Of the 420 additional employees who enrolled for ACA compliant coverage, 197 (less than 1 percent of our workforce) work 40 hours or more. Reducing these employees' hours would create problems. We would lose some of them to competitors. For others, we need their expertise in the restaurants (such as experienced cooks or shift leaders) so reducing their hours would make no sense.

However, even if we wanted to marginally reduce the hours of all 197 employees to under 40 hours a week (which we would not), certainly the benefit of potentially increasing the hours and incomes of the thousands of our other employees who work under 30 hours a week would more than offset this cost.

CONCLUSION

In conclusion, I want to thank you for the opportunity you've given me to speak about the Forty Hours is Full Time Act. The bottom line question is whether the ACA's 30-hour per week eligibility threshold is worth it. Some would argue sincerely that it is, pointing to the previously uninsured who now have employer-sponsored health insurance. As I shared with you, in our company, that would be just 2 percent of total employees and 6 percent of eligible employees. To achieve those results, I believe the ACA has caused hundreds of thousands (if not millions) of full-time jobs to become part-time (under 30 hours a week), and has imposed a penalty/tax on lower income workers who can ill afford it.

This is an issue that concerns me not only as the CEO of a company but as an American who began his career in the same kind of jobs that the ACA has put at risk. My first job was scooping ice cream at Baskin and Robbins for minimum wage (I think it was $1 or $1.25). To get through college and law school while supporting my family, I painted other people's houses, cut other peoples' lawns, played in bands, worked in a music store and busted up concrete with a jack hammer, among other things. I appreciated the opportunities each of these jobs gave me to earn a living while I pursued an education. I want to provide those same opportunities to our employees and other like them.

As our company's low enrollment rate and public opinion polls indicate, the ACA remains extremely unpopular. But, this doesn't mean Americans want to return to the pre-ACA status quo. The ultimate solution may well be bipartisan market-based health care legislation that is comprehensible, workable and, most importantly, provides access to affordable coverage for those who want it.

In the meantime, the Forty Hours is Full Time or Save American Workers Act would be a positive and bipartisan step in the right direction, addressing a serious problem for American workers and businesses. It is not an attempt to repeal or replace the ACA nor is it an attempt to eliminate the employer mandate. As stated by Senator Donnelley, who voted for the ACA in the House and continues to support it, the Forty Hours is Full Time Act is an attempt to, "make this bill stronger. . . . [C]ommon wisdom is that full-time is a 40-hour work week, and the health care law should reflect that."

Accordingly, I respectfully urge you to consider the negative impacts of the ACA's redefining full-time employment as 30 or more hours a week and the benefits of a fix that would return American workers to the traditional 40-hour week.

Thank you.

The CHAIRMAN. Thank you, Mr. Puzder.

Dr. Holtz-Eakin.

STATEMENT OF DOUG HOLTZ-EAKIN, PRESIDENT, AMERICAN ACTION FORUM, WASHINGTON, DC

Mr. HOLTZ-EAKIN. Thank you, Mr. Chairman, Ranking Member Murray, and members of the committee. It's a privilege to be here today to talk about this issue of 30 versus 40 hours as the norm for full-time employment under the ACA. I'll just make a couple of points and look forward to your questions.

Point No. 1 is that 30 hours is just simply at odds with the data on the labor market in the United States. Seventy-two percent of workers work over 40 hours, and 50.2 percent work exactly 40 hours. So defining it at 30 is at odds with what we see in the data out there in the United States every day.

The second point, as you've heard, is that this provides an incentive to reduce hours to those in order to avoid providing insurance. So there is going to be a group of workers who don't have insurance now who would have to be provided insurance, and you can avoid doing that by reducing hours, and the stakes are quite high in this case. If you move someone from 40 to 29 hours a week at the average hourly earnings in the United States, we're talking about $14,000 a year for those workers. So it's a big impact on their livelihood.

The people most at risk of having their hours shortened are those who are close to 30 under current law, so maybe 30 to 35 hours a week—you can get them down by dropping an hour a day—and 40 to 45 hours a week under the proposal. Well, if you look at those working 30 to 35 hours, only 27 percent have insurance, so there's a large number of them who don't have insurance right now, the 73 percent. That's 9.8 million people who are at risk of having their hours reduced to avoid giving them the insurance.

If you look at people working 40 to 45 hours a week, the vast majority have insurance. Eighty-eight percent have insurance. There's only 12 percent who are at risk of having their hours reduced to avoid being given insurance. That's 9.3 million workers, roughly.

So by moving from 30 to 40, you do two things. No. 1, you reduce by a substantial amount the number of people at risk of having their hours reduced. And No. 2, the 11 million workers who are working between 30 and 40 are completely freed of any risk of having their hours reduced. So you're taking enormous income and hours lost off the table by making this change.

The last point is that there has also been a second incentive that people talked about, the notion that you'll make workers who currently have insurance drop it and put them in the exchanges. I think that's a secondary consideration in thinking about 30 versus 40 hours. The reality is that regardless of the hours, for any worker making up to about 250 percent of the Federal poverty line, it's possible for the worker to stop getting insurance from his employer. The employer would then pay the penalty. He could also pay the worker additional cash benefits. Those cash benefits could be taxed. The worker could take the after-tax raise plus the subsidies, go to the exchanges and get insurance that is just as good as what the employer was offering. The employer meanwhile can pay more penalties, pay more wages, and still come out ahead by dropping the insurance.

There is an enormous incentive to drop coverage under the ACA regardless of the definition of full-time employment. So I don't think we'll see a big change in that. That's baked into the cake. The real issue is people having their hours reduced to avoid providing new insurance, and I think that's the central issue the committee should focus on.

So I thank you for the opportunity to be here and I look forward to answering your questions.

[The prepared statement of Mr. Holtz-Eakin follows:]

PREPARED STATEMENT OF DOUGLAS HOLTZ-EAKIN*

SUMMARY

I would like to make two main points today regarding the ACA's employer mandate and the definition of full-time work as 30 hours per week:

- The definition of full-time employment as a 30-hour workweek has unintended consequences in the labor market, is at odds with labor market norms, and creates incentive to reduce hours and pay; and
- The ACA will cause many who would otherwise have employer-sponsored health insurance to lose it, no matter how "full-time" work is defined.

CONSEQUENCES OF THE EMPLOYER MANDATE AND DISTORTING FULL-TIME WORK

Changing the ACA's definition of full-time employment to 40 hours per week would significantly mitigate the negative consequences of the employer mandate. First, anyone working between 30 and 40 hours per week who does not receive health insurance from their employer would no longer be vulnerable to losing hours, pay, or their jobs. In 2013, this population represented 8.3 percent of the workforce, which today are about 11.6 million workers who would immediately be protected. With this change, instead of those working 30 to 35 hours per week being the most likely to lose hours, those working 40 to 45 hours would be the most likely to lose. Some are concerned that since far more people work between 40 and 45 hours each week (55.6 percent of workers or 77.9 million people) than 30 to 35 hours per week, a much larger number could see a reduction in hours. According to the payroll processing firm ADP, however, 88 percent of full-time workers are already offered health insurance. So the population of workers who could potentially see this reduction would fall to 9.3 million. That's 500,000 less than the 9.8 million directly impacted if full-time were defined as 30 hours per week.

WORKERS WILL LOSE INSURANCE REGARDLESS OF THE WORKWEEK DEFINITION

Concerns that changing the definition of full-time work to 40 hours would lead to dropped coverage are superfluous. Roughly one-half of the $900 billion of spending in the ACA is devoted to subsidies for individuals who do not receive health insurance from their employers. So the obvious question is how employers will react to the presence of an alternative, subsidized source of insurance for their workers. AAF concluded that the incentives for dropping insurance are quite powerful for workers with incomes up to 250 percent of the Federal poverty level. Due to the ACA, employers will have motives to drop coverage for workers who already have health insurance, whether full-time work is defined as 30 hours per week or 40 hours per week.

CONCLUSION

The ACA's 30-hour workweek risks imposing substantial costs on the workers it aims to help. So, it is necessary that Congress revise this inappropriate definition which is clearly out-of-touch with the norms of the labor market. Moreover, the benefits of conforming to that reality are quite clear. Changing the ACA's definition of full-time employment from 30 to 40 hours per week to mirror the actual labor market would dramatically reduce the harm caused by the employer mandate.

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*The views expressed here are my own and not those of tha American Action Forum, the Partnership for the Future of Medicare or the Center for Health & Economy. I thank Ben Gitis and Christopher Holt for their assistance.

Chairman Alexander, Ranking Member Murray, and members of the committee, thank you for the opportunity to speak with you today regarding the Affordable Care Act's (ACA) definition of full-time work and its impact on the labor market. I would like to make two main points today regarding the ACA's employer mandate and the definition of full-time work as 30 hours per week:

• The definition of full-time employment as a 30-hour workweek has unintended consequences in the labor market, is at odds with labor market norms, and creates incentive to reduce hours and pay; and

• The ACA will cause many who would otherwise have employer-sponsored health insurance to lose it, no matter how "full-time" work is defined.

CONSEQUENCES OF THE EMPLOYER MANDATE AND DISTORTING FULL-TIME WORK

When evaluating the ACA, the employer mandate, and the 30-hour workweek, there are two central concerns. The primary concern is the unintended labor market consequences it creates for those who do not already have health insurance. The second concern is the potential for employees who already have employer-sponsored insurance (ESI) to be dropped from their plans, which some believe could be exacerbated by increasing the ACA's definition of full-time work to 40 hours per week.

Let's first examine the primary concern. When employers are required to provide health insurance for workers who do not already receive it, their business costs will naturally rise and companies are more likely to offset those costs by cutting jobs or compensation. Employers may also opt to avoid the mandate by reducing hours and substituting part-time for full-time work. However, since the ACA defines full-time as 30 hours per week, it gives employers an incentive to potentially dramatically cut hours to avoid the mandate.

In 2014, American Action Forum (AAF) research revealed significant evidence that the employer mandate and other ACA regulations have been negatively impacting employment and pay. The employer mandate and other ACA regulations have made employers more sensitive to health care costs, which they offset by reducing pay and employment. As a result, since ACA's passage, the rise in premiums has cost employees an average $935 per year and has reduced employment by 350,544 jobs nationwide.[1]

AAF also found evidence that the labor force was absorbing these detrimental costs before the government began enforcing the most stringent ACA regulations. These costs likely understate the consequences of these regulations and are a result of businesses preparing for the employer mandate, providing health insurance to workers, and losing access to low-cost coverage.

Instead of paying for the mandate by cutting worker pay or reducing hiring, other employers may decide to avoid the mandate altogether by reducing their employees' hours and reclassifying them as part-time. The chart below (using 2013 data) reveals that the ACA's definition of "full-time" work as 30 hours per week is at odds with the empirical realities. AAF found that 72 percent of employees in 2013 worked at least 40 hours per week. Further, 50.2 percent worked exactly 40 hours per week. As a result, with the full-time threshold at 30 hours per week, the employer mandate could subject millions of workers to a dramatic reduction in hours.[2]

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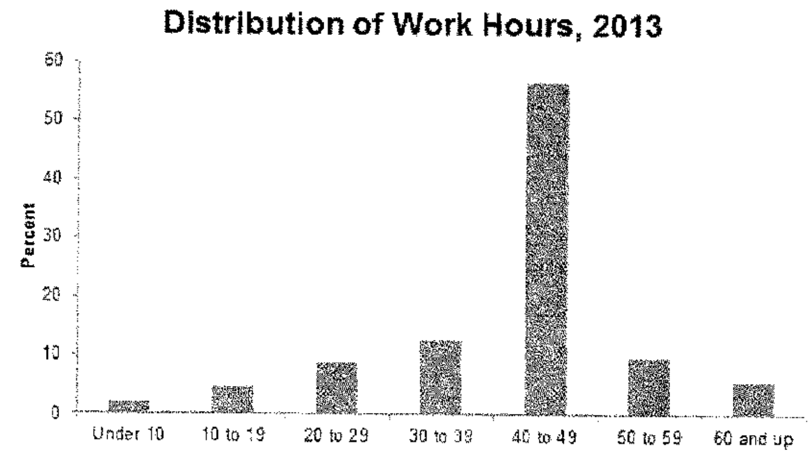
[1] Ben Gitis, Conor Ryan, & Sam Batkins, "Obamacare's Impact on Small Business Wages and Employment," American Action Forum, September 2014, *http://americanactionforum.org/research/obamacares-impact-on-small-business-wages-and-employment*.

[2] Ben Gitis, "Changing the ACA's Definition of Full-Time Work," American Action Forum, January 2015, *http://americanactionforum.org/research/changing-the-acas-definition-of-full-time-work*.



The employer mandate could be particularly costly for a full-time employee who works 40 hours per week and does not receive health insurance through the employer. If the employer wants to avoid the cost of the mandate and decides to reduce the worker's hours to reclassify him or her as part-time under the ACA, it would cost the employee 11 hours to go from 40 hours to 29 hours per week. If the worker's hourly earnings rate is $24.57 (the December 2014 national average), this means the employee would lose $270.27 per week or $14,054.04 per year.[3]

While it is possible that some workers would see such a large decline in their weekly hours, those most likely to lose hours are those who are just above the ACA's "full-time" threshold and work 30 to 35 hours per week. AAF found that only 27 percent of that population already receives health insurance from their employer. Therefore, the vast majority or 73 percent are very likely to lose hours. This group is composed of 9.8 million workers and represents 7 percent of the workforce. For someone working 35 hours per week, going to 29 hours would on average cost $147.42 per week or $7,665.84 per year.

Changing the ACA's definition of full-time employment to 40 hours per week to more accurately reflect the labor market would significantly mitigate the negative consequences of the employer mandate. First, anyone working between 30 and 40 hours per week who does not receive health insurance from their employer would no longer be vulnerable to losing hours, pay, or their jobs. In 2013, this population represented 8.3 percent of the workforce, which today are about 11.6 million workers who would immediately be protected.

Second, it would shield most full-time workers without health insurance from being subjected to the possibility of losing 11 or more hours per week. Instead of having to dramatically cut back hours, employers could avoid the mandate simply by reducing the workers hours from 40 to 39 per week. The average worker discussed above would only lose $24.57 per week or $1,277.64 per year.

With this change, instead of those working 30 to 35 hours per week being the most likely to lose hours, those working 40 to 45 hours would be the most likely to lose. Some are concerned that since far more people work between 40 and 45 hours each week (55.6 percent of workers or 77.9 million people) than 30 to 35 hours per week, a much larger number could see a reduction in hours. According to the payroll processing firm ADP, however, 88 percent of full-time workers are already offered health insurance.[4] So the population of workers who could potentially see this reduction would fall to 9.3 million. That's 500,000 less than the 9.8 million directly impacted if full-time were defined as 30 hours per week. As a result, changing the definition of full-time to 40 hours per week would save most workers from a potentially massive loss in hours, while the number of workers who are still directly

[3] Bureau of Labor Statistics, Department of Labor, *http://www.bls.gov/data/*.

[4] "ADP Annual Health Benefits Report, 2013 Benchmarks and Trends for Large Organizations," ADP, *http://www.adp.com/tools-and-resources/adp-research-institute/research-and-trends*/~/media/RI/whitepapers/2013_*ADPAnnualHealthBenefitsReport_FINAL.ashx*.

impacted by the mandate is less. The employer mandate would still hurt worker pay and hours, but it would be a vast improvement from current law.

WORKERS WILL LOSE INSURANCE REGARDLESS OF THE WORKWEEK DEFINITION

No matter how "full-time" work is defined under the ACA, the law gives employers strong incentive to drop already covered workers from their health plans or, more likely, never begin to offer health insurance. The second concern that changing the ACA's definition of full-time work to 40 hours per week would make it easier for employers to drop existing coverage is a secondary consideration because it overlooks evidence that the ACA's large health exchange subsidies already provide employers with the incentive to drop insurance.

Roughly one-half of the $900 billion of spending in the ACA is devoted to subsidies for individuals who do not receive health insurance from their employers. These subsidies are remarkably generous, even for those with relatively high incomes. For example, a family earning about $59,000 a year in 2014 could receive a premium subsidy of about $7,200. A family making $71,000 could receive about $5,200; and even a family earning about $95,000 could receive a subsidy of almost $3,000.

By 2018, subsidy amounts and the income levels to qualify for those subsidies would grow substantially: a family earning about $64,000 would receive a subsidy of over $10,000, a family earning $77,000 would receive a subsidy of $7,800, and a family earning $102,000 would receive a subsidy of almost $5,000.

So the obvious question is how employers will react to the presence of an alternative, subsidized source of insurance for their workers, which can be accessed if they drop coverage for their employees. The simplest calculation focuses on the tradeoff between employer savings and the $2,000 penalty (per employee) imposed by the ACA on employers whose employees move to subsidized exchange coverage. Consider a $12,000 policy in 2014, of which the employer would bear roughly three quarters or $9,000. A simple comparison of $9,000 in savings versus a $2,000 penalty would seemingly suggest large-scale incentives to drop insurance.

Unfortunately, the economics of the compensation decision are a bit more subtle than this simple calculation. Health insurance is only one portion of the overall compensation package that employees receive as a result of competitive pressures. Evidence suggests that if one portion of the package is reduced or eliminated—health insurance—then another aspect—wages—will ultimately be increased as a competitive necessity to retain and attract valuable labor. Thus, the key question is whether the employer can keep the employee "happy"—appropriately compensated and insured—*and* save money.

AAF has found that the answer is frequently "yes"—thanks to the generosity of Federal subsidies. Specifically, if employers were to drop workers from their health plans, the exchange subsidies limit the pay hike employees require to remain as well off as they were with ESI. In many cases, the money employers save from dropping insurance (employer contribution to health plan less the $2,000 penalty), far outweighs the wage hike workers require to stay "happy." As a result, many employers on net would save money by dropping workers from their health plans.

AAF concluded that the incentives for dropping insurance are quite powerful for workers with incomes up to 250 percent of the Federal poverty level. Only for higher income workers do the advantages of untaxed health insurance make it infeasible to drop insurance and re-work the compensation package.

