NYDIA M. VELAZQUEZ, NEW YORK
CHAIRWOMAN

Submitted for the record by Mr. Thompson

SAM GRAVES, MISSOURI
RANKING MEMBER

Congress of the United States

U.S. House of Representatives
Committee on Small Business

2361 Rayburn House Office Building
Washington, DC 20515–6315

November 16, 2009

The Honorable George Miller
Chairman
Committee on Education and Labor
U.S. House of Representatives
2181 Rayburn Building
Washington, DC 20515

The Honorable John Kline
Ranking Member
Committee on Education and Labor
U.S. House of Representatives
2101 Rayburn Building
Washington, DC 20515

Dear Chairman Miller and Ranking Member Kline:

We are writing to express concerns about legislation that would impose yet another new mandate on small businesses, our nation's strongest job creators, in a very difficult economy.

We understand that the Committee on Education and Labor is expected to hold a hearing on H1N1, which we understand will likely examine proposals such as H.R. 3991, the Emergency Influenza Containment Act, on November 17, 2009. As you know, this legislation would require that employers with as few as 15 employees provide five days of paid sick leave per 12 month period to all full or part time employees who are sent home by their employer or directed to stay home by their employer because of a contagious illness, such as the H1N1 virus. There are civil and criminal penalties for a violation of this Act.

On September 9, 2009, the Committee on Small Business held a hearing on the impact of the H1N1 influenza virus on small firms. Small business owners want to keep their workplaces healthy during the flu season. Witnesses testified that through diligent preparedness and communication, they will work to keep their companies functioning and craft flexible work and employee schedules.

Our entrepreneurs are already saddled with innumerable taxes, mandates, regulations and paperwork burdens. They are being threatened with even higher taxes, additional mandates and the prospect of having to lay off workers if H.R. 2454, the American Clean Energy and Security Act, and H.R 3962, the Affordable Health Care for America Act, become law. All this while they struggle to generate 70% of the new jobs in the economic recovery.

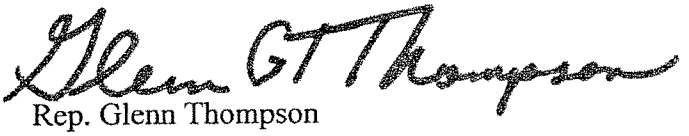
As Members of the House Committee on Small Business, we are concerned that imposing this additional mandate on small businesses will destroy the very financial viability and flexibility that allows them to respond to the market. While small business owners certainly want to protect their employees and customers from exposure to illness, they should not have to put their businesses at financial risk by compensating employees for sick leave. In addition, an employer and employee should have the freedom to negotiate the benefit structure that works best for them. Some employers who currently offer paid vacation may not be able to afford to do so if they are required to offer paid H1N1 leave. This bill does not address employment situations such as teleworking, flextime, or companies that offer a single bank of leave combining vacation, sick and personal leave. It does not take into account specialized industries such as construction, which build leave policies around the timing and cycles of their businesses. A new mandate will almost certainly require compliance with additional regulations, certifications and paperwork, all of which disproportionately affect small firms, are costly and take time away from running the business and creating jobs.

At a time when our nation's unemployment rate is 10.2 percent, we should be helping small businesses to increase employment. Imposing a mandate requiring paid sick leave is the wrong thing to do. Such a requirement could instead result in employers eliminating jobs or other employee benefits.

We urge you to consider the negative consequences of this legislation on small businesses in an unprecedented economic environment.

Sincerely,

Rep. Sam Graves
Ranking Republican
Committee on Small Business



Rep. Glenn Thompson
Member
Committee on Education and Labor
Committee on Small Business