

**EXPLORING PAID LEAVE: POLICY, PRACTICE,
AND IMPACT ON THE WORKFORCE**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

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EXPLORING PAID LEAVE: POLICY, PRACTICE, AND IMPACT ON THE WORKFORCE

WEDNESDAY, OCTOBER 25, 2023

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:07 a.m., in Room SD-215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Stabenow, Menendez, Casey, Whitehouse, Hassan, Cortez Masto, Warren, Crapo, Thune, Cassidy, Johnson, Tillis, and Blackburn.

Also present: Democratic staff: Drew Crouch, Senior Tax and ERISA Counsel; Sam Conchuratt, Professional Staff Member; Rebecca Nathanson, Senior Domestic Policy Advisor; and Joshua Sheinkman, Staff Director. Republican staff: Jamie Cummins, Senior Tax Counsel; John Kashuba, Counsel; Lara Rosner, Social Security Policy Advisor; Becky Cole, Chief Economist; and Gregg Richard, Staff Director.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The Finance Committee meets this morning to talk about a pressing issue: paid leave. And I am sure as we begin, people want to know, so why are you holding this hearing? The reason we are is because low- and middle-income workers are falling through the cracks in our economy, and these are hardworking Americans—construction workers, nurses, cashiers—and they are all trying to juggle work obligations and still be there for families who need them.

The American people understand this and know what is needed to make sure that everybody in our economic system has a chance to get ahead. According to poll after poll, 70 percent of Americans want national paid leave. They know that too often without it, workers are forced to make the impossible choice of a paycheck or caring for a loved one in need.

Paid leave is so crucial to many American workers that a recent poll from the Bipartisan Policy Center showed that paid family and medical leave benefits are as important as pay when considering starting or returning to work. Americans want to work—let me emphasize this. And our colleague from Ohio, Senator Brown, if you are friends with him, he says that a couple of times a day, and he is absolutely right.

Americans want to pay their bills, they want to provide for their families, but we all know sometimes life intervenes, and sometimes you've got to be there for your family. In fact, that same Bipartisan Policy Center poll shows that 72 percent of Americans who are not currently working say that it is because these family personal challenges intervene—health, caregiving.

Congress talks an awful lot about how to deal with the worker shortage crisis. Today, we are going to talk about an opportunity to do something about it. If a nation as powerful and prosperous as ours sits on this issue, we are going to have to have an answer to the fact that somehow the United States is the only developed nation in the world without a national paid leave program.

Today, only one out of four workers in America have access to paid leave. There has been progress, but 14 States and the District of Columbia are really about it. So, there is a lot more to do, and I believe America has an opportunity to better support workers and better support our economy.

If I were to sum up our challenge—and I am looking at Mr. Verhoeven from Albany, OR, because they kind of embody this thinking. We ought to be doing what my mom always said: take out your sharpest pencil and get to work on solving an issue like this, where you bring together people on both sides of the aisle, businesses of various sizes, and communities. And by the way, Oregon can give you some pretty good tips, which is why we are so thrilled to have Ben Verhoeven here today.

Ben owns a small farm in Albany, OR, and if you are looking for a place on the planet where residents are good at taking out a sharp pencil and solving problems, making things work, all you have to do is look at Albany, OR.

So today, you are going to hear Mr. Verhoeven say that providing paid leave has helped him hang on to extraordinary workers and helped his business grow and thrive. He is going to tell us how back home the government began to work in this area, and he was able to do even more to help his employees, and it was straightforward and affordable.

His story to me is an illustration of what we can do if we, as a committee—and my colleagues here have all been part of this—sit down and represent how to solve a problem in a bipartisan way. Too many workers are falling between the cracks, and paid leave is a missing piece of our agenda.

The last point I am going to make as I am looking at the dais is, our colleagues of both political parties are constantly saying our biggest job—our biggest job—is to compete against China. Well, I want to close by saying smart paid leave policies can add vast sums of economic growth to the American economy. And we can do it if we come together, say our focus is to out-compete China, and put in place policies that leverage our economy at all levels, which is to give workers the chance, when they have to be with family, to take that time and be there for their communities and their jobs at other points in their life.