So how many workers could be dropped due to the subsidies? AAF found that there are about 43 million workers for whom it makes sense to drop insurance.[5] While CBO estimated that only 19 million people would receive subsidies, AAF's research suggests that number could easily triple. As a result, the CBO's cost estimate could grow from $450 billion over the first 10 years to $1.4 trillion.[6]

Clearly, concerns that changing the definition of full-time work to 40 hours would lead to dropped coverage are superfluous. Due to the ACA, employers will have motives to drop coverage for workers who already have health insurance, whether full-time work is defined as 30 hours per week or 40 hours per week.

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[5] This is likely an upper bound estimate as there is a positive correlation between wage levels and the probability of having insurance.

[6] Douglas Holtz-Eakin & Cameron McCosh, "Labor Markets and Health Care Reform: New Results," American Action Forum, May 2010, *http://americanactionforum.org/sites/default/files/OHC__LabMktsHCR.pdf*.

CONCLUSION

The ACA's 30-hour workweek risks imposing substantial costs on the workers it aims to help. So, it is necessary that Congress revise this inappropriate definition which is clearly out-of-touch with the norms of the labor market. Moreover, the benefits of conforming to that reality are quite clear. Changing the ACA's definition of full-time employment from 30 to 40 hours per week to mirror the actual labor market would dramatically reduce the harm caused by the employer mandate.

The CHAIRMAN. Thank you, Dr. Holtz-Eakin.

Mr. Fugere.

STATEMENT OF JOE FUGERE, FOUNDER, TUTTA BELLA PIZZERIA, SEATTLE, WA

Mr. FUGERE. Good morning, Chairman Alexander, Ranking Member Murray, and fellow Senate committee members. Thank you for inviting me to share my company's story and my testimony about why I think it is important not to modify the definition of full-service employee as outlined in the Employer Shared Responsibility Requirements of the Patient Protection and Affordable Care Act.

My name is Joe Fugere and I'm the founder and owner of a business in the other Washington, Washington State, just celebrating 11 years in business. Neapolitan Pizzeria is a neighborhood restaurant group made up of five locations in the greater Seattle area, with just over 200 employees.

Let's start with the fact that when it comes to the American people and small businesses in particular, that I'm an optimist. In my employer peer group in Seattle, I know business leaders who are driven to do the right thing, not always because they reap short-term rewards but because they know that their employees are the foundation of helping them achieve their true purpose and values and making all of their stakeholders successful over time.

I believe that the Affordable Care Act was a step toward giving some support to the uninsured in our country, but it also encouraged business owners to do the right thing.

At Tutta Bella, our stated purpose is to nourish lives by sharing traditions, authentic food, and love. We aspire to enrich and invigorate the communities by providing memorable experiences. We hope to inspire others by setting a standard for social stewardship and fiscal responsibility.

Part of the reason that I'm here today to testify and I agreed to testify is because I think it's important to share our story and share some real-world examples of this vision in action.

We've been offering health care, medical, dental, and vision benefits to our salaried managers since 2005, and to all of our hourly managers since 2008, well before the passage of the Affordable Care Act. We set the minimum hours threshold for health care qualification at 24 hours per week to maximize the number of enrollees. As a company, if we raised it to 40 hours, almost every one of our current hourly employees would not qualify for enrollment.

I think it needs to be stated explicitly that this industry has and always will be comprised of part-time workers. It is inherent in the fabric of restaurants to accommodate the workforce that often craves a more flexible schedule—students, caregivers, aspiring artists, for example. I understand that the backers of this legislation believe that it would give 2.5 million low-income wage earners a raise. The reality is that very few employees in our industry would be scheduling more than 30 hours a week regardless of the threshold.

Our industry is teeming with employees from the Millennial Generation. In a recent article on BusinessInsider.com, the U.S. Bureau of Labor Statistics predicts that Millennials will make up approximately 75 percent of the workforce by 2030. The article also mentions that this generation is struggling for financial independence compared to previous generations, with 24 percent who participated in a survey reporting the need to move back home at some point after entering the workforce, versus 10 percent of GenXers and 5 percent of Baby Boomers.

At the other end of the age spectrum, some employees in the restaurant business need to continue to bring in income even after they start to reach a more standard retirement age. I can think of one of our longest and most loyal employees, Renee. When I was opening our first location in the Columbia City neighborhood in Seattle, Renee was so excited about Tutta Bella opening in our neighborhood that she offered to work for free. I didn't take her up on the offer of free labor, but she did become our first server.

Eleven years later, Renee is now 60 years old and has become a cornerstone of our culture and beloved by our staff and guests alike. She has been fully enrolled in our benefits package for years, and it is a huge relief to her as a single person. Even if it was possible to schedule an employee like Renee at 40 hours, recommended in this amendment, it would be a challenge for her physically to manage working that many hours. With the U.S. restaurant industry projected to have employed over 13 million people in 2014—that's about 1 in 10 working Americans—it pains me to think of the potential hundreds of thousands of people like Renee who would be impacted by this change in definition.

There's limited evidence that the current health care reform has caused any significant shift toward part-time work in any industry. Rather than focusing on the few employers who will be led solely by profits and cost savings, let's focus instead on those employers who I believe make up the majority of business owners in this country, the ones trying to do the right thing by investing in their employees while at the same time reaching their financial goals. It's a balancing act, for sure. I work hard to achieve this with my team every day. But I've seen the direct results of offering a robust health care package—higher morale, lower turnover, increased productivity. You can really take that to the bottom line. Not to mention the big, bright smiles of happy, healthy, and productive employees.

In closing, I want to be a business leader in a country that is progressing as a society, not taking steps backward. As we continue to shift more toward a service-based economy, we need to provide people in this workforce more opportunities to be successful and healthy in the years and decades ahead. One out of 33 people in the State of Washington are food service employees. As one of those, it would be my dream if we all did the right thing. Thank you.

[The prepared statement of Mr. Fugere follows:]

PREPARED STATEMENT OF JOE FUGERE

SUMMARY

I am the founder and owner of a business in Washington State. Tutta Bella Neapolitan Pizzeria is a neighborhood restaurant group comprised of five locations in the greater Seattle area with just over 200 employees.

In my employer peer group in Seattle, I know business leaders who are driven to do the right thing. Not always because they will reap short-term rewards, but because they know that their employees are the foundation of helping them live true to their purpose and values, as well as to make all of their stakeholders successful over time. I believe that the Affordable Care Act was a step toward giving some support to the uninsured in our country, but also to encourage business owners to do the right thing.

At Tutta Bella our stated purpose is "To nourish lives by sharing traditions, authentic food, and love." We aspire to enrich and invigorate communities by providing memorable experiences. We have been offering healthcare (medical, dental, and vision) benefits to salaried managers since 2005, and all hourly employees since 2008, well before the Affordable Care Act's employer-shared responsibility requirements. We set the minimum hours threshold for health care qualification at 24 hours per week to maximize our number of enrollees. As a company, if we raised it to 40 hours, almost every current hourly employee would not qualify for enrollment.

I think that it needs to be explicitly stated that this industry has and always will be comprised of part-time workers. It is inherent in the fabric of restaurants to accommodate a workforce that often craves a more flexible schedule. I understand that the backers of this legislation believe that it would give 2.5 million low-income wage arners a raise. The reality is that few employees in our industry would be scheduled more than 30 hours a week, regardless of the threshold.

Our industry is greatly comprised of employees from the millennial generation, the aging workforce who are getting close to retirement and minority workers—I will share ways that this change in legislation would adversely impact them.

There is limited evidence that the current health reform has caused any significant shift toward part-time work in any industry.* Rather than focusing on the few employers who will be led solely by profits and cost savings, let's focus instead on those employers who I believe comprise the majority of business owners in our country . . . the ones trying to do right by investing in their employees while at the same time reaching their financial goals. I've seen the results of offering a robust healthcare package in higher morale, lower turnover and increased productivity.

In close, I want to be a business leader in a country that is progressing as a society, not taking steps backward. As we continue to shift toward a more service-based economy, we need to give large numbers of people in this workforce more opportunities to be successful and healthy in the years and decades ahead.

Good morning, Chairman Alexander, Ranking Member Murray and fellow Senate committee members. Thank you for inviting me to share my company's story and my testimony about why I think that it is important not to modify the definition of full-time employee as outlined in the employer-shared responsibility requirements in the Patient Protection and Affordable Care Act.

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* Bowen Garrett and Robert Kaestner, Little Evidence of the ACA Increasing Part-Time Work So Far, Urban Institute, September 2014, *http://www.urban.org/UploadedPDF/413217-Little-Evidence-of-the-ACA-Increasing-Part-Time-Work-So-Far.pdf*.

memorable experiences. We hope to inspire others by setting the standard for social stewardship and fiscal responsibility. Part of the reason that I agreed to give this testimony is because I think it's important to share our story and some real-world examples of this vision.

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Our industry is teaming with employees from the millennial generation. In a recent article on Business Insider,[1] the *US Bureau of Labor Statistics* predicts that millennials will make up approximately 75 percent of the workforce by 2030. The article also mentions that this generation is struggling for financial independence compared to previous generations, with 24 percent who participated in a survey reporting the need to move back home at some point after entering the workforce vs. 10 percent of Gen Xers and 5 percent of Baby Boomers. With the Affordable Care Act allowing young adults to stay on their parents' health care until age 26, this generation is offered some much-needed support in trying times. As an employer, we are proud to help our millennial staff during this time of transition to independence by offering more of them health insurance when they need it, whether it's before or after the age of 26.

On the other end of the age spectrum, some employees in the restaurant business need to continue to bring in income even as they start to reach more standard retirement age. I think of one of our longest and most loyal employees, Renee. When I was just opening our first location in the Columbia City neighborhood in Seattle, Renee was so excited about the potential of Tutta Bella invigorating the "main street" of our neighborhood that she even offered to work as a server for "free." I didn't take her up on the offer of free labor, but she did become our first server. Eleven years later, Renee is 60 years old and has become a cornerstone of our culture and beloved by staff and guests alike. She has been fully enrolled in our benefit package for years and it is a huge relief to her as a single person. Even if it was possible to schedule an employee like her with the 40 hours recommended in this amendment, it would be challenging for her to physically manage working that many hours. With the U.S. restaurant industry projected to have employed 13.5 million people in 2014 (about 1 out of 10 working Americans),[2] it pains me to think of the potential hundreds of thousands of people like Renee who could be impacted by this change in definition of full-time employee.

Our industry also shows incredible growth in minority ownership and employment. In 2012, 59 percent of first-line supervisors/managers of food preparation and service workers were women, 14 percent were African-American and 17 percent were of Hispanic origin.[3] Part-time shifts are the foundation of the restaurant industry. Increasing the full-time hours to 40 hours per week is a regressive measure that will negatively impact minority Americans . . . many of whom may be receiving health benefits from an employer for the first time.

There is limited evidence that the current health reform has caused any significant shift toward part-time work in any industry. Rather than focusing on the few employers who will be led solely by profits and cost savings, let's focus instead on those employers who I believe comprise the majority of business owners in our country . . . the ones trying to do right by investing in their employees while at the same time reaching their financial goals. It is a balancing act for sure . . . one I work hard to achieve with my team every day. I've seen the results of offering a robust healthcare package in higher morale, lower turnover and increased produc-

[1] Jacquelyn Smith, 8 Things You Need To Know About Millennials At Work, November 18, 2014; *http://www.businessinsider.com/what-you-should-know-about-millennials-at-work-2014-11*.

[2] National Restaurant Association, *http://www.restaurant.org*.

[3] Bowen Garrett and Robert Kaestner, Little Evidence of the ACA Increasing Part-Time Work So Far, Urban Institute, September 2014, *http://www.urban.org/UploadedPDF/413217-Little-Evidence-of-the-ACA-Increasing-Part-Time-Work-So-Far.pdf*.

tivity . . . not to mention the big, bright smiles of healthy, happy, productive employees!

In close, I want to be a business leader in a country that is progressing as a society, not taking steps backward. As we continue to shift toward a more service-based economy, we need to give large numbers of people in this workforce more opportunities to be successful and healthy in the years and decades ahead.

One out of 33 people are foodservice employees in Washington State.[4] As one of them . . . it would be my dream if we ALL did the right thing!

The CHAIRMAN. Thank you, Mr. Fugere.

Now we will begin a 5-minute round of questions. We will endeavor to end the hearing by noon or before, and we'll begin with Senator Collins.

Senator COLLINS. Thank you very much, Mr. Chairman.

Dr. Webb, you did a terrific job of outlining what the impact would be on substitute teachers, on the ed techs, on people who are working two different jobs within the system. Could you talk to us about what the impact of the law's definition of full-time work would be on the students?

Ms. WEBB. Absolutely. I first became aware of this when I was researching purchasing a software package to manage substitute teachers, and the sales person talked to me about how the software would limit substitute teachers below the 30 hours in order to avoid having to provide health coverage, and I started thinking about the impact on learning.

When you consider—I think every one of us can remember having a substitute teacher in our classroom. The environment was different. The pace of learning was not the same, and there was a real give and take of getting to know that new person that was going to guide our learning.

So if you could picture, I would have maybe a teacher on maternity leave and have one substitute teacher from Monday through Thursday, but to avoid having that person go over the 30 hours a different substitute teacher on Friday, what a huge concern that is. I believe it's the full range of learners, whether it's the advanced placement class where students are following a rigorous curriculum with a high-stakes test in May that determines whether they are going to obtain college credit. Bangor High School had 544 AP tests last year, 80 percent of them earning college credit.

I worry about changing substitutes in that room, but I also worry about the 54 percent of our students that are on free and reduced lunch status, and we know they have at-risk factors, and we know from research that the consistency of the person in the room and the relationship they have with that person has a great impact on learning.

So to me, when I heard about this software tracking to avoid incurring additional expenditures, it didn't make common sense when considering the impact on learning.

Senator COLLINS. Thank you.

Dr. Webb, I was particularly struck when you described the 110 ed techs in your system who worked between 30 and 34 hours a week and do, in fact, receive health insurance now, and the district pays 77 percent of the cost of the premium. And yet, because of the way the Affordable Care Act works and the definition of full-time work, you will have to pay a third of up to $3,000—no, it would

[4] Washington Restaurant Association, *http://warestaurant.org*.

be a $3,000 penalty for each of those employees—that's your outside risk—because the insurance that you're providing would not be considered affordable. Well, if my quick math is correct, that is $330,000 in new costs to the system.

Just yesterday the National Education Association sent me a letter in which it said that many school districts mistakenly believe that the only way to avoid the penalties is to cut employees' hours. I would note the irony, because the NEA a year ago sent me a letter, sent all Senators a letter urging a yes vote on a proposal that I made to the budget calling for a more reasonable definition of full-time work, and in this letter just a year ago said that it was a critical issue to their members, that educators face great uncertainty about their eligibility for coverage, et cetera. So there seems to have been a flip.

But I guess I would ask you to respond to the NEA saying that you mistakenly—not you personally but superintendents mistakenly think that cutting hours is the only option. Is asking for a huge budget increase a viable option for you and most superintendents?

Ms. WEBB. No, that is not an option. I mean, 95 percent of our employees are offered insurance, and the school department pays a large portion of that, anywhere from 77 to 80 percent of the cost, and there is no intention to cut hours of the people that are consistently employed, whether teachers or ed techs, custodians, secretaries, administrators.

But where it becomes problematic is the affordability piece for the ed techs, and then those substitutes where we'd rather hire the core substitutes that really know the Bangor way.

We have looked. We've researched the look-back method and predicting the stability, a 90-day period ahead. My concern is the resources that would be required to administer that kind of a program. We hire substitutes weekly. I would say it's almost every single day someone is coming to our office with an application, and although we have a core group of substitutes, this past month we've been hit very hard with the flu, and so we've gone well beyond. So you can imagine the administration kind of operation you would need to continually do a 6-month look-back to determine the 90 days ahead.

When we look at this calendar year for the school, which would begin July 1 to June 30th, we have 5 months that someone could hit that threshold as a substitute of the 130 hours. So if we had someone on maternity leave at the beginning of the school year and the substitute that we hired worked during September and October, we would hit the 130-day threshold in both of those months.

So when I think of our system administration being only 2.4 percent of our budget, my fear is that resources have to be utilized one place or the other. And when you consider that 80 percent of our budget is personnel, we only have 7 percent of our budget that's truly discretionary. So there lies my concern; where do those resources come from?

Senator COLLINS. Thank you.

The CHAIRMAN. Thank you, Senator Collins.

We want to do our best to keep each Senator's time close to 5 minutes, although we want to hear a full answer from our witnesses.

Senator Warren.

Senator WARREN. Thank you, Mr. Chairman and Ranking Member Murray.

The CHAIRMAN. Excuse me. Senator Murray.

Senator MURRAY. We have to train him how to be a chair.

[Laughter.]

The CHAIRMAN. That's twice in 1 day.

Senator MURRAY. Well, thank you, Mr. Chairman.

You know, for a long time, Democrats and Republicans agreed that job-based insurance was an important workplace benefit, and Mr. Fugere has been putting this value into practice, as he said, long before the Affordable Care Act. But the Congressional Budget Office has estimated that almost a million workers would lose job-based coverage if businesses are allowed to get out of offering health care coverage to those working 40 hours or less.

Mr. Fugere, in your statement you said that increasing the threshold would be a step backward for working Americans. Can you just tell us why you think employers offering health benefits is good for business?

Mr. FUGERE. Of course. Listening to the testimony this morning, it is a bit challenging to hear employees referred to in statistics and numbers, almost like a commodity. I look at running a business, a fiscally responsible business, and there are certain things that are line item expenses. For example, 3 percent of our budget goes to napkins and straws. Less than 1 percent of our budget is in health care, and I feel like rather than looking at it as an expense, it's an investment, an investment that pays off. Lower turnover, higher morale, more productivity, these are not just altruistic and philanthropic aspirations. They make really good business sense as well, and can be directly attributed to the bottom line.

Senator MURRAY. If this were to become law, do you expect some other Seattle area restaurants to cut benefits for their employees?

Mr. FUGERE. I think it's inevitable that not every business owner thinks the way I do. So in order to do something that would level the playing field, if you will, I believe that, yes, there would be people that would drop benefits, unquestionably.

Senator MURRAY. Would you?

Mr. FUGERE. No, we wouldn't.

Senator MURRAY. And that's one of my concerns, because if this bill passes, it would allow Mr. Fugere's competitors to cut benefits, and actually what would happen is Tutta Bella would be subsidizing irresponsible behavior of those employers who don't cover their employees and push them actually onto public programs, and I don't think that's fair, and I hope that we can really consider that as we move forward.

Dr. Webb, I wanted to turn to you. I really appreciate your thoughtful testimony. I am focused on doing everything we can to put our students first, and I'm very concerned that the 40-hour bill will actually do more harm than good. We all know our teachers work extremely hard. They plan lessons, they do extra-curricular activities, they grade papers, and those are often outside those regular hours.

I wanted to ask you how important is the time that teachers do put in after class to achieving the best results for their students?

Ms. WEBB. Extremely important.

Senator MURRAY. And everyone knows that when you include time spent out of the classroom, teachers actually put in a lot more than 40 hours a week and actually don't log those hours in the classroom, correct?

Ms. WEBB. Correct.

Senator MURRAY. Well, one of my concerns is that if we raise the eligibility threshold to 40 hours a week, it will mean that when teachers do sit down to negotiate their next contract, we're going to find some schools that are trying to cut back on the time they spend preparing lessons or grading papers or providing this really important one-on-one help to students outside the classroom, and I'm worried that qualified people are going to walk away from the profession. So I think we have to think about those unintended consequences.

I just have a minute left, Mr. Puzder, but you currently do offer insurance to workers whose hours exceed 30 hours a week, right?

Mr. PUZDER. Absolutely, and under.

Senator MURRAY. And CKE Restaurants employs about 20,000 workers in the United States, including in the States of Texas, Oklahoma, Louisiana, Missouri, and Alabama, correct?

Mr. PUZDER. Yes.

Senator MURRAY. Well, unlike my home State of Washington, Mr. Chairman, those are all States that have not expanded their Medicaid programs, and workers in those States earning the average hourly rate for restaurants that Mr. Puzder references in his testimony could be at risk of losing their insurance.

For example, a single mom earning the average restaurant wage of $9.28 an hour would be at serious risk. I think that a lot of us can't support a bill that jeopardizes employer-sponsored health coverage for a lot of our American workers. We can't take away this benefit for them, and it is actually surprising as we look at this because the CBO has said that this will raise the deficit by over $50 billion for a very clear reason, and that's because these people will go on government-sponsored programs.

So I think it's really important that we think about that as we move on this legislation.

The CHAIRMAN. Thank you, Senator Murray.

Senator Enzi.

STATEMENT OF SENATOR ENZI

Senator ENZI. Thank you, Mr. Chairman. Thank you for holding this hearing.

I did a tele-town hall meeting last night, and the very first call was from Rock Springs, WY, which we would consider to be one of our bigger towns, but out here it would be considered a pretty small town. And it was from a person working for the school district, and they wanted me to know the difficulties they're having right now, particularly with bus drivers and coaches who are kind of volunteer contract workers, not really part of the school district, never expected to get any health insurance out of it but are now placing the district in a situation where they are going to have to expend that or eliminate the service. Of course, a lot of the bus drivers like going on some of the extended trips to see some of the games, sometimes even in other States, and they're seeing that they're not going to get to do that now because of a health care law that they're not all that interested in.

Would that be a similar situation to what you were describing earlier?

Ms. WEBB. Yes, it would. It's those combination positions that really can put us at a disadvantage, and I can think of one particular person, a substitute that also is an assistant coach in soccer season and in the winter season for hockey. It would have to be one choice or the other, or a penalty, or offer insurance.

Senator ENZI. And there are some pretty serious constraints sometimes on the budget, as you already pointed out. I appreciate that.

For Dr. Holtz-Eakin, one of the problems that I'm seeing in Wyoming with the health insurance requirements is that when they have 50 employees that are working over 40 hours or more, then they come under this law. For a startup business, it's a particularly big problem. I've run into a number of people who have said, man, I've got this great location in the next town over, got a good price on the building. What do you think about me moving over there and starting? And my first question is, how many employees do you have, and how many is it going to take? And their answer is usually about 45 at the current place, and they'll need 45 at the new place. They so far have all decided against expanding their business.

So there are a bunch of jobs going lacking out there. I would be interested in your reflection on whether that's actually stopping businesses. And also the little bit of a problem of if they get cut back to 29 hours, they probably have to have another job. In Wyoming we consistently have one of the lowest unemployment rates in the Nation, so we need more people for the jobs that are available. But some of them, when they get cut back to 29 hours, they have to take another job, and that employer is going to want them to work 29 hours as well so they can get as much benefit as they possibly can. Now we've got a person working 58 hours with no overtime. Is there any law that covers that?

Mr. HOLTZ-EAKIN. Let me talk about the first question about the incentives for expansion. I think this is an important unintended consequence of the Affordable Care Act. I mean, this is essentially a tax on the growth of small businesses. When they cross the 50-person threshold, every employee becomes more expensive, and they have to deal with that. Many people have an incentive to avoid crossing that threshold. You might think this is just abstract, but we actually did some work at the American Action Forum where we looked at those firms that are under 50, so they're not going to be subject to any of this, those firms that are between 50 and 100 and going to be subject to it, and we compared their sensitivity to health insurance premiums before and after the passage of the ACA.

What you see clearly is that for those who are going to be subject to this, you get a negative impact of these premiums, essentially higher health care costs, and it shows up in lower employment and lower wages, and that's the real-world manifestation of the kinds of incentives that are built into the ACA. It's a deep concern at this point in time.

On the latter, I think the short version is if you're out of step with labor market norms, as the 30-hour rule is, you distort all sorts of labor market behaviors. Two part-time jobs instead of one full-time job is just one example of that.

Senator ENZI. Thank you, and I'll have questions for the other panelists, as well as some more questions for you, if you'll take those in writing so I don't use up other people's time.

But, Mr. Fugere, I want to congratulate you on your successful business. I used to be in the shoe business, and I used to provide those benefits to my people. Of course, it wasn't forced on me by the Federal Government either. I really appreciate those that build those in as a basic part of their business but recognize that some of those startup businesses don't have that same advantage as they startup, and we hope that there will be a lot more startups for jobs.

I want to thank all the panelists.

The CHAIRMAN. Senator Warren.

STATEMENT OF SENATOR WARREN

Senator WARREN. Thank you, Mr. Chairman, and thank you, Ranking Member Murray.

So for the past few years, Republicans have been very clear that they want to limit families' access to health care by slashing Medicaid and by cutting tax credits that families use to buy health insurance. I don't support either move, but if I did, I'd have real problems with the Republicans' first proposal on health care, which would let corporations drop health care coverage for anyone working under 40 hours a week.

According to the Congressional Budget Office, the Republican proposal would increase the number of people on government health programs, including Medicaid and the subsidized exchange plans, by at least half-a-million people. In other words, the Republican proposal would expand the reach of Obamacare.

Republicans also say they want to reduce the deficit, but again, according to the Congressional Budget Office, the bill for pushing people out of these employer-sponsored plans would increase the deficit by $53.2 billion.

So if this bill pushes more people onto government health programs and increases the debt, two things Republicans say they are against, why are they supporting it, Dr. Holtz-Eakin?

Mr. HOLTZ-EAKIN. I can't speak for why they're supporting it. You'd have to ask them.

Senator WARREN. Fair enough. Do you have any dispute with the numbers from the Congressional Budget Office?

Mr. HOLTZ-EAKIN. I think if you look at the score, the notion of employer drops is a sideshow. In the CBO score, there is the presumption of an expansion in Medicaid and insurance subsidies, but that's offset by the increased tax revenue that comes from the employees getting cash instead of health insurance, and that's basically a wash. It's about $24 billion each.

Senator WARREN. Let me just stop you there.

Mr. HOLTZ-EAKIN. Let me finish. The $50 billion increase in the deficit comes from the assumption that there will be $50 billion, roughly, less in employer penalties paid when you move the threshold from 30 to 40. If you look in the data, there are about 11 million people there, and if every one of them has a $2,000 penalty, that's $23 billion. I don't know where the rest of that is coming from. So, yes, I'm a little uncertain about that.

Senator WARREN. Do you think the Congressional Budget Office just made up these numbers? They say it will increase the deficit by $53 billion, and let's be clear. Conservatives, like Yuval Levin at the Ethics and Public Policy Center, have said,

> Putting the cutoff for the employer mandate at 40 hours would likely put far, far more people at risk of having their hours cut than leaving it at 30 hours".

So we've got both problems. We're pushing people out between 30 and 40 and, at least according to a conservative economist here at the Ethics and Public Policy Center, he says he believes that what happens if we switch from 30 to 40, we will have more employers cut hours, and that means we'll have fewer people working, which is what we're worried about here.

As I think you stated your testimony, there are more people working at 40 hours a week than there are people working at 30 hours a week. So, far more employers could reduce their obligations by simply slicing 1 hour off people's time that they work.

Mr. HOLTZ-EAKIN. So let me say two things. First, let me just stipulate at the outset that as a former director, I have nothing but the highest regard for the CBO.

Senator WARREN. Good.

Mr. HOLTZ-EAKIN. And they don't simply make up numbers.

Senator WARREN. Good.

Mr. HOLTZ-EAKIN. That's a good-faith estimate. I've made the same good-faith estimate, and we've come down in different places. I think it's open to question.

Second is, as I said in my testimony, I think moving 30 to 40 doesn't change the calculus for dropping insurance very much at all. The reality is that the subsidies are so rich in the exchanges that it is a profit-making opportunity to stop offering your employee insurance, pay the penalties, pay them raises, and make more money. And for the employee, they are just as well off or better because they're getting insurance of the same quality out in the exchanges.

So that's the math. And the open question, the one no one knows the answer to yet is just how many businesses will probably not drop but never get in the business of offering health insurance and simply get in the business of sending people to the exchanges. That's an important consideration as well. Yuval Levin has his opinion, I have mine, and we disagree.

Senator WARREN. Well, all right. I can only go with the numbers that have been given to us by the Congressional Budget Office, but I think I would analyze this to add one more part to it, and that is that this bill is corporate welfare. Big corporations would get to cut health benefits for millions of workers, push people out of their employer insurance plans. Some of those people will lose their health insurance altogether. Others would be pushed onto Federal programs, expanding the reach of Obamacare, and taxpayers would get stuck with the tab. According to the Congressional Budget Office, that would be $53 billion.

I'm against adding $53 billion to the deficit so that corporations can push their costs and responsibilities onto the government. I don't think that's how we build a better future for our families.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warren.

Senator Roberts.

Senator ROBERTS. Amazing.

Senator Baldwin, I said good morning. That was it. I was making signs and people thought I was probably a little bit—whatever.

[Laughter.]

STATEMENT OF SENATOR ROBERTS

Senator ROBERTS. Mr. Chairman, thank you for this, and a special thanks to Senator Collins, who has led this effort.

Today, President Obama is speaking at the University of Kansas. He will be likely expanding upon many of his proposals that he outlined earlier this week in his State of the Union address. I am a very strong supporter of free speech, and it's certainly an honor for the University of Kansas to host the President of the United States. The University of Kansas is a great Kansas institution, known for our academics and for basketball. Maybe the President will get a full court press; who knows. And I know he will get a very warm Jayhawk reception.

I'm glad the President has chosen to visit my State because I believe we offer a good dose of Kansas common sense. That said, in the case of Obamacare's 30-hour work week, we might also offer a cautionary tale. The University announced last summer they have reduced undergraduate student employment hours from 30 hours a week to 20 hours a week, and capped the graduate student hours at no more than 28 hours a week as a result of the new 30-hour rule. That's 5,000 students.

Elizabeth Melton, a senior out there, works at the library 25 hours a week. With the cutback, she's going to have to take out more student loans. I will leave her quote for the record. And then we have Rachel Prather who said, "I can't really imagine how I'm going to buy groceries on 20 hours less a week," and was working for the University. These are not statistics, these are people. And basically it goes on, and I won't go into the rest of the students, but I will submit that for the record.

[The information referred to was not available at time of press.]

Senator ROBERTS. Regardless of this fact, the President has already announced he would veto legislation, along with six others, six other vetoes, to help restore hours and therefore wages for these hard-working students.

Kansans want solutions, and everybody in the country wants solutions. The 30-hour rule is clearly one of the more harmful provisions of Obamacare for many of our workers, and I hope the President will revisit his refusal to at least address it and work with us.

President Doug Holtz-Eakin—a president I can work with. Mr. Eakin, can you share some thoughts on how this reduction in hours will hurt the student worker? Could we see more loans taken out, higher debt for students upon graduation?

Mr. HOLTZ-EAKIN. Absolutely. As I noted in my testimony, there's an enormous amount of income at stake here. Moving from 40 to 29 hours is a big reduction, moving down to 20 even more. So you'll have to fill that resource hole one way or another, and for students the most likely outcome is they'll borrow more.

Senator ROBERTS. I know research from the Hoover Institute has shown that women, younger workers, and workers without a college degree would be disproportionately affected by this 30-hour rule. Do you agree with that, and can you explain why that is?

Mr. HOLTZ-EAKIN. I do agree with that, and that is simply a reflection of the composition of part-time work in America. Those are the groups that are most likely to be working part-time and the incomes that they make.

Senator ROBERTS. Well, we talked a lot about the problem with the 30-hour full-time definition with Obamacare. I think another major problem for the job-based insurance is the health insurance tax. Is this tax, which is being passed through to small businesses in the form of higher premiums, also a factor in hiring full-time employees?

Mr. HOLTZ-EAKIN. Absolutely. We've done a fair amount of work on the health insurance tax, and it has big impacts on premiums. Those premiums translate directly into costs for firms, and they cut back either their pay increases for the workers they have or they don't hire as much, and we're seeing those impacts right now.

Senator ROBERTS. I appreciate your response.

I yield back my time, Mr. Chairman.

The CHAIRMAN. Senator Baldwin.

STATEMENT OF SENATOR BALDWIN

Senator BALDWIN. Thank you. I share my colleagues' concern that this proposal that we're discussing would increase the deficit by $53.8 billion, put health benefits for 1 million hard-working individuals in jeopardy, and make many more workers vulnerable to having their hours cut than currently face that risk or threat.

That said, I recognize that the Affordable Care Act is not perfect, and I'm ready to work across the aisle on commonsense fixes that strengthen and protect working families and their access to quality, affordable coverage. But I don't believe that this proposal is the way to get us there.

I think we could be having, and I hope we are going to shortly be having a real discussion of possible improvements that could help businesses and safeguard access to strong job-based coverage.

I was serving in the House of Representatives during the initial debate on health care reform, and as we were having that debate we were looking at this issue of employer responsibility and sort of took a different look at it in terms of if this sort of debate on 30 or 40 hours is a proxy for the size of the employer who should be included in the provision or not, there are other ways to make that cut, and the House had a robust debate and a different version of this employer responsibility provision.

Also, in Massachusetts, prior to the passage of the Affordable Care Act, they had a different way of getting at this particular issue. If we want to work on this, let's put a workable proposal on the table. But I really feel like this is another politically driven attack on the health care law that is going to undermine economic security for our families.

Mr. Fugere, thank you for being here. I am very encouraged that you offer comprehensive health coverage to your employees who work at least 24 hours a week, and it's worth restating that this is even more generous than the Affordable Care Act requires and that you did it before the Affordable Care Act was even passed.

The Affordable Care Act guarantees families not just access to coverage but access to high-quality and comprehensive health care coverage—there are standards in there—through their employers. So I want to ask you what some of the differences are between the robust health care plans that you have long offered and other minimal coverage policies like fixed indemnity plans. Why did you choose to offer the more comprehensive coverage before the Affordable Care Act was even law if there are other less expensive options that could have maybe been easier for you—that path might have been easier for you to take as a small business owner?

Mr. FUGERE. Well, we looked at a lot of the options that were available to us, and we really wanted to do something that would send a message to our employees that we cared about their service, and we wanted to I guess make a statement that we wanted to invest in them. In fact, our program not only meets the bronze level of the ACA plan but it exceeds the platinum level in just about every respect.

Senator BALDWIN. Ranking Member Murray made a reference to an issue that I'd like to explore a little more with you. I'm concerned that by raising the definition to 40 hours a week, it would unfairly reward employers seeking to circumvent the law and cut benefits while disadvantaging other business owners like yourself who want to strengthen your workforce by offering this robust coverage.

Under this proposal, what would be some of the impacts on your business and your employees should other, arguably, competitors drop coverage for workers who are under 40 hours a week?

Mr. FUGERE. Well, just like other industries, the restaurant industry is highly competitive. We run on very thin margins and we have to be very careful about where we allocate our resources. So this is just one of many things—menus, different competition coming into our marketplace—that we would contend with, and it would just be one more burden for those businesses that are trying to do the right thing, in my opinion.

Senator BALDWIN. Thank you.

The CHAIRMAN. Thank you, Senator Baldwin.

Mr. Puzder, you pointed out that the Congress has deliberately placed into law an economic incentive to discourage employers from paying overtime, correct?

Mr. PUZDER. Correct.

The CHAIRMAN. And do you see much difference between that and Congress putting into the law an economic incentive to discourage employers from increasing their health care costs for employees who work part-time?

Mr. PUZDER. It has the same impact on our business. I'm really sorry that the Senator left because I really would like to respond to the corporate welfare point, which is, I'm not here saying that we can't pay this. I'm not here asking you to give us any welfare. Four hundred and twenty people signed up. It's going to cost us $2 million. Last year it was almost $200 million. It's not a big deal to us. Nobody—I wouldn't say nobody signed up. A very small percentage of the people—the over 5,000 people that we offered Obamacare coverage to, or ACA coverage, didn't—they don't want it. We had 420 people that signed up.

I'm not here asking you to give us corporate welfare. What I'm asking you to let us do is take the thousands of people that have had to take part-time jobs and let us move them back over to 30 hours a week. They need the work. They need the hours. They would prefer to have the hours to the coverage because they didn't take the coverage. We offered it to them. In fact, we offered 13,100 employees lesser coverage. I mean, it doesn't cover 22-year-old boys for pregnancy, but it does give coverage if you break your ankle or you need to go to the doctor. And we had 200 people take it.

The problem here isn't corporate welfare. The problem here is with the thousands and thousands, if not millions of American workers who have had their hours reduced to below what they need to get by, and that's what this is about. It's not about corporate welfare.