So, we are really pleased that we are going to have a great panel. I appreciate my colleagues. We've got both sides represented here, and that is what you need to come up with some solutions. And I recognize my friend, Senator Crapo.

[The prepared statement of Chairman Wyden appears in the appendix.]

**OPENING STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO**

Senator CRAPO. Thank you, Mr. Chairman. This is an important hearing, as nearly every working American will need to take leave from work at some point in their career. The Finance Committee has previously explored this topic, including holding a subcommittee hearing in 2018 and convening a paid leave working group organized by then-Chairman Grassley and Chairman Wyden.

I was a member of that bipartisan working group, which sought to find the most sustainable path forward on paid leave policies. As I noted at that time, I am committed to addressing the needs of working Americans, both inside and outside the home, while also ensuring that businesses have the flexibility they need to succeed, particularly in today's challenging economy.

As we will hear today, paid leave can greatly benefit workers and their families, from improving employee morale to helping families meet caregiving responsibilities. However, there are many approaches to expanding paid leave, and the details matter.

Employers across the country are struggling to fill vital roles in their organizations, with nearly 9.6 million jobs remaining unfilled nationally. In a recent survey from the National Federation of Independent Business, 43 percent of small business owners reported job openings they could not fill in the current period. In light of these workforce challenges, Congress must be careful not to interfere with employers' existing paid leave offerings, which play an important part in their efforts to recruit and retain workers.

According to the Bureau of Labor Statistics, in 2023, 78 percent of private-sector workers have access to paid sick leave and 79 percent have access to paid vacation. Additionally, 73 percent of small employers offer paid time off to the majority of their full-time employees, and 67 percent offer 2 weeks or more of leave.

Imposing a one-size-fits-all paid leave program could actually limit employers' ability to offer paid leave policies that meet the unique needs of their workforce—or significantly diminish existing employer-provided paid leave altogether.

Creating a new Federal paid leave program also raises questions about implementation challenges and costs to taxpayers. States' experiences standing up paid leave programs illustrate some of the challenges that a new Federal program could face. Several States that have enacted paid leave programs have had difficulty setting up even the most basic components of the program, leading to implementation delays.

For example, applicants in multiple States have experienced delays with getting their claims approved, with processing times in one State expected to increase from about 5 weeks to 4 months by 2025, absent additional staffing.

One State has had to repeatedly increase the revenue going to the program to avoid a funding deficit. And in another State, analysts have raised concerns that revenues may be too low to pay future benefits.

Even though there are many challenges on this topic, the bipartisan work that continues from members on and off this committee shows the importance of the issue.

I appreciate our witnesses being here today, and I look forward to your testimony to help us thread this needle.

Thank you, Mr. Chairman.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. I thank my colleague, and you know, my colleague raises a number of questions that I think there is an opportunity to find some common ground on. And that is what we ought to do today. I mean, the issue of flexibility, that is indisputable. We want to recognize that different parts of the country are different, and we want to work to make sure we wring out every dollar that we have for this important cause and be efficient.

So, I will look forward to hearing the ideas of colleagues here in a moment. Let's introduce our witnesses.

Jocelyn Frye has been a special friend of the Finance Committee and given us good counsel for so long. She is president of the National Partnership for Women and Families, the first Black woman to head the National Partnership. She is a recognized expert in this field, and if ever there was a Wonder Woman prepared to kind of bring people together around good ideas, it is our friend Jocelyn Frye, JD. She is also a native of Washington, DC, raised by two parents who also worked in government, and we appreciate her leadership.

Next, Ben Verhoeven, my constituent, father of three, and an important voice in Oregon as a small business owner. He is a second-generation farmer and president of Peoria Gardens, a family-owned wholesale greenhouse in Albany. They specialize in flowers and vegetable starts. He has 26 year-round employees, 24 seasonal employees, and he has made it a priority—a priority—for this small business in Albany, OR, colleagues, to have access to paid leave. He is going to tell us how he is making it pencil out, and that is, I think, a big part of why his contribution is so important.