You know, companies like ours, we figured this out. I mean, it's a very little expense. The penalties that you're talking about losing, they're from small employers for whom it's better to pay the penalty than it is to give the insurance. Of the 5,000 people who didn't take insurance, 2,640 of them were over the age of 26 and unmarried. So at a minimum, those 2,640 people have chosen to pay the penalty. These are people who can't afford that penalty. Those are the penalties you're losing. They're small businesses and they're the people that can't pay.

Our business, it's a hit to us. You know, you don't like to take $2 million and pay it out, but I'm happy to pay that amount for these people for insurance. And even if you change it to 40 hours, about half of them would still be over 40 hours.

So the corporate welfare argument is interesting to hear, and I love the Congressional Budget Office, I refer to them all the time. I think Doug is a great guy. But have they ever estimated anything that was accurate? I mean, really, has there been one estimate that was correct? I'm telling you what's happening in the world, in the business world. People aren't signing up, at least at our company.

The CHAIRMAN. Thank you. As a matter of fact, in defense of the Congressional Budget Office, they did do a pretty good job of estimating the number of jobs that would be lost by increasing the President's minimum wage proposals. So they are often correct.

And following up on that point, Mr. Holtz-Eakin, the Congressional Budget Office for the House-passed bill, which would restore the definition of full-time to 40 hours a week, I think we ought to think about this. I asked at a hearing one time, where did this 30 hours ever come from? It does sound like it's made in France. They do apparently have in France inspectors who go around in parking lots to make sure you're not working more than 30 hours.

I think maybe it was just a mistake. I mean, 30 hours doesn't reflect any reality in the American workplace. It doesn't reflect the standards and the customs that have been recognized by the Fair Labor Standards Act for many years. And the obvious effect of putting a major economic disincentive to adding a cost to hiring somebody who works a certain number of hours, the obvious effect is going to be that employees would respond to that.

Mr. Holtz-Eakin, the Congressional Budget Office scored the House-passed bill and it says employers whose current workforce is comprised mostly of 40-hour workers have tended to offer health coverage at a greater rate than employers whose employees typically work between 30 and 35 hours per week.

Is it fair to say that the 30-hour definition of full-time is doing more to reduce wages than it is to increase the number of employees with insurance?

Mr. HOLTZ-EAKIN. I think that's fair. I mean, we know that those working 40 hours or more, 88 percent have insurance. Those working in the range of 30 to 35 hours, 27 percent have insurance. So it's not insuring people. It's a big incentive to cut their hours, and that's going to be the major impact of changing from 30 to 40, that you'll get rid of that disincentive for cutting hours.

The CHAIRMAN. Thank you.

Senator Sanders

STATEMENT OF SENATOR SANDERS

Senator SANDERS. Thank you, Mr. Chairman. I promise you that in the coming weeks I will be highly engaged in this debate, but I want to make an observation about this discussion.

I think if this hearing were televised internationally, people all over the world would not know what the hell anybody here was talking about, because in every major country in this world, whether it's 100 miles away from where I live in Burlington, VT, or throughout Europe, or throughout Scandinavia, people would literally not understand one word of this discussion. The argument of whether you provide health insurance to people who work 30 hours a week or whether they work 40 hours a week—whoa. In every major country on earth, health care is a right of all people. It is a right of all people 100 miles away from where I live under a conservative Prime Minister in Canada.

No. 2, we have business people on this panel who know something about economics. You are aware that in the United States, after the modest gains of the Affordable Care Act, and I voted for it, 10 million more people have insurance. We still have 40 million Americans without any health insurance. And then, despite all of that, we end up paying, per capita, almost twice as much as any country on earth for health insurance.

So, Mr. Chairman, this is a very interesting discussion, but we're not discussing what's relevant. And what's relevant is should health care be a right of all people, or should businesses, Mr. Fugere's and the others, have to spend a great deal of time and energy figuring out how they provide health care to their people or how they do not?

So let me ask a question, and I'm not sure I know what the answer would be. I can tell you in Vermont, and I suspect there's no reason to think it's different in Maine or other States, every year the budget comes around, communities don't have a whole lot of money, are arguing whether or not we raise the budget, right? A very serious issue. And a lot of times health care becomes a key component.

Is that right, Dr. Webb?

Ms. WEBB. Yes, that is correct.

Senator SANDERS. Let me ask you, and I don't mean to put you on the spot here, or I don't want to go through the whole panel, but if we did what virtually every major country on earth did, say that health care is a right of all people, not a right for a business—we have the absurd situation where Mr. Fugere feels that it's his moral responsibility to provide good health care for his workers, and thank you very much for that. But the guy who owns the pizzeria across the street may not feel the same way, and you are at a competitive disadvantage because you're doing the right thing.

What would it mean for our country and for small businesses if you could go about your business of producing the best pizza possible at the lowest possible price rather than worrying about health care, if we took that burden off of your shoulders? Mr. Fugere, would that be a good thing for you?

Mr. FUGERE. I would absolutely support that.

Senator SANDERS. Dr. Webb, you're trying to have the very difficult job—and I appreciate all the hard work you and other educators do—of educating kids. I don't know that you took your job—you worry about how kids achieve in this world, right? Did you really want to get into the health care business when you took that job? I mean, if we lifted that burden off of you—we have town meetings every year arguing about the budget. I guess it's similar in Maine.

Ms. WEBB. It is very similar, and we are being asked to do more with less and less. I mean, it's interesting to me that I became superintendent in 2008, and for the last figures presented in 2013 by the Maine Department of Education, my per-pupil costs are the same. They are virtually the same. And so trying to do more with less.

For me, it's really about the resources, and my fear is that, whether it's on the administrative side or it's on the penalty side, or it's on offering insurance to what I would call very temporary employees, it's resources, and we have had to cut programs and options, and that has an impact on the students.

Senator SANDERS. I know it does, and it's very similar in Vermont. Would your life be easier if maybe all you had to do was worry about providing education to the kids and not worry about health care for your employees?

Ms. WEBB. I mean, a question like that, sure. But what is the reality?

Senator SANDERS. Well, the reality is that maybe it should not have to be the responsibility of the Bangor School District to provide health care, that maybe it should be a right of all of our people—whether they work in McDonald's in Bangor, whether they work for the school district—to have health care.

Mr. Puzder, what do you think?

Mr. PUZDER. If what you're saying, Senator, is that if we had a bill that was debated, that was vetted through congressional committees, and we looked at the health care system and really tried to come up with a more rational solution, I would say you're absolutely right. You would disengage business from providing health care.

You and I might not agree on the ultimate solution to this, but——

Senator SANDERS. I assume you would rather focus on producing your products rather than worrying about health care, right?

Mr. PUZDER. From your lips to God's ear. This has been such—it's not only been such an incredible pain in the butt for business people, but it's hurting American workers. We need to change this. It needs to be addressed. You're not helping. I know you think you are. I know you want to. I know the intent was there. This isn't helping, and it's not that expensive for us. I'm not here saying, you know——

Senator SANDERS. OK. Let me ask—I am sorry, Mr. Chairman. I yield.

The CHAIRMAN. It was good, though.

Senator Sanders is always good, so we always look forward to his comments.

Senator Franken.

STATEMENT OF SENATOR FRANKEN

Senator FRANKEN. Thank you, Mr. Chairman, for holding this hearing on job-based health insurance under the Affordable Care Act.

You know, my focus on the ACA—I'd like to identify my remarks with Senator Baldwin's—it's about making sure that the ACA works as well as possible for people in my State and our Nation, and it really has helped a lot of people.

In my State of Minnesota, for instance, because of the health reform law, we've cut the uninsured rate by more than 40 percent. We now have 95 percent of Minnesotans insured. We're second only to Massachusetts, which had a form of this before.

But I've heard concerns from people who are understandably anxious and frustrated by the complexity of the Affordable Care Act and the process of implementing it, so we absolutely need to fix what's not working about the law. What we shouldn't try to do is get rid of it. We can't go back to the days when insurers could deny coverage to people with pre-existing conditions or drop people who became sick because they'd hit their lifetime cap. That's incredibly reassuring to every American, I think.

We shouldn't charge women more simply because they are women. And we've seen some tremendous benefits. We've had the lowest inflation growth in health care costs in 50 years. This is working.

So what I think we need to do is fix what's working, and one of the things—I've offered some legislation. One is on the family glitch. This is complicated to explain, so maybe I just won't take the time to explain it here. But the crux of this hearing is this: you've got to draw a line somewhere, right? Forty hours, 30 hours—this is about where to draw the line. And there are going to be tradeoffs everywhere, right? This is what this is about.

So today we're talking about the tradeoffs, the negative aspects of 30. We're hearing that testimony.

The negative aspects of doing it at 40, Dr. Holtz-Eakin, you started off your testimony by saying this is going to be much better to do it at 30 because most people, more than 50 percent of people work 40 hours, exactly 40 hours. Most people work more than 40 hours. So you would lose a lot more if you were cut from 40 hours to 29, right? Didn't you start your testimony that way?

How likely is that? Mr. Fugere, how likely is it that people are going to be cut from 40 to 29, versus being cut from 40 to 39?

Mr. FUGERE. Well, for one, not a single one of our servers works that many hours. And second, I think that in my industry, our managers schedule for the business' needs and for what the customers' needs are, regardless of a threshold. It's more about what the business needs and what the customer needs are. I think that trying to get them under a certain amount of hours to meet some type of savings comes secondarily.

Senator FRANKEN. What I'm saying is that the reason we put it at 30 and the reason that the tradeoffs are such that 40 makes so much less sense is because, as the CBO scored it and looked at it, this would take insurance away from 500,000, and up to a million. That's the point.

So, yes, we can go through instances where anywhere you set this line, anywhere you draw the line, but I want to fix this thing.

Dr. Holtz-Eakin works for the American Action Forum. That's aligned with the American Action Network. You go to the homepage of the American Action Network and what they say in a banner across the line is, "Help Us Stop Obamacare." So I do trust the CBO and their good-faith look at this. I'm not sure that when you're aligned with a group that has a banner across the line that says, "Help Us Stop Obamacare," that your estimates are necessarily in good faith.

Thank you.

Mr. HOLTZ-EAKIN. I'd be happy to sit with the Senator and walk him through our estimates so you can see exactly how they're done.

Senator FRANKEN. Well, can I respond to that? Because in your testimony, you have a figure that says that—excuse me, the study. You say,

> "Since the ACA's passage, the rise in premiums has cost employees an average of $935 per year and has reduced employment by 350,544 jobs nationwide."

I'm sorry, but that seems an absurd statement to me, 350,544—not 543, not 545. I don't know how you can make some kind of statistically sound finding that gets it to the job, and I looked at the study and I was looking at what years this data was based on, and it was based on data from years 2003 to 2012.

So how can you say that as a result, not looking at data from 2013, not looking at data from 2014, that you come up with the exact number of jobs supposedly lost by the Affordable Care Act?

The CHAIRMAN. Dr. Holtz-Eakin, you can answer the question, and then we'll go on to Senator Murphy.

Mr. HOLTZ-EAKIN. I'll be brief. It's a regression analysis that delivers a point estimate of jobs lost. That's the point estimate. Every point estimate comes with some uncertainty, and there's a standard error around that. There's no question about it, and I don't think there's any reason to apologize for that. It's the best method available for doing this kind of an analysis.

The CHAIRMAN. Senator Murphy

STATEMENT OF SENATOR MURPHY

Senator MURPHY. Thank you very much, Mr. Chairman.

Thank you to the panel for taking the time to be here with us today.

I just wanted to briefly comment on Mr. Puzder's suggestions about the fallibility of CBO. I think they generally do a pretty fair job, but it is true that they were pretty wrong in estimating the health care expenditures of the United States in the wake of the passage of the Affordable Care Act. They got it so wrong that we have spent about $2 trillion less on health care since the passage of the Affordable Care Act than the CBO had initially estimated. We're spending, on average, about $1,000 less per Medicare beneficiary than we had initially thought. Dr. Holtz-Eakin and I and others have had discussions about how much of this is attributable to the Affordable Care Act and how much is attributable to other economic factors, but there's pretty good evidence that the ACA is a big part of that story.

This is a panel full of employers and economists. We don't have any employees on this panel, and I think we'd be helped by hearing the stories as part of this debate from the employees who are going to have their lives changed by this piece of legislation we're debating here today.

In the audience here today are two of my constituents. Janice Stauffer and Irene Jadge are ICU nurses at a hospital in Connecticut. They work three 12-hour shifts in the ICU, maybe some of the most important work that gets done in our health care system today, and they total 36 hours a week. It's their health care benefits that provide health care to their families, and if we move from 30 to 40 hours, their health care would be in jeopardy, not just for them but for their families.

So I want to maybe use their story as a way to ask you, Dr. Holtz-Eakin, because I really respect your thinking a lot on this, a few questions.

First, you initially sort of framed the risk to the 12 percent of those working 40 hours a week who don't have insurance, but you also say that you believe that the health care law is set up in a way that provides an incentive for employers to move employees off of their coverage onto the exchanges, right? So that means—and I think Senator Franken was getting at this—that when you go from a standard that only affects about 6 or 7 percent of workers to a standard that affects 50 percent of workers, you're going to have a lot more people that are at risk of moving from the ranks of employer-sponsored insurance to being subject to either the exchanges or Medicaid or some other way of getting insurance. Is that how you read this?

Mr. HOLTZ-EAKIN. So, I believe they're at risk at 30, 31, 32, 33, 35, 40. So the issue of the incentive for employers to get out of the business of providing health insurance and putting people on the exchanges is not materially affected by this particular piece of legislation.

Senator MURPHY. Except that the standard that we have today is operative on a much smaller number of employees, right? So if the standard stays at 30 or 35, you're talking about a much smaller number of employees because the majority of employees are at 40 or 41 hours, unless you assume that employers look similarly at the risks to their business of moving from 40 to 29 as they do moving from 40 to 39.

Mr. HOLTZ-EAKIN. If the risk is reducing hours, there are two risks. One is to reduce hours, and the other is reduced coverage. Those are the two incentives that are at play. I believe the latter, the reducing coverage, is not materially affected by this. It's there. It's a real concern to me, quite frankly, but it's not about 30 versus 40.

For hours, it's not the case that you expect employers to move from 40 to 29. The question is who is in the couple of hours around 40 and who is in the couple of hours around 30 who are at risk, and my answer would be there are fewer at risk around 40 than around 30. So we're going to have less disruption in people's working hours, their incomes, if we have a 40-hour standard. That's the argument.

Senator MURPHY. I guess we're just looking at different numbers here because you have 50 percent of employees who are at 40, you have 7 percent who——

Mr. HOLTZ-EAKIN. But they've all got insurance. There's no reason to—80 percent have insurance, so why reduce their hours?

Senator MURPHY. Right. But you said that the Affordable Care Act, according to you, is, in and of itself, an incentive to move from employer-sponsored care to other forms of health care.

Mr. HOLTZ-EAKIN. And that's true at 30 or 40. So the question is——

Senator MURPHY. And there are more employees at 40.

Mr. HOLTZ-EAKIN. So what changes with this law? And the answer is——

Senator MURPHY. That more employees are at risk of being subject to that incentive.

Dr. HOLTZ-EAKIN [continuing]. Of losing hours, because there's no reason to dodge the hours in order to have to provide the insurance. They've already got the insurance, so it's done. At 30, that's not true. You've got 27 percent who have insurance, so this is a big consideration. How many more people am I going to have to supply insurance to? How costly is it going to be for my business? That's a big incentive to move them. That's it.

Senator MURPHY. We're reading this very differently. I would just make this one——

Mr. HOLTZ-EAKIN. I agree, we're reading it differently.

Senator MURPHY [continuing]. Quick last comment. The two nurses that I'm talking about likely aren't going to receive subsidies, and if they do, they will be relatively small subsidies. So even if they were to get a boost in income, it is not going to make up for the entirety of the money that their employer paid toward their health care. And if they're not going to receive subsidies in the exchange, they come out net losers. If you get a subsidy, it may be that you end up being whole in the end.

But we have to admit that there are going to be a lot of people who—even if they do get an increase in income because the employer is no longer paying insurance—are going to be at risk for a whole lot more money out-of-pocket.

But I'm over my time, so I'd be pleased to continue this conversation with you. Thank you.

The CHAIRMAN. Senator Cassidy

STATEMENT OF SENATOR CASSIDY

Senator CASSIDY. Yes, thank you.

I think I can answer that a little bit. Nurses will probably not be affected if we go to 40 because there's so much competition for nurses. I'll go into that later and discuss what we found after researching the topic.

Mr. Fugere, when you quote the Urban Institute study—we pulled that—it takes all workers, the CEO down to the person pushing the broom, even highly trained ICU nurses who can go anyplace and get a lot of overtime. Really, the group that is most impacted is the lowest quintile. This is small so hopefully you can see it, but that red line is the lowest quintile, and that is the percent of those workers who are working full-time.

As you can see, post-recovery, every other quintile is moving up. Our most vulnerable workers are the ones being hammered. ICU nurses do not qualify for that—I say that as a doc—because, my gosh, what those two women know, right now, if one of you goes down with a heart attack, you want them taking care of you, not me, the gastroenterologist. I would put the paddles in the wrong place.

[Laughter.]

Mr. Fugere, I have a couple of questions, please. What is your cost share for your employees insurance?

I apologize. You said only 1 percent of your company's expense is for health care?

Mr. FUGERE. That's correct, less than 1 percent.

Senator CASSIDY. Whoa.

Senator MIKULSKI. Mr. Chairman, excuse me. Not to interrupt the dialog, but I need to excuse myself to go to a meeting with Senator Cochran. I'd like the record to show that I was here and ask that my statement be in the record. Not to interrupt their debate, but I'm trying to move the Homeland Security bill.

The CHAIRMAN. Thank you, Senator Mikulski. We appreciate you coming for the time that you could.

[The prepared statement of Senator Mikulski follows:]

PREPARED STATEMENT OF SENATOR MIKULSKI

Thank you Chairman Alexander and Ranking Member Murray for convening this Health, Education, Labor, and Pensions Committee hearing to examine how the Affordable Care Act is working.

There has been a lot of talk, debate, and misinformation about the Affordable Care Act. But let's talk for a moment about the facts. Because of the Affordable Care Act, approximately 10 million people who were previously uninsured now have health insurance. About 4 million young people are now on their parents' health insurance plans. Over 8 million seniors pay less for prescription drugs. These seniors have saved approximately $1,400 each. Because of the Affordable Care Act, there is no more gender discrimination, pre-existing condition exclusions, and annual or lifetime caps on benefits.

I'd like to share how the Affordable Care Act is working in Maryland and I am going to let my constituents tell the story. The following are four stories I received from Marylanders.

The first is from Barry from Gwynn Oak, MD. Barry's wife lost her job at the end of 2011 and decided to return to school. Barry is self-employed and did not have access to employer-provided coverage. He and his wife had been on his wife's health insurance and COBRA, but decided to see how they would fare in the Maryland marketplace. They successfully signed up in 2013 and their new coverage went into effect January 1st. They signed up for a Platinum Plan and their premiums were MUCH lower than what they were paying through COBRA. They saved approximately $400 per month and just over $5,000 a year. Barry also expressed his concerns about what would have happened to them if they had to look for insurance in the old "individual market." His wife had a pre-existing condition, so insurance would have been very expensive for them.

The second story is from Marilyn from Oxford, MD. Marilyn got the information she needed from the new Maryland health insurance exchange. She got a new insurance plan from the same company and with nearly all the same conditions for $6,000 less a year! The new law saved her $6,000 a year. She had been overcharged for years due to a minor pre-existing condition but now she can get a fair price for her insurance. She wrote,

> "Members of Congress who oppose this law have no idea what it is like to have to buy their own insurance on the open market. This law is a Godsend for those of us who do."

The third story is from Robert from Frederick, MD. Robert's household is especially grateful for the ACA on two fronts. For one, Robert has a daughter with a pre-existing condition that would interfere with her being able to get her own health insurance had we not eliminated pre-existing condition denials. And second, Robert and his family are thankful that they can continue to carry their daughter on their health insurance plan up to the age of 26. His daughter will graduate from Emory University in May 2014. He and his wife are greatly relieved and grateful that their daughter did not have to worry about obtaining health insurance thanks to the provisions of the ACA.

The final story is from Robyn from Silver Spring, MD. Here I quote from the letter she sent me.

> "This is my story. I am a single mother of the most absolutely adorable son. Every day I watch him seizure. He has done so since he was 2 months old. I went to school and had

a job that I loved. I lost that job when my son was about 3 years old. We lived for almost 3 years without health care. Before the passage of the Affordable Care Act, my son was denied health care. My son's medications were about $500 a month. I worked 3 to 4 relief jobs to keep a roof over our head and afford the medication that saves his life. But now, the ACA means that no insurance company can say that Joshua's illness costs them too much. It means that when he gets older, he won't get denied health care because he has reached his cap. I would like to thank you for your efforts to keep the Affordable Care Act."

I want everyone here to know that I am open to ANY constructive ideas, Republican or Democrat, about how to improve the Affordable Care Act. But I am NOT open to proposals that seek only to harm, undermine, or destroy a law that so many Marylanders depend on. Marylanders like Barry, Robyn, Marilyn, and Robert. Thank you.

Senator CASSIDY. I'm struck, only 1 percent. That is so much less than another company that tells me their top item now is health care expenses. What percent of your employees participate in your health insurance plan?

Mr. FUGERE. Seventy-seven percent of our eligible employees are enrolled in some insurance plan, meaning either the one we offer or one that their spouses or somebody else might offer, and of that, 75 percent are enrolled of that 77 percent.

Senator CASSIDY. So 75 percent of the 77 percent is enrolled in your plan?

Mr. FUGERE. Correct.

Senator CASSIDY. What is the cost share on that plan? For example, the deductible. What is their out-of-pocket exposure?

Mr. FUGERE. For employees, it's $188 per month.

Senator CASSIDY. So that's on average.

Mr. FUGERE. On average.

Over time it goes down because we pay a higher percentage. For those people that stay with us longer, it's closer to $120. That's pretax, by the way.

Senator CASSIDY. You have management and you have wait staff. You have highly paid and you have lowest quintile, if you will. Do you have it broken down as to what percent of those lowest quintile are participating in your health care plan?

Mr. FUGERE. Yes. Let's see. We have a total of 55, and of those, there are 20 of those who are higher paid.

Senator CASSIDY. So the 35 remaining, how many of those participate in the plan? I'm assuming that the 20 total do.

Mr. FUGERE. Right.

Senator CASSIDY. So how many of the lower paid employees?

Mr. FUGERE. Participate in the plan?

Senator CASSIDY. Yes.

Mr. FUGERE. All of them. Are you asking which ones that are qualified——

Senator CASSIDY. Of your lowest quintile workers, of your lowest paid workers, how many participate in your plan that they have to put up $180 a month?

Mr. FUGERE. Twenty-three.

Senator CASSIDY. Twenty-three out of what number? Fifty-five?

Mr. FUGERE. I'm sorry. I've got a lot of numbers in front of me.

Senator CASSIDY. I understand.

Mr. FUGERE. So we have a total enrolled in our plan of 55 people. Of those, 20 are managers.

Senator CASSIDY. Twenty are managers.

Mr. FUGERE. Yes.

Senator CASSIDY. OK. Obviously, the numbers are a little confusing here.

So you mentioned the employer should do the right thing. We have school boards that are unable, because of their tax base, to pay people for more than 30 hours per work week. In Lincoln Parish in Louisiana, 400 custodial and food service workers were converted from full-time to part-time. The school board was very explicit: we don't have the tax base to pay for the penalties and cost of compliance with Obamacare.

What would be the right thing for that employer to do, seeing how they don't have the tax base but they have to provide educational activity? Do you see what I'm saying?

Mr. FUGERE. I do.

Senator CASSIDY. There's a tradeoff here, and there's a moral judgment when you say. "should do the right thing."

Mr. FUGERE. Right.

Senator CASSIDY. I would say the school boards are doing the right thing by concentrating dollars in the classroom. Would you agree with that"

Mr. FUGERE. I would agree with that, and I think the bigger challenge here is that we should be looking at reducing cost, not so much reducing hours.

Senator CASSIDY. I need to make one more point. Senator Murphy is absolutely right, the cost of health care has been mitigated since before Obamacare, but it's continued under Obamacare. The cost of health insurance has gone out the wazoo.

Mr. FUGERE. Right.

Senator CASSIDY. Again, as a gastroenterologist, I'll say that. And the profits for insurance companies are up like 200 percent. I'm struck that premiums are up 250 percent for some people, and yet the cost of health care itself has mitigated. So the President speaks of the cost of health care being mitigated, but if you look at what people are paying out-of-pocket, they are bearing an incredible burden.

I will say, for your low-wage workers, if that's an individual policy, not a family policy, they are paying roughly $1,400 a year, and not knowing what you pay them, that's going to be a sizable percentage of their income. I'm surprised you have such a high uptake in people——

Mr. FUGERE. We do in the State of Washington have the highest minimum wage in the country. We don't have a tax credit. Many of our servers are making $25 an hour.

Senator CASSIDY. OK.

I yield back. Thank you.

The CHAIRMAN. Thank you, Senator Cassidy.

Senator Whitehouse.

STATEMENT OF SENATOR WHITEHOUSE

Senator WHITEHOUSE. Well, Mr. Chairman, I appreciate you having this hearing, but I have to say I've got the exact same concerns that Senator Franken and Senator Murphy have, and to me, it makes no sense. If there is an economic incentive to dump employees off of health insurance, it happens at a margin. Right now, that margin is 30 hours.

Dr. Holtz-Eakin has said that the risk zone of that incentive hovers around the margin point. So if it's 30, you're at worst risk if you're at 31 hours, or perhaps 32 hours, less risk if you're at 50 or 60 hours of being dropped to 30, and that's the problem we're trying to deal with.

You can move the 30-hour margin point, and the incentive doesn't go away. That's also been Dr. Holtz-Eakin's testimony. You can move it to 25, you can move it to 35, you can move it to 30, you can move it to 40. At wherever you go, the incentive, if you want to dump your employees off of health care, remains.

The problem is, as I see it, that the population that is in Dr. Holtz-Eakin's risk envelope at a 30-hour margin is actually pretty small. They may or may not have health care now, but if you move it to 40 hours, you pick up the majority of the entire American workforce, and you put them into that risk margin where they weren't before, right?

And the theory that because they already have health care the incentive goes away, no. You save just as much money by dumping somebody off health care as you would lose by adding them on health care. It's the same dollar amount either way. The incentive is identical.

It seems to me that we're engaged in a discussion that is fundamentally meaningless because all we're doing is moving a significant margin point and its incentives up and down. But to the extent that the decision is made to go from 30 to 40, it's actually making it worse for Americans and putting ordinary 40-hour working Americans at risk in the same way that now there's this risk for 30-hour Americans.

I'll echo what Senator Sanders said. The thing that our Republican colleagues have fought so hard and determinedly against for a generation is a universal health care system that gets rid of all these artificial problems. I'm all for getting rid of this artificial problem by going to a universal health care system. Or if you don't want a universal health care system, at least a public option. So if a particular company wants to have a special kind of health care or gold-plate its health care option for very high-end income or extremely valuable workers, fine, you can do that. But it is the insistence of the Republican Party that we not have universal health care that puts us into the position where we have to make these divisions in the first place.

Now, to move it from the little population around the 30-hour margin to the very large population around the 40-hour margin puts more people at risk. This is going backward, not forwards, even by the terms of the conversation we're having here.

And just to echo what Senator Murphy said, an oncology nurse from Warwick, RI wrote to me in the exact same circumstance as the two Connecticut nurses who are here. She does three 12-hour shifts. She's at 36 hours. You move it from 30 to 40, she is suddenly at risk. She's not only working the 36 hours, she's also the mom to four kids. So to say, well, that's too bad, just take on a fourth 12-hour shift a week and you'll be fine, that doesn't work in her life.

I'd be interested to know what the number is of the people who this move would knock off their health insurance who are like my oncology nurse from Warwick, because she is very much at risk at that point. Why we're moving this around to hurt these nurses and to expand the population that is at risk of being put at this employer incentive for those employers who want to dump their employees off of health insurance, this makes no sense to me, Mr. Chairman. And I hope perhaps as we debate this further it will come to make some sense, but I believe that everything I've said so far has been supported by even the testimony of the witnesses on your side.

So, go ahead, we can have this discussion, but we're in a very strange place from the point of view of logic when we think we're helping Americans by putting—what's the percentage of Americans you would say who are within 2 hours of a 30-hour work week, Dr. Holtz-Eakin?

Mr. HOLTZ-EAKIN. I don't have that number. I can get it for you.

Senator WHITEHOUSE. It's about an 8 percent, 8 or 10 percent order of magnitude? And the percentage of Americans that are within 2 hours of a 40-hour work week is 60 percent? So we've just multiplied by six the population that's at risk of getting their insurance thrown off.

I mean, go for it, but my time has expired.

The CHAIRMAN. Thank you, Senator Whitehouse.

Senator Scott.

STATEMENT OF SENATOR SCOTT

Senator SCOTT. Thank you very much.

Dr. Webb, thank you for your marvelous work, your amazing work at Bangor School District. Certainly, we all should celebrate your success and the success of the students at your school.

The employer mandate and the 30-hour work week is having a major impact on schools throughout the country, specifically two schools that I'm aware of in South Carolina. Spartanburg Community College and Quincy University both say because of the part-time labor force the impact on those schools could be a million dollars of additional cost for health care.

The question for you is how do you think this law is going to affect the ability of our Nation's kids to receive a high-quality and affordable education? It seems like we'd be moving further away from that, not closer to it, because of the impact of the law, No. 1.

The second question is, in particular, in less affluent areas that have zero flexibility when it comes to budgets, how will that impact those kids? And most of those kids are typically on some type of a work-study program looking for the opportunity to get as many hours as possible.

Ms. WEBB. I believe it will have a great impact. When I talk to my colleagues across the Nation, I happen to be on the American Association of School Administrators Governing Committee, and I checked in with some of them across the Nation, as well as my colleagues right in the State of Maine, and we're all concerned.

I think the impact on the quality of the education, if we all think back to our own education, it took a whole team of employees to provide that core experience. And I liked the example of the bus drivers. We often talk with students about why are they successful, tell us the triggers, the moments in time that they really feel that they saw that they could be a high performer, and I'll never forget one girl saying to me that the bus driver every day told her how smart she was and that she was going to find a way out of this neighborhood that happened to be a subsidized neighborhood.

So to think that even the bus driver, who maybe spent an hour with her each day, half-an-hour to school and half-an-hour home, played an impact. But it also was when that bus driver was with her on the trip to the debate in the southern part of the State, and she really saw him as someone that was pivotal in her success, and she has done incredibly well in her post-secondary learning.

I do think that schools across the Nation are facing limited resources. I can understand the less affluent communities, but I think even in the communities that have been more affluent, that we are being forced to do more with less. So I look at this and I hear the different conversations. We have collective bargaining agreements for all units of employees. We are going to offer insurance. We pay a large portion, 77 to 80 percent. The last 2 years our insurance increases have been 9 percent, 13 percent, 12 percent. So obviously, both the employer and the employee are picking up larger costs.

But it's when we then have to say those combination positions or those substitutes that we now have to struggle with, where do those resources come from? For us in Bangor, which I think is similar to many communities across the Nation, it is now down to the point of programs and course offerings.

Senator SCOTT. Thank you, ma'am.

A quick question for you, Dr. Holtz-Eakin. While on the topic of this hearing, I think it is also worth noting that, I think it was January 2016, the small exchange market goes from 50 employees to 100 employees. I am hopeful that the administration will allow States to keep their small group market at 50 beyond 2016. Congress I think should take a look into whether expanding the small group market makes sense or not.

My question for you, sir, is have you given any thought to how this will impact small businesses and the small group market, or whether expanding the small group market makes sense at all?

Mr. HOLTZ-EAKIN. I'm not an expert on every State, but by and large those in the 51 to 100 range are not subject to the same kind of rating bans and other regulations that the small group markets are, 0 to 50.

Senator SCOTT. Yes.

Mr. HOLTZ-EAKIN. So if you put them into that regime, we'll have roughly the same experience we had in the individual market, which is the regulatory regime will increase premiums, so that's going to be a cost to small businesses. The small business will have a variety of incentives. If you're 51 to 100, a pretty big size, you might try to self-insure and thus get out of this. If that happens, the people who self-insure are going to be the good risks, not the bad risks, and we'll end up segmenting the market into self-insured with good risks and the bad risks in the now merged small group market, and we'll see premiums rise further. That stylized pattern has worked out in the individual market, and I expect that's what will happen in the small group market.

Senator SCOTT. Thank you, sir.

The CHAIRMAN. Thank you, Senator Scott.

Senator Casey, you'll have the final 5 minutes.

Senator CASEY. Mr. Chairman, thank you very much. I know that doesn't mean I get extra time.

The CHAIRMAN. Oh, no.

STATEMENT OF SENATOR CASEY

Senator CASEY. But we're grateful for the hearing.

I wanted to make one point—two points, really. One was that—and we're grateful for the testimony of the witnesses. I know you have to prepare testimony, you have to get here, and we're grateful for that.

No. 1 is I've tried to be, as a strong supporter of the ACA, I've tried to examine and to support reasonable changes to the law, and I've done that. I've got a good record on that. But I don't put this in that category. I won't support it, and I wanted to explore some of it with you in the time we have.

But I also would say, by way of bragging, to the two restaurant business leaders here, that one issue that I know your industry has come to us on over a number of years, Senator Cornyn and I have a bill that deals with the depreciation when you add, whether it's a restaurant or retail establishment, by keeping that depreciation schedule to 15 years as opposed to the old 39 years. In other words, giving you a bigger slice over a shorter timeframe makes sense by way of deprecation. A lot of advocates on behalf of the Restaurant Association and others have put that as their No. 1 priority. I know it's not today's topic, but I wanted to put in that commercial there.

Mr. FUGERE. Well, thank you for your work on that, Senator Casey.

Senator CASEY. Thanks very much. I didn't do it to elicit that, but I'm grateful you did that.

But, Mr. Fugere, I wanted to ask you about your business and some of the broader points that you made. No. 1 is, you have—am I right—200 employees?

Mr. FUGERE. Yes.

Senator CASEY. And when you focus not only on that number but also when you focus on the one individual you focused on, Renee, tell me why you think this doesn't make sense for her, if you could walk through that again.

Mr. FUGERE. Well, for one thing, working 40 hours a week is a challenge. And for many of our employees in the restaurant business, it's made up of 4-hour shifts. If you think about dinner and lunch, dinner is typically the 11 to 2 shift, and dinner may be 5 to 9. So the reason that we set our threshold at 24 hours is because we're looking at ways to try to get people onto the plan, so we lowered the threshold so we could schedule people as much as possible.

For Renee, she's on the other end of the spectrum where she's getting more hours because she's been with us for a long time. It gets to a point where working in the restaurant business and being on your feet all day long creates some stress and difficulty. So for her to work 40 hours would be nearly impossible.

Senator CASEY. And you made a point in your testimony—and I was here for the summary. I'm not sure if this is in the written testimony, and you may have already made this point. But you said at the bottom of page 2, and I'm quoting, "In 2012, 59 percent of the first-line supervisors or managers of food preparation and service workers were women." A big number. "Fourteen percent were African-American. Seven percent were Hispanic." And then you go on to say, "Part-time shifts are the foundation of the restaurant industry." And then finally, "Increasing the full-time hours to 40 hours a week is a regressive measure that would negatively impact minority Americans."

Is there anything you wanted to add to that?

Mr. FUGERE. One thing, Senator. I'd like to thank you for reading that because that's included in my submitted testimony, but unfortunately, because I didn't have enough time, I wasn't able to say it. So thank you for bringing attention to that.

Senator CASEY. Oh, good.

And finally I guess I'd say, in light of the discussion we had, this is a good discussion to have, and we're grateful that you helped us shed some light on it. What Senator Whitehouse said, I take to heart. We don't want to, by making a change, adversely impact or put at risk more folks than have some kind of stress right now. I know that's a point of contention, but I'm grateful for the hearing.