Then we will have Elizabeth Milito. She is with the National Federation of Independent Businesses. Ms. Milito, great to have you. We have worked with you all often on many issues.

Then we will have Rachel Greszler. She is a senior research fellow in economics at the Heritage Foundation. She focuses there on labor and retirement issues including employment opportunities, and she was a senior economist at the Joint Economic Committee. She resides in Bethesda with her husband and six children.

We are glad you are here, all of you. Let us begin then with Ms. Frye. Welcome. And for all of you, we will make your prepared statements a part of the record, so, if you want to just summarize and kind of highlight some things that are particularly important to you. It is not only kind of more useful, it is also more fun, because we can kind of give back and forth.

Ms. Frye, welcome.

**STATEMENT OF JOCELYN FRYE, PRESIDENT, NATIONAL
PARTNERSHIP FOR WOMEN AND FAMILIES, WASHINGTON, DC**

Ms. FRYE. Thank you so much, Chairman Wyden, Ranking Member Crapo, and members of the committee. It is really a privilege to be here with you this morning to chat about one of my favorite topics: paid leave. The National Partnership for Women and Families is a policymaking and legal advocacy group that strives to break down gender-based barriers which prevent women, but indeed all people, from reaching their full potential.

The National Partnership has a long history of working to advance paid leave, and we have a deep understanding of what works and what does not work in designing paid leave policies. We believe paid family and medical leave is a core labor standard that is necessary. It is long overdue and essential to creating stronger workplaces in an economy of the future.

Even before the pandemic, our Nation's lack of comprehensive care policies undermined the full participation of women in our economy. It forced too many to choose between caring for their family and their financial security. The economic disruptions caused by the pandemic only exacerbated these problems.

The lack of paid leave has negative consequences for people of all backgrounds, but its effects are most pronounced for workers who face multiple barriers and biases. Women workers, especially women of color, who are more likely to provide care, are less likely to work in jobs with paid leave.

They also must navigate assumptions that the care they perform is not worthy of support or investment, and that they will just make things work on their own. Major disparities in paid leave access also exist for workers in the lowest income brackets, for workers of color, and for workers with disabilities, many of whom need medical leave to attend to ongoing health conditions. And they also need caregiving leave because they also care for family.

Due to a lack of paid leave, American households miss out on \$22.5 billion in wages each year. Our economy loses \$650 billion a year because we have fewer women in the workforce compared to other industrialized nations. This occurs at a time when families increasingly rely on mothers, especially mothers of color, as breadwinners.

There is ample evidence of paid leave's benefits. Thirteen States, along with the District of Columbia, have already enacted paid leave. Research in communities where paid leave has been implemented shows significant gains in the health and financial stability of workers. Businesses do report that their workforces are more productive and experience less turnover, saving employers the cost of hiring new employees and training new staff.

These State-level successes offer vital lessons about some of the qualities needed in a paid-leave law. An effective law must offer meaningful sufficient benefits, which are universal and guaranteed to as many workers as possible in as many employment settings as possible, so no one is left behind. It must provide enough weeks of leave and enough income to actually meet the needs of workers, and enable them to afford to take time off. An effective law must be comprehensive enough to meet the full breadth of caregiving needs, not only for newborn children, but also loved ones such as

aging parents and ailing spouses. And it should guarantee that paid medical leave is available for workers themselves when they face a serious health condition.

Expanding care investments is not a luxury. It is an urgent need in every corner of the country. Take for example Tracy Wood, a speech pathologist raising six children in West Virginia. She is a member of one of our partners, MomsRising. Tracy has a son with disabilities and also cares for a homebound grandparent. She used to work full-time but was forced to quit that job because it lacked paid leave. Her current contracting role does not offer it either. So every time she takes her son or grandparent to the doctor, she endures the added stress of knowing she is bringing home less money to feed her family.

There are millions of Americans in the same position as Tracy Wood, and they worry about whether or not they will have the ability to care for themselves and their family members and secure the financial health of their families. It is a worry that springs to mind when they are awake, and it keeps them up at night. And it is no wonder that 80 percent of voters from across the political spectrum want Congress to pass paid leave—and we do too at the National Partnership.