Thank you very much.

The CHAIRMAN. Thank you, Senator Casey.

Senator Collins, did you have a letter that you wanted to introduce to the record?

Senator COLLINS. I do, Mr. Chairman. I have letters from the National Association of Home Care and Hospice, which strongly supports this bill, as well as from the National Restaurant Association, that I would ask permission be included in the record.

The CHAIRMAN. It will be.

[The information referred to was not available at time of press.]

Senator COLLINS. I would also ask permission that a written question to Dr. Holtz-Eakin be submitted that gets into an issue of the impact of the ACA on income inequality, and it picks up on a statement I didn't get to in my questions, and I would love to have a written answer to that as well, with your permission.

The CHAIRMAN. Thank you.

[The information referred to was not available at time of press.]

The CHAIRMAN. Senator Murray, do you have any other comments?

Senator MURRAY. No. I just think this was really a good hearing, and I think many of the members on our side expressed our real concern about reducing benefits for employees and the cost on the Federal Government as these people are put onto the Medicaid program.

We all look forward to working with you to find ways to improve this bill, but not at the expense of workers.

The CHAIRMAN. Thank you, Senator Murray.

I want to thank the witnesses for coming today. It's been very helpful. I know you made an effort to come here. Some come from very long distances, got up early in the morning. We're grateful for that.

What we'll be doing is sending our opinions to the Finance Committee, which has jurisdiction on whether or not to report a bill to the Senate floor. The House has already passed the bill.

I have a letter from the More Time for Full Time Coalition I'd like to submit for the record. It's signed by more than 400 business groups in support of the Collins-Donnelly Manchin-Murkowski 40 Hours is Full Time Act.

[The information referred to may be found in Additional Material.]

The CHAIRMAN. The hearing record will remain open for 10 days. Members may submit additional information and questions for the record within that time, if they would like.

If the witnesses have other comments that they would like to make that they didn't have a chance to offer, we'd like to have those.

Our next hearings will be next Thursday on employer wellness plans.

Thank you for being here.

The committee will stand adjourned.

[Additional Material follows.]

PREPARED STATEMENT OF THE MORE TIME FOR FULL TIME EXECUTIVE COMMITTEE

Chairman Alexander, Ranking Member Murray, and members of the U.S. Senate Committee on Health, Education, Labor, and Pensions (HELP), thank you for this opportunity to present testimony today on behalf of the More Time for Full Time Executive Committee. Specifically, we would like to highlight the significant harm that the new definition of "full-time" in the Affordable Care Act (ACA) is inflicting on both workers and businesses alike.

The More Time for Full Time initiative (*www.moretimeforfullltime.org*) was launched last fall by employer groups from across the country wishing to harmonize the ACA's new "full-time" employment definition of 30 hours per week with the traditional full-time employment standard of 40 hours per week. In just a few months, the initiative has grown to include over 400 State, local, and national organizations—from the Maine, Indiana, Alaska and West Virginia State Chambers of Commerce to the Tennessee Hospitality Association and the Washington Restaurant Association. On behalf of the companies and employees that they serve, these hundreds of employer-based organizations are all urging their U.S. Senators to co-sponsor S. 30, the Forty Hours is Full Time Act of 2015. (See attached letter.)

Therefore, we greatly appreciate the bipartisan response and attention being given to the ACA's problematic new definition of "full-time." On January 6, 2015, Senators Susan Collins (R–ME) and Joe Donnelly (D–IN), along with Senators Lisa Murkowski (R–AK) and Joe Manchin (D–WV), introduced legislation, S. 30, the Forty Hours is Full Time Act of 2015, to restore the 40-hour definition standard. As you know, on January 8, 2015, the House passed similar bipartisan legislation to address this critical issue: H.R. 30, the Save American Workers Act of 2015.

Given the broad bipartisan, bicameral interest in ameliorating this problem and the strong national consensus outside of Washington, DC as well, we urge the Senate to bring a vote on this matter to the floor. When asked, close to 80 percent of Americans identify full-time work as being 40 hours or more per week. However, in our visits around the Senate, we have been told that supporters of keeping the current arbitrary definition of full-time in the ACA at 30 hours per week are also proposing lowering it even further to 20 hours per week. Only about 1 percent of Americans believe that 20 hours per week should be the definition of full-time work.

We urge the Senate to move quickly because many employees are already losing wages and hours, due to the law's perverse incentives. This is particularly true for part-time workers, who until now, were working below the traditional 40 hours per week standard.

To be sure, data is available to demonstrate that the ACA is incentivizing some employers to limit the hours part-time employees can work. Beyond private sector employers, even some States, cities, counties, public schools and community colleges around the country are limiting or reducing the hours part-time employees can work. These decisions are necessitated by the economic reality that for many employers it is not feasible to bear either the cost of health care coverage or the penalties for failing to do so.

This workforce restructuring is significant. In the past 2 years, the proportion of part-time employees working just below 30 hours a week has been rising. At the same time, the proportion of those working just over 30 hours a week has been declining. The reason is simple: until the ACA, most employers have used the traditional full-time definition of those working 40 hours per week, in accordance with the Federal overtime rules found in the Fair Labor Standards Act. Now, the ACA's 30-hour, full-time definition is forcing employers, private and public, to start making significant workforce changes to comply with this new standard.

As a result, employers with variable-hour workforces and flexible scheduling must also be deliberate about specific workforce hours because of the greater financial impact and potential liability associated with employer penalties.

One of the attractive benefits for workers in industries with flexible scheduling is the ability to change their hours to suit their own personal needs and even pick up additional hours to earn additional income when needed. In particular, part-time jobs with flexible scheduling are not only appealing but are critical for students, single parents, and other individuals struggling to balance various obligations and commitments.

We appreciate the hearing's effort to draw greater attention to this issue. We urge the HELP Committee to send a strong message that harmonizing the definition of full-time employment in the ACA with the traditional 40 hours per week definition would benefit both employees, through more hours and income, and employers, now able to focus on growing their business and creating jobs, rather than administrative burdens and restructuring their workforce.

Aligning the ACA's definition of full-time employment with the traditional 40 hours standard would help avoid any further disruptions to employees' wages and hours, and would provide financial stability and significant relief.

The More Time for Full Time members look forward to working with this committee and the entire Senate to improve the well-being of our employees without sacrificing their jobs in the process.

Members of the More Time for Full Time Executive Committee:

Angelo Amador, National Restaurant Association, *aamador@restaurant.org*, 202-331-5913

Brian Crawford, American Hotel & Lodging Association, *bcrawford@ ahla.com*, 202-289-3147

Chatrane Birbal, Society for Human Resources Management, *Chatrane.Birbal@shrm.org*, 703-535-6476

Chirag Shah, Asian American Hotel Owners Association, *chirag@aahoa.com*, 202-507-6157

John McClelland, American Rental Association, *john.mcclellandl@ararental.org*, 202-289-4460

Jon Taets, National Association of Convenience Stores, *jtaets@nacsonline.com*, 703-684-3600

Katie Mahoney, U.S. Chamber of Commerce, *kmahoney@uschamber.com*, 202-659-6000

Matt Haller, International Franchise Association, *mhaller@franchise.org*, 202-662-0770

Neil Trautwein, National Retail Federation, *trautweinn@nrf.com*, 202-626-8170

MORE TIME FOR FULL TIME,
JANUARY 22, 2015.

DEAR SENATOR, The More Time for Full-Time initiative (*www.moretimeforfulltime.org*) was launched by employers from across the country to restore the traditional definition of full-time employment to 40 hours per week. Today, we are writing to urge you to co-sponsor S. 30, the Forty Hours is Full Time Act of 2015.

Many employees are being hurt by lost wages and hours because the 30 hours per week definition in the Affordable Care Act (ACA) is forcing employers to restructure their workforce by reducing their employees' hours to alleviate the burden of compliance. Harmonizing the definition of full-time employment in the ACA with the traditional 40 hours per week definition would benefit both employees, through more hours and income, and employers, now able to focus on growing their business and creating jobs, rather than restructuring their workforce.

If this is not addressed soon, our country will experience significant workforce disruptions and individuals as well as companies will lose valued workforce flexibility. We urge you to work in a bipartisan way to restore the traditional 40 hours per week definition of full-time employment, as called for in the Forty Hours is Full Time Act of 2015, by harmonizing the Affordable Care Act's full-time definition with the traditional standard.

Many Americans are drawn to part-time jobs with flexible hours to suit their personal needs. Further, employers with variable-hour workforces and flexible scheduling have been appealing and critical for students, single parents, and other individuals struggling to balance various obligations and commitments. This critical flexibility will be lost if employers are forced to abandon current practices in order to avoid significant financial penalties.

Aligning the law's definition of full-time employee status with current levels would help avoid any unnecessary disruptions to employees' wages and hours, and would provide significant relief.

Please consider our concerns and co-sponsor S. 30, the Forty Hours is Full Time Act of 2015, to address a fundamental challenge employees and businesses face in implementing this law.

Sincerely,

MORE TIME FOR FULL TIME

National Associations

American Hotel & Lodging Association

American Rental Association (ARA)

Asian American Hotel Owners Association

Associated Builders and Contractors

Coalition of Franchisee Associations

College & University Professional Association for Human Resources

Domino's Franchisee Association

Dunkin' Donuts Independent Franchise Owners

Franchise Business Services (Buffalo Wild Wings Franchisees)

Independent Association of Kumon Franchisees

Independent Organization of Little Caesars Franchisees

International Franchise Association

National Association of Convenience Stores

National Association of Manufacturers

National Association of Theatre Owners

National Association of Truck Stop Operators

National Club Association

National Council of Chain Restaurants

National Franchisee Association

National Grocers Association

National Restaurant Association

National Retail Federation

North American Association of Subway Franchisees

Service Station Dealers of America and Allied Trades

Small Business & Entrepreneurship Counci

Society for Human Resource Management

Society of American Florists

U.S. Chamber of Commerce

State and Local Associations

Adirondack Regional Chamber of Commerce (NY)

Alabama Grocers Association

Alabama Restaurant & Hospitality Alliance

Alaska Chamber (AK)

Alaska Hotel & Lodging Association

Alaska Restaurant & Hospitality Alliance

Albany-Colonie Regional Chamber (NY)

Alexander City Chamber of Commerce (AL)

Ames Chamber of Commerce (IA)

Angel Fire Chamber of Commerce (NM)

ARA of Alabama

ARA of Arizona

ARA of Arkansas

ARA of California

ARA of Colorado

ARA of Connecticut

ARA of Florida

ARA of Georgia

ARA of Idaho

ARA of Illinois

ARA of Indiana

ARA of Iowa

ARA of Kentucky

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MORE TIME FOR FULL TIME

ARA of Louisiana

ARA of Maine

ARA of Maryland

ARA of Massachusetts

ARA of Michigan

ARA of Montana

ARA of Nebraska

ARA of New Jersey

ARA of New York

ARA of North Carolina

ARA of Ohio

ARA of Oklahoma

ARA of Oregon

ARA of Pennsylvania

ARA of Tennessee

ARA of Vermont

ARA of Virginia

ARA of Washington

ARA of Wisconsin

Arizona Food Marketing Alliance

Arizona Lodging & Tourism Association

Arizona Restaurant Association

Arkansas Grocers and Retail Merchants Association

Arkansas Hospitality Association

Arkansas Oil Marketers Association

Arkansas State Chamber of Commerce (AK)

Ashland Area Chamber of Commerce (OH)

Associated Builders and Contractors Florida East Coast Chapter

Associated Builders and Contractor South Texas Chapter

Associated Builders and Contractors Los Angeles/Ventura Chapter

Associated Builders and Contractors Baltimore Chapter (MD)

Associated Builders and Contractors Central California Chapter

Associated Builders and Contractors Central Florida Chapter

Associated Builders and Contractors Cornhusker Chapter (NE)

Associated Builders and Contractors Eastern PA Chapter

Associated Builders and Contractors Empire Chapter (NY)

Associated Builders and Contractors Florida Gulf Coast

Associated Builders and Contractors Greater Michigan Chapter

Associated Builders and Contractors Heart of America (KS/MO)

Associated Builders and Contractors Illinois Chapter

Associated Builders and Contractors Indiana/Kentucky Chapter

Associated Builders and Contractors Inland Pacific Chapter

Associated Builders and Contractors Maine Chapter

Associated Builders and Contractors Massachusetts Chapter

Associated Builders and Contractors Mississippi Chapter

Associated Builders and Contractors New Jersey Chapter

Associated Builders and Contractors New Orleans/Bayou Chapter

Associated Builders and Contractors NH/VT Chapter

Associated Builders and Contractors Northern Ohio Chapter

Associated Builders and Contractors of Alaska

Associated Builders and Contractors of Georgia, Inc.

Associated Builders and Contractors of Greater Houston

Associated Builders and Contractors of Iowa

Associated Builders and Contractors of Metro Washington

Associated Builders and Contractors of Michigan

Associated Builders and Contractors of the Carolinas

Associated Builders and Contractors of Western Pennsylvania

Associated Builders and Contractors Pelican Chapter (LA)

Associated Builders and Contractors Rhode Island Chapter

Associated Builders and Contractors Rocky Mountain Chapter (CO/WY)

Associated Builders and Contractors San Diego Chapter

MORE TIME FOR FULL TIME

Associated Builders and Contractors Southeast Texas

Associated Builders and Contractors Southern California

Associated Builders and Contractors Texas Mid Coast Chapter

Associated Builders and Contractors Utah Chapter

Associated Builders and Contractors Western Michigan Chapter

Associated Builders and Contractors of Western Washington

Associated Industries of Massachusetts, Inc. (MA)

Baltimore Washington Corridor Chamber of Commerce (MD)

Bangor Region Chamber of Commerce (ME)

Barrow County Chamber of Commerce (GA)

Beaver Dam Chamber of Commerce (WI)

Beckley-Raleigh County Chamber of Commerce (WV)

Billings Chambers of Commerce (MT)

Boca Raton Chamber of Commerce (FL)

Brownsville Chamber of Commerce (TX)

California Grocers Association

California Hotel & Lodging Association

California Independent Oil Marketers Association

California Restaurant Association

Campbell County Chamber of Commerce (WY)

Cape May County Chamber of Commerce (NJ)

Carbon Builders Association

Carolinas Food Industry Council

Catawba County Chamber of Commerce (NC)

Central Chamber of Commerce (LA)

Central Delaware Chamber of Commerce (DE)

Chambers of Commerce Alliance of Ventura & Santa Barbara Counties (CA)

Chester County Chamber of Business and Industry (PA)

Clearwater Regional Chamber of Commerce (FL)

Cobb Chamber of Commerce (GA)

Colorado Association of Commerce & Industry (CO)

Colorado Hotel & Lodging Association

Colorado Restaurant Association

Columbus Chamber of Commerce (OH)

Committee of 100 Louisiana (LA)

Connecticut Food Association

Connecticut Lodging Association

Connecticut Restaurant Association

Corning Area Chamber of Commerce (NY)

Council Bluffs Area Chamber of Commerce (IA)

Dakota County Regional Chamber of Commerce (MN)

Delaware Food Industry Council

Delaware Restaurant Association

Delaware State Chamber of Commerce (DE)

Denver Metro Chamber of Commerce (CO)

Des Plaines Chamber of Commerce & Industry (IL)

Dublin-Laurens County Chamber of Commerce (GA)

Eastern Virginia 7-11 Franchisee Owners Association

Fairfax County Chamber of Commerce (VA)

Florida Chamber of Commerce (FL)

Florida Restaurant & Lodging Association

Fox Cities Chamber of Commerce (WI)

Fresno Chamber of Commerce (CA)

Fullerton Chamber of Commerce (CA)

Galesburg Area Chamber of Commerce (IL)

Garrett County Chamber of Commerce (MD)

Georgia Association of Convenience Stores

Georgia Food Industry Association

Georgia Hotel & Lodging Association

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Georgia Oilmen's Association

Georgia Restaurant Association

Glendale Chamber of Commerce (AZ)

Goshen Chamber of Commerce (IN)

Grand Junction Area Chamber of Commerce (CO)

Grand Rapids Area Chamber of Commerce (MI)

Grapevine Chamber of Commerce (TX)

Greater Burlington Partnership (IA)

Greater Durham Chamber of Commerce (NC)

Greater Fairbanks Chamber of Commerce (AK)

Greater Flagstaff Chamber of Commerce (AZ)

Greater Green Bay Chamber (WI)

Greater Louisville, Inc. (KY)

Greater North Dakota Chamber of Commerce (ND)

Greater Phoenix Chamber of Commerce (AZ)

Greater Providence Chamber of Commerce (RI)

Greater Salem Chamber of Commerce (IL)

Greater Shreveport Chamber of Commerce (LA)

Greater Springfield Chamber of Commerce (VA)

Greater Topeka Chamber of Commerce (KS)

Greece Chamber of Commerce (NY)

Hardy County Chamber of Commerce (WV)

Harford County Chamber (MD)

Harlan County Chamber of Commerce (KY)

Harrisburg Regional Chamber & CREDC (PA)

Hawai'i Lodging & Tourism Association

Hawaii Food Industry Association

Home Builders & Remodelers of Central New York

Home Builders Association of Metropolitan Harrisburg (PA)

Home Builders Association of Mississippi

Home Builders Association of Raleigh-Wake County

Home Builders Association of St. Louis & Eastern Missouri

Hotel Association of New York City, Inc.

Hotel Association of Washington D.C.

Hueneme Chamber of Commerce (CA)

Idaho Lodging & Restaurant Association

Idaho Retailers Association

Illinois Chamber of Commerce (IL)

Illinois Food Retailers Association

Illinois Hotel & Lodging Association

Illinois Restaurant Association

Independent Oil Marketers Association of New England (IOMA)

Indiana Chamber of Commerce (IN)

Indiana Grocery and Convenience Store Association

Indiana Restaurant & Lodging Association

Iowa Chamber Alliance (IA)

Iowa Grocery Industry Association

Iowa Restaurant Association

Irvine Chamber of Commerce (CA)

Irving Hispanic Chamber of Commerce (TX)

Jacksonville-Onslow Chamber of Commerce (NC)

Jefferson Chamber of Commerce (LA)

Kansas Food Dealers Association

Kansas Restaurant & Hospitality Association

Kentucky Association of Convenience Stores

Kentucky Chamber of Commerce (KY)

Kentucky Grocers Association

Kentucky Restaurant Association

Lakewood Chamber of Commerce (WA)

Lemoore Chamber of Commerce (CA)

Licking County Chamber of Commerce (OH)

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Long Beach Area Chamber of Commerce (CA)

Loudoun County Chamber of Commerce (VA)

Louisiana Association of Business and Industry (LA)

Louisiana Hotel & Lodging Association

Louisiana Restaurant Association

Louisiana Retailers Association

Lubbock Chamber of Commerce (TX)

Maine Energy Marketers Association

Maine Franchise Owners

Maine Grocers & Food Producers Association

Maine Innkeepers Association

Maine Restaurant Association

Maine State Chamber of Commerce (ME)

Manhattan Chamber of Commerce (NY)

Maple Valley-Black Diamond Chamber of Commerce (WA)

Marshall Area Chamber of Commerce (MN)

Maryland Chamber of Commerce (MD)

Maryland Hotel & Lodging Association

Maryland Retailers Association

Massachusetts Food Association

Massachusetts Lodging Association

Massachusetts Restaurant Association

Michigan Chamber of Commerce (MI)

Michigan Grocers Association

Michigan Lodging and Tourism Association

Michigan Restaurant Association

Mid-America Grocers Association

Mid-Atlantic Hispanic Chamber of Commerce (MD)

Mid-Atlantic Petroleum Distributors Association

Minnesota Grocers Association

Minnesota Lodging Association

Minnesota Rental Association

Minnesota Restaurant Association

Minnesota Service Station & Convenience Store Association

Miramar Pembroke Pines Regional Chamber of Commerce (FL)

Mississippi Hospitality and Restaurant Association

Missouri Grocers Association

Missouri Restaurant Association

Mobile (AL) Area Chamber of Commerce

Monroe Chamber of Commerce (LA)

Montana Chamber of Commerce (MT)

Montana Lodging & Hospitality Association

Montana Manufacturing Council (MT)

Montana Restaurant Association

Moses Lake Chamber of Commerce (WA)

Murphysboro Chamber of Commerce (IL)

Myrtle Beach Area Chamber of Commerce (SC)

Nebraska Chamber of Commerce & Industry (NE)

Nebraska Grocery Industry Association

Nebraska Hotel & Motel Association

Nebraska Restaurant Association

Nevada Hotel & Lodging Association

Nevada Restaurant Association

New Hampshire Equipment Rental Association

New Hampshire Lodging & Restaurant Association

New Jersey Food Council

New Jersey Restaurant Association

New Jersey State Chamber of Commerce (NJ)

New Mexico Restaurant Association

New York Hospitality & Tourism Association

New York State Food Merchants Association

New York State Restaurant Association

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Newberry County Chamber of Commerce (SC)

Nome Chamber of Commerce (AK)

North Carolina Chamber (NC)

North Carolina Restaurant & Lodging Association

North Carolina Retail Merchants Association

North Country Chamber of Commerce (NY)

North Dakota Grocers Association

North Dakota Hospitality Association

North Myrtle Beach Chamber of Commerce (SC)

North Shore Chamber of Commerce (MA)

Northern Kentucky Chamber of Commerce (KY)

Ohio Chamber of Commerce (OH)

Ohio Grocers Association

Ohio Hotel & Lodging Association

Ohio Restaurant Association

Oklahoma Grocers Association

Oklahoma Hotel & Lodging Association

Oklahoma Restaurant Association

Orange County Business Council (CA)

Oregon Restaurant & Lodging Association

Oshkosh Chamber of Commerce (WI)

Overland Park Chamber of Commerce (KS)

Oxnard Chamber of Commerce (CA)

Ozark Empire Grocers Association

Palm Desert Area Chamber of Commerce (CA)

PennSuburban Chamber of Greater Montgomery County (PA)

Pennsylvania Chamber of Business and Industry (PA)

Pennsylvania Food Merchants Association

Pennsylvania Restaurant & Lodging Association

Petroleum & Convenience Marketers of Alabama

Petroleum Marketers and Convenience Store Association of Kansas

Portland Chamber of Commerce (TX)

Rathdrum Chamber of Commerce (ID)

Rensselaer County Regional Chamber of Commerce (NY)

Restaurant Association of Maryland

Retail Association of Nevada

Retail Grocers of Greater Kansas City

Rhode Island Chamber of Commerce Coalition (RI)

Rhode Island Hospitality Association

Rochester Business Alliance (NY)

Rocky Mountain Food Industry Association (CO / WY)

Rome Area Chamber of Commerce (NY)

Roseburg Area Chamber of Commerce (OR)

Rowan County Chamber of Commerce (NC)

Salt Lake Chamber of Commerce (UT)

San Diego Regional Chamber of Commerce (CA)

Santa Clara Chamber of Commerce & Convention-Visitor's Bureau (CA)

Santa Clarita Valley Chamber of Commerce (CA)

Schuylkill Chamber of Commerce (PA)

Simi Valley Chamber of Commerce (CA)

South Baldwin Chamber of Commerce (AL)

South Carolina Restaurant & Lodging Association

South Carolina Retail Association

South Dade Chamber of Commerce (FL)

South Dakota Home Builders Association

South Dakota Retailers Association Restaurant Division

South Padre Island Chamber of Commerce (TX)

Southern Nevada Home Builders Association

Springfield Area Chamber of Commerce (MO)

State Chamber of Oklahoma (OK)

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Tacoma-Pierce County Chamber (WA)

Tempe Chamber of Commerce (AZ)

Tennessee Chamber of Commerce and Industry (TN)

Tennessee Grocers & Convenience Store Association

Tennessee Hospitality & Tourism Association

Texas Association of Business (TX)

Texas Food & Fuel Association

Texas Hotel & Lodging Association

Texas Rental Association

Texas Restaurant Association

Texas Retailers Association

TEXO –The Construction Association (TX)

The Business Council of New York State, Inc. (NY)

The Chamber of Reno, Sparks, and Northern Nevada (NV)

The Greater Cedar Valley Alliance & Chamber (IA)

The Greater Hartsville Chamber of Commerce (SC)

The Home Builders Association of the Sioux Empire (SD)

The New Hampshire Business and Industry Association (NH)

The Northern Rhode Island Chamber of Commerce (RI)

Thibodaux Chamber of Commerce (LA)

Torrance Area Chamber of Commerce (CA)

Tucson Metro Chamber (AZ)

Upper Tampa Bay Chamber of Commerce (FL)

Utah Food Industry Association

Utah Hotel & Lodging Association

Utah Petroleum Marketers & Retailers Association

Utah Restaurant Association

Utah Retail Merchants Association

Valley Industry & Commerce Association (CA)

Vermont Chamber of Commerce (VT)

Vermont Retail and Grocers Association

Virginia Chamber of Commerce (VA)

Virginia Hospitality & Travel Association

Virginia Retail Merchants Association

Washington Food Industry Association

Washington Lodging Association

Washington Restaurant Association

West Chambers County Chamber of Commerce (TX)

West Virginia Chamber of Commerce (WV)

West Virginia Hospitality & Travel Association

West Virginia Oil Marketers and Grocers Association

Western DuPage Chamber of Commerce (IL)

Wichita Metro Chamber of Commerce (KS)

Wilsonville Area Chamber of Commerce (OR)

Wisconsin Grocers Association

Wisconsin Hotel & Lodging Association

Wisconsin Manufacturers and Commerce (WI)

Wisconsin Restaurant Association

WMDA Service Station & Automotive Repair Association (Washington DC, Maryland and Delaware)

Wyoming Lodging & Restaurant Association

Youngstown Warren Regional Chamber (OH)

Yuba-Sutter Chamber of Commerce (CA)

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL–CIO),
WASHINGTON, DC 20006,
January 23, 2015.

DEAR SENATOR: On behalf of the AFL–CIO, I urge you to oppose the Forty Hours is Full Time Act (S. 30). This bill will result in lost work hours for 6.5 million workers, and it will cause one million employees to lose employment-based insurance coverage, resulting in higher costs for government-subsidized health coverage.

The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) found that the House companion of this bill would cause a million workers to lose their employer-based health coverage and that the ranks of the uninsured would increase by up to half a million. Further, losses in employer-provided coverage would result in higher government costs, including increased spending for marketplace premium subsidies of $14.2 billion over 11 years and for Medicaid and Children's Health Insurance Program coverage of $7.8 billion. Altogether, the CBO/JCT analysis finds that it will increase the Federal deficit by $53 billion.

However, our primary concern is preserving workers' hours and access to health care coverage. The Affordable Care Act (ACA) extends coverage to the uninsured by allocating responsibility for the costs among individuals, employers, and government. Under this shared responsibility framework, employers with 50 or more full-time equivalent employees must pay their fair share by offering health care coverage to employees who work 30 or more hours a week or by paying a penalty if these workers access exchange subsidies instead. To ensure the success of the ACA, an employer responsibility requirement is needed to preserve current levels of employer-based coverage. Unfortunately, the 30-hour "cliff" created by the law has motivated some employers to reduce workers' hours to avoid providing coverage. This has been a particular problem for workers employed at retailers, restaurants, public schools, and institutions of higher learning.

Proponents of the Forty Hours is Full Time Act claim they want to help part-time workers by moving the threshold for employer penalties from 30 to 40 hours. But raising the threshold will only move the cliff and actually *increase* employers' incentive to reduce workers' hours. According to experts at the UC Berkeley Center for Labor Research and Education, moving the threshold to 40 hours will result in lost work hours for 6.5 million workers. That is nearly three times the number that are vulnerable to employers cutting their hours under the current threshold (2.3 million). The researchers also found that the policy would essentially eliminate the employer responsibility requirement, since employers' costs in moving workers from 40 to 39 hours per week are negligible compared to the costs of offering coverage or paying the employer responsibility penalty.

Congress should strengthen the employer-shared responsibility requirement and eliminate the hours cliff, not simply move it. The employer responsibility requirement should be strengthened by *lowering* the threshold, requiring employers to provide coverage for workers who work 20 hours a week or more or risk a penalty, and by applying a pro rata penalty if workers with fewer than 20 hours are not offered coverage. This is the only way to protect groups of workers that will lose wages under the existing incentive to reduce hours.

We look forward to working with you to strengthen the employer responsibility rules of the ACA, by extending coverage requirements to all workers and improving requirements related to the affordability and comprehensiveness of coverage. Achieving the coverage goals of the Affordable Care Act will depend upon enhanced employer responsibility for providing coverage to working families.

Sincerely,

WILLIAM SAMUEL,
Director, Government Affairs Department.

Carl's Jr. Hardee's

2015 CKE healthConnections Benefit Program

At **CKE Restaurants** we know that medical benefits are vital to you and your family.
You have the opportunity to enroll in health coverage to meet those needs. The Benefit Program for CKE Restaurants offers affordable health insurance for you and your dependents through Allstate Benefits.
Enrollment is optional - you have the freedom to choose from several types of coverage.

It's Simple to Enroll!

Call Allstate Benefits Enrollment Call Center at **1-866-751-6200**

Monday - Friday, 7:00 a.m. - 7:00 p.m. CST or 8:00 a.m. - 8:00 p.m. EST

Enrollment Instructions:

Scan the QR Code at the right with your Smartphone or go to https://awd.benselect.com/enroll

Username: Employee SSN; **Password:** Last 4 digits of your SSN and the last 2 digits of your birth year

Example - SSN XXX-XX-1234; DOB 1/1/1967 = password: 123467

NOTE: Children can be enrolled to age 26.

These plans do not meet minimum creditable coverage.

2015 CKE healthConnections Benefit Program

CKE Restaurants is pleased to be able to continue offering coverage to our employees and their families when so many employers are opting out. Our enrollment counselors will also assist you with understanding and navigating the current health care system as we all transition into this new healthcare landscape.

ABM offers the following coverages:

Allstate Benefits Indemnity Medical Insurance

PPO Dental Insurance

Allstate Benefits Universal Life Insurance

Allstate Benefits Disability Insurance

Allstate Benefits Accident Insurance

EyeMed Vision Insurance

It's Simple to Enroll!

Allstate Benefits Enrollment Call Center at **1-866-751-6200**

Monday - Friday, 7:00 a.m. - 7:00 p.m. CST or 8:00 a.m. - 8:00 p.m. EST

Enrollment Instructions:

Scan the QR Code at the right with your Smartphone or go to https://awd.benselect.com/enroll

Username: Employee SSN; **Password:** Last 4 digits of your SSN and the last 2 digits of your birth year.

Example - SSN XXX-XX-1234; DOB 1/1/1967 = password: 123467

ALLSTATE BENEFITS GROUP INDEMNITY MEDICAL[SM] INSURANCE

Group Indemnity Medical (GIM2)*	Low	High
Hospitalization Benefits		
First Day Hospital Confinement (once per confinement per year; includes hospitalization due to pregnancy)	$1,000/year	$1,250/year

Group Indemnity Medical (GIM)+	Low	High
Hospitalization Benefits		
Initial Hospital Confinement (payable once/covered person/year; excludes pregnancy and birth)	$1,000/year	$1,250/year
Daily Hospital Confinement (DHC) (max. 180 days/confinement/covered person)	$400/day	$500/day
Hospital Intensive Care (paid in addition to DHC) (max. 60 days/confinement/covered person)	$400/day	$500/day
Surgery Benefit		
Surgery (according to schedule)	$40-$1,000	$60-$1,500
Anesthesia (must be received during a covered surgical operation)	25% of Surgical Benefit	25% of Surgical Benefit
Inpatient Physician's Treatment (paid in addition to DHC)	$50/day	$75/day
Outpatient Benefit		
Outpatient Emergency Accident Benefit (max. 2 times/person/year)	$500/occurrence	$750/occurrence
At-Home Nursing Benefit (max. 30 days if authorized by attending physician within 60 days after hospitalization)	$100/day	$150/day
Transportation Ambulance (2Xs for air; max. 3 times/person/yr.) Non-Local Transportation (max. 3 times/person/yr.)	 $300 $300	 $450 $450
Outpatient Physician's Benefit (3Xs/person, 10 max. for EE + SP and EE+CH; 15 max. for F)	$50/occurrence	$75/occurrence
Diagnostic & Wellness		
Outpatient Diagnostic X-ray & Laboratory (max. 3 times/covered person/year)	$50	$75
Wellness & Preventive Test (1 time/covered person/year)	$100/year	$150/year
Additional Discount Program		
ScriptSave® Prescription Drug	Yes	n/a
Catamaran Rx Generic Prescription Drug Plan		
Annual Max per Individual	N/A	$1,500
Generic Formulary Drugs	N/A	$10 copay
Generic Oral Contraceptives	N/A	$15 copay
Brand Name Formulary Drugs	N/A	Discount only

Bi-Weekly Premiums	Low	High
Employee (EE)	$37.02	$53.82
Employee + Spouse (EE + SP)	$72.06	$105.70
Employee + Child(ren) (EE + CH)	$60.50	$88.64
Family (F)	$94.74	$139.26

Medical, dental, and vision premiums are paid with pre tax dollars as part of a Section 125 plan.

PPO DENTAL INSURANCE

	In-Network	Out of Network
Claim Payment Basis	Negotiated Fee Schedule	Negotiated Fee Schedule
Calendar Year Deductible Per Individual	$50 deductible (inclusive)	$50 deductible (inclusive)
Family Limit	None	None
Waive for	Preventive	Preventive
Annual Benefit Maximum Per Individual	$1,000 (inclusive)	$1,000 (inclusive)
Maximum Rollover		
Threshold	$500	$500
Rollover Amount	$250	$250
Account Limit	$1,000	$1,000
Dependent Age Limits	26/26	26/26
Preventative Care		
Oral Exam	80% (1 in 6 months)	80% (1 in 6 months)
Cleaning (Prophylaxis)	80% (1 in 6 months)	80% (1 in 6 months)
Fluoride Treatment	80% (Under age 19)	80% (Under age 19)
Sealants (per tooth)	80% (Under age 16)	80% (Under age 16)
X-rays (full mouth series once/36 months)	80%	80%
Basic Care		
General Anesthesia*	60%	60%
Fillings	60%	60%
Space Maintainers/Harmful Habit Appliances	60%	60%
Repair & Maintenance of Crowns, Bridges & Dentures	60%	60%
Simple Extractions	60%	60%
Surgical Extractions	60%	60%
Major Care		
Root Canal	50%	50%
Periodontal Maintenance**	50% (1 in 6 months)	50% (1 in 6 months)
Perio Surgery	50%	50%
Scaling and Root Planing	50%	50%
Bridges & Dentures	50%	50%
Replacement age for Prosthetic Devices and Appliances	5 Years Old	5 Years Old
Single Crowns	50%	50%
Inlays, Onlays and Veneers***	50%	50%
TMJ (Texas Residents Only)	Included under Major	Included under Major
Implants	Not Covered; discounts may apply	Not Covered
Orthodontia	Not Covered; discounts may apply	Not Covered
Lifetime Maximum	$1,500	$1,500
Waiting Periods		
Preventive	None	None
Basic	3 Months	3 Months
Major	12 Months	12 Months

This is only a partial list of dental services.

[illegible]

Premiums	Bi-Weekly
Employee (EE)	$9.90
Employee + Spouse (EE + SP)	$20.28
Employee + Child(ren) (EE + CH)	$28.75
Family (F)	$38.27

Medical, dental, and vision premiums are paid with pre tax dollars as part of a Section 125 plan.

ALLSTATE BENEFITS UNIVERSAL LIFE INSURANCE

[illegible]

		Benefit Amount
Life Policy Benefit Amount	[illegible]	[illegible]
Rider Benefits Included With Your Coverage		
Accelerated Death Benefit for Terminal Illness or Condition	Provides an advance of the death benefit	Up to 75% of the face amount
Future Purchase Option	[illegible]	Guaranteed Insurability
Children's Term*	[illegible]	[illegible]

It is possible that coverage will expire when either no premiums are paid following the initial premium or subsequent premiums are insufficient to continue coverage.