So the time to act is now, and I appreciate the opportunity to speak with you today, and I look forward to your questions.

[The prepared statement of Ms. Frye appears in the appendix.]

The CHAIRMAN. Thanks; thanks very much, Ms. Frye. Every time I hear you speak, I always wait for the part where you say, “Look, this is not a luxury.” Here are the real-life examples, and it says it so well, and we appreciate it.

Mr. Verhoeven?

**STATEMENT OF BEN VERHOEVEN, PRESIDENT,
PEORIA GARDENS, INC., ALBANY, OR**

Mr. VERHOEVEN. Good morning, Chairman Wyden, Ranking Member Crapo, and members of the Senate Committee on Finance. Hello there. I am Ben Verhoeven. I am a second-generation farmer and nursery owner. I run a family-owned greenhouse in rural Albany, OR.

I am proud to say my 26 year-round and 24 seasonal employees receive great benefits, which in the big picture do not cost me much, but mean a lot to everyone, and they are good for business.

My workers can get paid family leave, which covers parental leave, medical leave, and leave to care for a loved one. In addition to paid family leave, my workers can get health care, paid vacation, paid sick time, and a pension. Many industry groups claim that policies like ours will hurt business. That is just not true.

Paid family leave costs me less per year than truck repairs and has a much greater effect on the lives of the people I work with. Our farm began offering 12 weeks of full paid parental leave in 2016. We have since worked to help pass paid family leave for all Oregonians. Together, we can expand these benefits to all Americans.

Before my workers had paid family leave, they told me stories of draining their retirement savings to care for a dying brother. This is now a thing of the past. I know a mother who no longer must

rely on donated sick time to plan for a second child. I have seen a young man raised by a single mother grow into a loving and strong father of two. These are real stories from my workers, made possible by paid family leave.

In Oregon, under our State's new Paid Leave Oregon program, my farm can now provide paid family leave for my workers. Opponents of paid leave will tell you that only workers benefit, and therefore all the financial costs should fall on workers' shoulders. This is not true.

As an independent business owner, I benefit when my employees do not have to choose between their loved ones and a paycheck. As a farmer, I benefit when my workers have a stable home life, which begets a stable work life. Since offering paid parental leave in 2016, we have seen a return on our investment, as valuable employees, including many fathers, return to work and future promotions. This helps my business to prosper and grow.

As a business owner, I also benefit from stronger, healthier, more resilient markets. Lessening the financial hardship of an illness, a birth, or a family crisis leaves more savings in people's pockets, savings they can put toward homes and gardens.

As any farmer will tell you, we are subject to the forces of Mother Nature. A crop failure affects our business the same way a sudden illness affects the family. This is why I feel strongly that coverage should be expanded to include all businesses and workers. Life events like birth, illness, and ailing parents happen to all of us regardless of the size of the company we work for.

I would also add that as a farmer and a small business owner, national paid family leave is a good bargain. I cannot afford comprehensive paid family leave on my own, which is why a program like the one we have in Oregon is the best way forward.

Our State's program costs businesses like mine less than offering stand-alone plans, and I know that my workers are also contributing. As a small business owner, I am the H.R. department. Our State program has been much easier to set up than the private insurance options also allowed under Oregon's new law that we explored.

Working with our State has been as simple as a software update to our payroll, and a preprinted poster in the break room. Oregon's program manages the process, confirms if a worker qualifies, and of course pays for the leave itself out of the fund. This is a real service, both for me and for my workers.

A comprehensive and permanent paid family leave program is good for workers, benefits employers, and secures our economy for generations. It is the right thing to do for business; it is the right thing to do for workers. Thank you.

[The prepared statement of Mr. Verhoeven appears in the appendix.]

The CHAIRMAN. Ben, thanks very much, and you were really on message. I was struck where you said, "Look, this really makes sense economically, and it frees up money for people to invest in gardens and homes." I say Ben's got a good message. Good work; thanks.

Let us go next with Ms. Milito.

**STATEMENT OF ELIZABETH MILITO, EXECUTIVE DIRECTOR,
SMALL BUSINESS LEGAL CENTER, NATIONAL FEDERATION
OF INDEPENDENT BUSINESS, WASHINGTON, DC**

Ms. MILITO. Thank you, Chair Wyden, Ranking Member Crapo, for inviting me to speak today. My name is Beth Milito, and I am delighted to speak on behalf of the National Federation of Independent Business. NFIB is a member-driven organization that represents about 300,000 small and independent businesses across the country.

Small businesses employ nearly half the country's private-sector workforce, and when small businesses succeed, communities and local economies succeed. Consider the very types of small businesses you frequent: pizza parlor, auto shop, dry cleaner, nail salon. Some have employees who are strictly hourly, some are salaried, some are part-time, some are full-time.

These are the typical NFIB members, who on average have 5 to 10 employees. Only about 12 percent have a human resource professional. About 50 percent of NFIB members do payroll in-house. I describe NFIB's membership to illustrate one of the key points of my written testimony.

There is no such thing as a one-size-fits-all policy that works for every business or every industry. I understand the good intentions behind various proposals that mandate leave. But NFIB and its members have long opposed leave requirements for two reasons: inflexibility and cost.

First, innovation and flexibility are critical to small business survival. The COVID-19 pandemic showcased small firms that thrived by innovating, pivoting, and adapting to their new circumstances. Small firms depend on flexibility, not only to boost sales and manage business operations, but to establish employee benefits, which includes paid time off.

The majority of small businesses provide flexible, mutually beneficial arrangements that allow employees time off when necessary in a fiscally responsible way for that business. Small business owners recognize the value of providing paid leave to employees, since after all, small businesses need to bid for and retain talent like all other firms, big and small. And to the extent they can, small businesses provide paid leave voluntarily to remain competitive and to attract top talent.

To the extent that small firms do not offer paid leave, this reflects the reality that some small firms simply cannot financially afford to offer this benefit. If you can only afford to give your workers 10 days of paid time off and the government mandates 5 days of paid sick leave, then your employees have only 5 days left for vacation.

This leads me to my second concern with leave mandates. Leave, paid or unpaid, is not a free benefit. The unanswered question with a leave mandate is, who is going to pay? There is a cost for these proposals, and not all business owners can absorb the cost.

In a small business with a finite amount of resources, this means less money available for wage increases, it means less money for health insurance, and it means less money for hiring additional employees. It also means more time and money devoted to complying with workforce policies.

I mentioned earlier that the small business owners typically have few administrative staff and little human resource experience. Nearly all leave mandates, paid or unpaid, impose recordkeeping requirements, including leave tracking, notification, documentation, and reporting. When one State considered and adopted a paid sick leave proposal a few years ago, the legislative record was replete with opposition from small business owners.

Consider this submission: “We compete in the world market, and everything the State or the Federal Government does burdens us with more and more unfunded mandates that make us less competitive in world markets. So now I have fewer employees, and since there is not enough income after all my employment costs are met, I end up not getting paid anything for my family for all the work that I do. I could go on and on, but the bottom line is that we farmers don’t make enough to subsidize all the wonderful benefits that you would like to see employees entitled to. I have workers asking for work and there is plenty for them to do, but at the high cost that the State requires me to pay, I have to limit the number that I can hire. It may seem great to mandate more benefits to employees, but the hidden costs are fewer jobs.”

Small businesses are the lifeblood of the U.S. economy. They create two-thirds of new jobs in this country, and they account for 44 percent of U.S. economic activity. The government must pay more attention to supporting the health of small businesses and not viewing them as a source of tax revenue and the implementer of misdirected policies.

Mandated leave laws represent a significant challenge for small business, since mandates are generally not flexible nor affordable. Making it more expensive to operate a small business will hamper the ability of small business survival.

On behalf of the small business owners of NFIB, thank you very much for the invitation to appear today.

[The prepared statement of Ms. Milito appears in the appendix.]