[illegible]

[illegible]

ALLSTATE BENEFITS DISABILITY INSURANCE

[illegible]

Benefits	
Total Disability	[illegible]
Partial Disability	[illegible]
Recurrent Disability	[illegible]
Pregnancy	[illegible]
Waiver of Premium	[illegible]

[illegible]

- [illegible] monthly benefit: [illegible]
- [illegible]
- [illegible]
- [illegible]

	Periods
Benefit Period:	[illegible]
Elimination Periods:	
Accident	[illegible]
Sickness	[illegible]

Premiums	Bi-Weekly
Employee	[illegible]

[illegible]

ALLSTATE BENEFITS ACCIDENT INSURANCE

Group voluntary accident coverage from Allstate Benefits pays cash benefits for expenses associated with an accidental injury and can help protect hard-earned savings should an on- or off-the-job accidental injury occur. Our benefits correspond with treatment for on- and off-the-job accidental injuries, including hospitalization, emergency treatment, intensive care, ambulance, fractures, medical expenses, plus more. See the brochure for complete details of the group accident benefits.

No one plans to have an accident. But it can happen at any moment throughout the day, whether at work or at play. Most major medical insurance plans only pay a portion of the bills. Our coverage can help pick up where other insurance leaves off and provide cash to cover the expenses.

Meeting your needs

Our accident coverage helps offer peace of mind when an accidental injury occurs.

- Coverage that is guaranteed issue: there are no medical exams or tests to take
- Benefits that correspond with treatment for on- and off-the-job accidental injuries, including hospitalization, emergency treatment, intensive care, fractures, plus more
- 24-hour accident coverage for yourself or your entire family
- Affordable premiums
- Benefits paid directly to you, unless you assign them to someone else
- An additional rider benefit has been added to the plan and is designed to enhance your coverage
- Continuation of coverage

If you suffer an accidental injury, would you be able to handle the extra expenses associated with your recovery?

It's never too early to prepare for the future.

	Employee	Spouse	Children
Low Plan Benefits			
Accidental Death	$40,000	$20,000	$10,000
Common Carrier Accidental Death	$200,000	$100,000	$50,000
Dismemberment	$4,000-$40,000	$2,000-$20,000	$1,000-$10,000
Dislocation/Fracture	$120-$4,000	$60-$2,000	$30-$1,000
High Plan Benefits			
Accidental Death	$60,000	$30,000	$15,000
Common Carrier Accidental Death	$300,000	$150,000	$75,000
Dismemberment	$6,000-$60,000	$3,000-$30,000	$1,500-$15,000
Dislocation/Fracture	$180-$6,000	$90-$3,000	$45-$1,500
Additional Benefit Included in Low and High Plans			
Benefit Enhancement	24 benefits	24 benefits	24 benefits
Additional Rider Benefit Included in Low and High Plans			
Outpatient Physician's Benefit	Yes	Yes	Yes

[illegible]

Hospital Admission, Lacerations, Burns, Skin Graft, Brain Injury Diagnosis, Computed Tomography (CT) Scan and Magnetic Resonance Imaging (MRI), Paralysis, Coma with Respiratory Assistance, Open Abdominal or Thoracic Surgery, Tendon/Ligament, Rotator Cuff or Knee Cartilage Surgery, Ruptured Disc Surgery, Eye Surgery, General Anesthesia, Blood and Plasma, Appliance, Medical Supplies, Medicine, Prosthesis, Physical Therapy, Rehabilitation Unit, Non-local Transportation, Family Member Lodging, Post-Accident Transportation, Accident Follow-Up Treatment.

Bi-Weekly Premiums	Low	High
Employee	$5.78	$8.76
Employee + Spouse	$7.98	$12.10
Employee + Child(ren)	$10.86	[illegible]
Family	$13.56	$20.36

See the brochure for complete details of the benefits.

EYEMED VISION INSURANCE

	Member Cost	Out-of-Network
Exam With Dilation (as Necessary)	$10 Copay	$30
Exam Options		
Standard Contact Lens Fit and Follow-Up*	Up to $40	N/A
Premium Contact Lens Fit and Follow-Up**	10% of Retail	N/A
Frames		
Any available frame at provider location	$0 Copay; $130 allowance; Over $130 20% off balance	$65
Standard Plastic Lenses		
Single Vision	$25 Copay	$25
Bifocal	$25 Copay	$40
Trifocal	$25 Copay	$55
Lens Options		
UV Coating	$15	N/A
Tint (Solid and Gradient)	$15	N/A
Standard Scratch-Resistent Coating	$15	N/A
Standard Polycarbonate	$40	N/A
Standard Anti-Reflective Coating	$45	N/A
Standard Progressive (add-on to bifocal)	$65	N/A
Other Add-ons and services	20% of retail price	N/A
Contact Lenses		
Conventional Copay/Allowance/Balance	$0/$130/>$130 = 15% off	$104
Disposable Copay/Allowance/Balance	$0/$130/>$130 = 0% off	$104
Medically Necessary Copay/Allowance/Balance	$0/Paid in full	$200
Frequency		
Examinations	Once/12 months	
Frame	Once/24 months	
Lenses or Contact Lenses	Once/12 months	

[illegible]

Premiums	Bi-Weekly
Employee	$3.78
Employee + Spouse	$7.20
Employee + Child(ren)	$7.56
Family	$11.10

Medical, dental, and vision premiums are paid with pre tax dollars as part of a Section 125 plan.

FREQUENTLY ASKED QUESTIONS

Choosing the right benefits package is important to you and your family. That's why we've included some of the most frequently asked questions and answers to help you make the right choice. Please read below to learn more about your benefits.

What Is An Indemnity Benefit?
It means that the insurance company will pay a set amount each time the insured receives a covered service. The same amount is paid regardless of the fees charged by the provider.

Employee Eligibility
All Part-Time Hourly employees.

When Can I Enroll?
You must complete your enrollment within 60 days of your date of hire for coverage to take effect. If you miss this initial opportunity to enroll, you will not be allowed to enroll until the next annual open enrollment period unless you have a qualifying event.

How do I enroll?
Allstate Benefits Enrollment Call Center at **1-866-751-6200** to speak with a Benefits Specialist

Enrollment Instructions:

Scan the QR Code at the left with your Smartphone or go to https://awl.benselect.com/rnrc

Username: Employee SSN; **Password:** Last 4 digits of your SSN and the last 2 digits of your birth year

Example – SSN XXX-XX-1234; DOB 1/1/1967 – password: 123467

When will coverage begin?
Your coverage will begin on the first of the month following enrollment.

Will I get ID cards?
Medical, Dental and Vision ID cards are sent to your home address

What if I need to use my benefits PRIOR to my cards arriving?
Give the provider the Customer Service Contact information below

What happens if I am almost at, or I have exceeded, a medical plan limit and I need to see a doctor?
You're responsible for any amount owed above your plan limit. You'll still receive the plan discount, however, no additional benefits will be paid.

When I see a doctor, who files the claim?
If your doctor is in the MultiPlan Network, he or she will file the claim directly with Allstate Benefits. If your doctor is not in the MultiPlan Network, you may need to pay your doctor at the time of service and file your claim with Allstate Benefits

Qualifying Life Events:
Email lifeevents@piperjordan.com go online to www.piperjordan.com/cke.html.

Court Orders:
Emailed benefits@ckr.com or fax 1-714-780-6338.

How do I get reimbursement if I have to pay out-of-pocket for insured services?
Claim filing information is provided for your convenience so that you may receive reimbursement from the insurance carrier. You will still receive the plan benefits, however, you will pay for treatment/services up front and then file a claim for reimbursement. Please contact the appropriate Customer Service Numbers listed above for claim filing instructions.

Who do I call for more information if I have questions about benefits?

Enrollment questions:
1-866-751-6200
M-F 7:00 a.m. - 7:00 p.m. CST or 8:00 a.m. - 8:00 p.m. EST

Group Indemnity Medical ID Cards:
1-866-510-5859

Catamaran Rx Benefits:
1-800-997-3784 or www.catamaranrx.com

EyeMed Vision Discount Plan:
1-866-559-5252 or www.eyemedvisioncare.com
(choose Access network)

Allstate Benefits Medical Claims Processing:
1-800-937-7039

Locate a MultiPlan Provider:
1-888-342-7427 or www.multiplan.com/allstate
(choose preferred provider organization)

Nurse Advice Line:
1-866-227-3796

Guardian Dental Information Line:
1-800-541-7846 or www.guardiananytime.com

Medical, Dental & Vision

Allstate: 1-800-937-7039

Member ID: Social Security #

Group #: 19453

Claims: Allstate 1-800-937-7039

Prescription Drug Coverage

ScriptSave® Discount: 1-800-700-3957

Catamaran Rx: 1-800-997-3784

Member ID: Social Security #

Who do I call for more information or when I have questions?

For questions regarding enrollment, eligibility or your dependent's eligibility:
Contact the Allstate Benefits Enrollment Call Center at 1-866-751-6200 to speak with a Benefits Specialist

For billing questions regarding missed premiums:
Contact the Allstate Benefits Enrollment Call Center at 1-866-751-6200 to speak with a Benefits Specialist

To report a Qualified Life Event or termination:
Email lifeevents@piperjordan.com, go online to www.piperjordan.com/cke or call 1-877-741-4703

What if I miss a payroll deduction?
Allstate Benefits will not cancel until you are a full 60 days behind (eg. if you miss 45 days in February and March, but don't miss an additional 15 days until June, only after the 61st day will you be cancelled). If you reach 60 days missed premium, you will receive one letter of cancellation. If they do not receive a payment within the designated time your policy will terminate. Please be aware the letters are a courtesy reminder, you should check your pay stubs to determine if your wages covered benefit deductions. • For the Accident or Universal Life products, after 60 days of missed premium, the policy will be placed on direct bill through Allstate Benefits. You will receive three letters from Allstate Benefits with instructions as to how you can continue your coverage by paying Allstate Benefits directly – please note this only applies to Accident and Universal Life.

You'll receive a missed premium payment form from Allstate Benefits for your medical, dental and vision premiums. Mail premiums to:

Allstate Benefits
Attn: Group Premium Accounting Department
PO Box 678227
Dallas, TX 75267-8227
1-800-639-5162

Will the insurance be canceled if I don't make up missed premiums? Yes.

Can I cancel my coverage later?
Medical, dental and vision premiums are paid with pre-tax dollars through payroll deductions as part of a Section 125 Savings Plan. You will not be able to change these elections until the next annual enrollment period, unless you have a Qualifying Event.

What happens if I terminate employment and retire?
You need to call 1-866-659-4518 to speak with a Benefits Specialist and re-enroll in coverage. You must complete your enrollment within 60 days of your date of rehire for coverage to take effect. If you miss this initial opportunity to enroll, you will not be allowed to enroll until the next annual open enrollment period unless you have a qualifying event. Your coverage will begin on the first of the month following enrollment.

CERTIFICATE SPECIFICATIONS

All health insurance products described herein are intended to qualify as HIPAA "Excepted Benefits", and, therefore, not subject to federal regulation requiring consumer portability or compliance with the Affordable Care Act. We reserve the right to amend or revoke this offer if any product described herein does not so qualify. • This offer is contingent upon the benefits being offered under Section 125. • The provisions regarding pre-existing conditions and the 10 month pregnancy exclusion will be removed from the policy.

Group Disability- **Pre-Existing Condition Limitation.** We do not pay benefits for disability that starts within 12 months of your effective date from a pre-existing condition. You have a pre-existing condition if: (a) your disability began during the 12 months after the effective date; and (b) you received medical treatment, consultation, care or services, diagnostic measures, took medications or followed treatment recommendations in the 12 months prior to the effective date of coverage, or an increase, or (c) symptoms existed in the 12 months prior to the effective date, or the date an increase was effective.

EyeMed Vision – **Plan Exclusions:** 1. Orthoptic or vision training, subnormal vision aids and any associated supplemental testing; Aniseikonic lenses; 2. Medical and/or surgical treatment of the eye, eyes or supporting structures; 3. Any eye or Vision Examination, or any corrective eyewear required by a Policyholder as a condition of employment; Safety eyewear; 4. Services provided as a result of any Workers' Compensation law, or similar legislation, or required by any governmental agency or program whether federal, state or subdivisions thereof; 5. Plano (non-prescription) lenses and/or contact lenses; 6. Non-prescription sunglasses; 7. Two pair of glasses in lieu of bifocals; 8. Services rendered after the date an Insured Person ceases to be covered under the Policy, except when Vision Materials ordered before coverage ended are delivered, and the services rendered to the Insured Person are within 31 days from the date of such order. 9. Lost or broken lenses, frames, glasses, or contact lenses will not be replaced except in the next Benefit Frequency when Vision Materials would next become available.

PPO Dental (Value Plan) - **Network Discounts on Non-Covered Services** With our Network Access plans, employees and dependents can save money on many dental services not covered by their plan by using a DentalGuard Preferred PPO dentist in many states. For example, network dentists provide significant discounts on Orthodontia, when not covered by the plan (average of 25% off of usual charges), Implants, when not covered by the plan (average of 16% off of usual charges). Services not covered due to plan limitations such as Annual Maximum and frequency limits (average of 30% off of usual charges).

With more than 87,000 dentists at over 200,000 locations nationwide, finding a dentist is easy! Just visit GuardianLife.com and select 'Find a Provider.'

Limitations and Exclusions - **(A)** Coverage is limited to charges that are necessary to prevent, diagnose or treat dental disease, defect or injury. Depending on plan type, deductibles, waiting periods, per service frequency limitations, and payment limits may apply. **(B)** The list of dental services shown is not exhaustive. **(C)** This plan does not pay for: (1) Any restoration procedure, appliance or dental prosthesis used solely to: a) alter vertical dimension, b) restore or maintain occlusion, except to the extent that this plan covers orthodontic treatment; c) splint or stabilize teeth for periodontal reasons; or d) treat a condition caused by abrasion or attrition. (2) Cosmetic or experimental treatments, unless specifically listed in the PRIMARY BENEFITS section of this proposal as a covered cosmetic service. (3) Replacing a lost, stolen or missing appliance or prosthetic device; or making a spare appliance or device. (4) Treatment needed due to: a) an on-the-job or job-related injury, or b) a condition for which benefits are payable by Workers' Compensation or similar laws. (5) Treatment for which no charge is made. (6) Replacing an appliance or prosthetic device with a like appliance or device, unless: a) it is damaged while in the covered person's mouth in an injury suffered while insured, and can't be fixed; or b) can't be made usable and meets the replacement age criteria selected by the employer. (7) The replacement of extracted or missing third molars/wisdom teeth. (8) Treatment of congenital or developmental malformations, or the replacement of congenitally missing teeth. (9) Evaluations and consultations for non-covered services, detailed and extensive oral evaluations. (10) Any procedure performed in conjunction with, as part of, or related to a non-covered procedure. (11) Any procedure not specifically listed as a covered benefit. **(D)** This coverage will not be effective until approved by a Guardian underwriter. **(E)** Please refer to certificate of coverage for full plan description.

This coverage does not constitute comprehensive health insurance coverage (often referred to as "major medical coverage") and does not satisfy the requirement of minimum essential coverage under the Affordable Care Act.

The information in this mailer is incomplete without brochures: ABJ26353X, [illegible], [illegible], ABJ2424[illegible] [illegible] ABJ26350X, and ABJ26352X, which include complete details of the benefits, limitations and exclusions of the policies. For more information, please visit **www.allstatevoluntary.com/cke**

The health coverage is Limited Benefit Insurance.

If there is ever a discrepancy between the information presented here and the official Plan Document, the official Plan Document will govern how your benefits are determined and administered. The Group Indemnity Medical Plan, Dental, [illegible] and Accident insurance coverage is provided by policy forms [illegible] [illegible] and GVD-4000 or state variations thereof, underwritten by American Heritage Life Insurance Company, Home Office, [illegible] CKE Restaurant Holdings, Inc. reserves the right to amend or terminate in writing at any time the Plan [illegible] and/or any benefit offered under the Plan. PPO Dental Plan (Value Plan) policy form GP-1-DG2000 underwritten by The Guardian Life Insurance Company of America. Catamaran Rx Generic Prescription Drug Plan policy forms [illegible] and EyeMed Vision Care are underwritten by Fidelity Security Life Insurance Company of Kansas City, MO. For questions regarding vision call EyeMed [illegible] at 1-866-559-5252.

Allstate BENEFITS

This brochure is for use in the CKE Restaurants enrollment situsted in: DE

2015 GET INSURED

CKE healthConnections
Call now to speak to a Benefit Specialist about your health care options: **866-751-6200**
Visit **https://awd.benselect.com/enroll** to enroll

Health Insurance is Important.

And we know that.

As a Variable-hour Crew Member or Shift Leader or Part-time employee in your Standard Measurement Period you have access to the CKE healthConnections Benefit program. healthConnections offers limited benefit Indemnity Medical plans by Allstate Benefits or we can get you enrolled in a Marketplace plan that meets the federal requirements. We also have a great selection of other benefits such as dental, vision, life and disability insurance.

You can Get Insured in just three simple steps:

1. Review the enrollment materials and decide which plans are best for you and your family.
2. Provide some basic information about yourself (be prepared with tax returns, social security number and dependent information as more information is required to sign up for the Marketplace).
3. Call or go online to sign up for the coverages that you want!

Important Health Insurance Facts:

Coverage is Guaranteed.
You can't be denied health insurance, even if you have a pre-existing condition!

Financial Assistance is Available.
Nearly 2/3 of uninsured Americans qualify for tax credits to lower their premiums.

Essential Health Benefits are Guaranteed.
Every plan includes great benefits like coverage for prescription drugs, doctor visits, emergency care, and more!

IMPORTANT

You must complete your enrollment within 60 days of your date of hire or part-time determination for coverage to take effect. If you miss this initial opportunity to enroll, you will not be allowed to enroll until the next annual open enrollment period unless you have a qualifying event.

Your coverage will begin on the first of the month following enrollment.

You have two ways to enroll:

By Phone: To speak to a Benefit Specialist about your health care options, call **866-751-6200**.

Online: Visit **https://awd.benselect.com/enroll** or scan the QR code to the right and indicate your enrollment decisions (enroll or waive) for each benefit offered.

Hardee's

Carl's Jr.

[Whereupon, at 11:31 a.m., the hearing was adjourned.]

○