The CHAIRMAN. Thank you very much, Ms. Milito. And I am almost tempted at this point to say we are going to send you four off on your own to work this out. We will supply the pizza. There is one point that you raised, Ms. Milito, that just caught my ear, when you said paid leave should not be just a source of government revenue.

I think what I want to do is be part of a bipartisan effort, with all of my colleagues, to make sure that paid leave is a source of economic growth in America and a source of help for families. That is what I hope we can do, and I am glad you are here, and we will continue this conversation.

Ms. Greszler, welcome.

STATEMENT OF RACHEL U. GRESZLER, SENIOR RESEARCH FELLOW, GROVER M. HERMANN CENTER FOR THE FEDERAL BUDGET, THE HERITAGE FOUNDATION, WASHINGTON, DC

Ms. GRESZLER. Thank you. Good morning. Thank you for the opportunity to be here today. As the mother of six young children and having had multiple family members battle cancer in recent years, I understand the need for leave, but not all paid family leave poli-

cies are equally helpful. The best ones are flexible policies that maximize access to leave, while minimizing disruptions.

Today, I would like to discuss the current state of paid family leave, explore the differences between government and employer-provided leave, and then discuss policies that could help expand paid family leave and workplace flexibility.

So first, the good news is that paid family leave has shot up over the past 6 years. Surveys show that three out of four workers have access to some type of paid family leave at work. Contrary to common belief, only one in four leaves is for the birth or adoption of a new child. Half of leaves are for a worker's own medical condition, and the other quarter are to care for a family member.

While newborn and family care are particularly important, parents actually prefer workplace flexibility by a margin of 10 to 1 over more paid parental leave. And so, the importance of flexibility leads to my second point, which is that employer-provided leave is inherently more accommodating than one-size-fits-all government programs.

My niece was diagnosed with stage 4 cancer when she was 18 months old. Like many medical conditions, my niece's cancer did not give advance warning, and it did not follow a predictable schedule. She endured 9 months of intensive treatments, multiple ER visits, and spent more than 60 nights in the hospital over an hour away from her home.

A government program with 12 weeks of partially paid leave, a bureaucratic administrative process, which required my sister to specify the precise days of leave that she would take in advance, did not work well for her and her husband.

It was only through working directly with their employers that they were able to keep their jobs and care for their now healthy and adorable 3-year-old little girl. Some might argue that even a bureaucratic and flawed government program is better than none, but a Federal Government program would take away many existing programs and hinder new ones from starting. And government programs have a terrible track record at helping low-income families.

In California, five times as many mothers in the highest income bracket filed paid family leave claims as those in the lowest income bracket. Canada's program is said to "aid the social reproduction of higher-income families." In the UK, "too little support is directed to the families who need it most, and too much to those who do not."

Moreover, while government paid family leave programs aim to help women, they can have the unintended effects of reducing women's prospects of promotion, diminishing relative wage gains, and reducing employment.

The latest version of the FAMILY Act, which grants job-protected paid family leave to workers who have been employed for as few as 3 months, would impose huge burdens on small employers who are already struggling with labor shortages. And when a business suffers, so will its employees and the people they serve.

Denmark had implemented a generous paid family leave program. Studies found that it led to a 12-percent reduction in nursing employment, and that had huge consequences for patients, which

included an 89-percent increase in newborn readmissions, and a 13-percent increase in nursing home mortality.

It is important to note that the Congressional Budget Office said that the FAMILY Act would be yet another unfunded entitlement program. Most Americans would rather have bigger paychecks to spend on what they need than smaller paychecks and a bureaucratic government maze to navigate.

And that leads to my third point, which is that policymakers can help expand access to paid family leave without expanding the government's control over people's lives. The Working Families Flexibility Act would give lower-income workers the opportunity to choose between accumulating paid leave or overtime for their work.

Universal savings accounts would enable Americans to save in one simple account that they could use for any life need without incurring a penalty, and this would be particularly helpful to lower-income part-time workers and independent workers. And making it easier for workers to get private disability insurance could help workers meet their own needs for leave.

Minimizing taxes on workers and employers would leave them with more to spend on paid family leave. The Tax Cuts and Jobs Act put an additional \$1,400 per year into the average household, and it led to a fourfold increase in employer-provided paid family leave in the 6 years since it passed.

And finally, policymakers can pass laws to prevent harmful labor regulations from taking away flexible work options and making it harder for employers to offer paid family leave. Unlike a one-size-fits-all Federal entitlement program, these policies would help to meet workers' and employers' unique needs at a cost they can afford.

Thank you.

[The prepared statement of Ms. Greszler appears in the appendix.]

The CHAIRMAN. Thank you very much, and we will just get on to the discussion.

Mr. Verhoeven, it is almost jaw-dropping to hear you mention that offering paid leave costs less than truck repairs. Is that right?

Mr. VERHOEVEN. Yes, Mr. Chairman, that is correct.

The CHAIRMAN. So, give me the comparison, because it really is just kind of a "slap yourself in the forehead" kind of an example.

Mr. VERHOEVEN. Chairman Wyden, thank you for the question, and yes, it does cost me less than truck repairs. It has a much greater effect on the lives of the people I work with. It is a very, very small part of our payroll and the costs that we have to do business. And for that, especially with our new government program, now not only do I have access, and my workers have access to paid parental leave, they also now have access to paid medical leave, paid leave to care for a loved one, paid safe leave if someone is experiencing domestic abuse, and that is all for literally less than the cost to run my five trucks.

The CHAIRMAN. So I am looking at the dais here, and I am quite certain that all of my colleagues—and certainly I will speak for myself—support write-offs for machinery, for matters like equipment and tractors. And you know, helping small businesses like yours in Albany, OR make these investments is just common sense, and

particularly in our State where, after you cover Intel and Nike and a few others, you are done with the big businesses. We are overwhelmingly a small business State.

It seems to me what you are basically saying—and I have heard some of my colleagues on both sides of this dais agree with it—is those investments in machinery are important, and equally important is to make some investments in people, in sort of human capital as well as machinery and business investments. Is that really kind of where you're going?

Mr. VERHOEVEN. Chairman Wyden, thank you for the question. Absolutely, I agree. I would actually add that in my experience, an investment in our human capital at my farm and small business pays bigger dividends than an investment in equipment, you know? For the cost of our government-paid leave program, I could go out and buy a 12-foot-long conveyor, right? But instead, I can support my workers in a moment of need. I will know that I will see a tremendous return on that investment in the form of retention, promotion, and business growth.

The CHAIRMAN. And in Albany, I gather that you are seeing some of your other farmers experiencing the same sort of thing when they take it up?

Mr. VERHOEVEN. Absolutely, yes. I am not alone as a farmer and as a small business owner, seeing the positive effects of our State and government program that offers, again, very affordable benefits to our workers and helps us retain, promote, and grow our businesses.

The CHAIRMAN. Well, I think the fact—and I want to just move on—that you have said investing in people, from an economic standpoint—so we are not hearing discussion about we are doing it to get government revenue and all this kind of stuff.

What Ben of Albany is saying is investing in people is going to pay greater dividends than any purchase of equipment, and if people take that out of here, I think that will be a chance to start bringing our foursome together.

One last question if I might, because I know colleagues have questions as well. Ms. Frye, you have been making some good points with respect to how critical this is to economic competition and growth, particularly with China. It seems to me your organization has really been trying to drill down into that area, has some projections, for example, about the additional economic growth that would come about through paid leave.

Why don't, for the remainder of my time, we give you a chance to address this issue, because every member up here, every single one of us—and sometimes multiple times a day—says we have got to out-compete China, and you are trying to bring the receipt, so to speak, and talk about how it generates that kind of growth.

Ms. FRYE. Absolutely, Senator. I think the way we do that is we make sure that women can participate in the workforce, and the way we do that is to ensure that they have access to paid leave.

What we know is that if you had prime-age women in the workforce equal to that of some of our counterparts internationally, you could boost our economy by \$650 billion, which is just under 3 percent in additional GDP. So we are definitely in support of that strategy for strengthening our economy.

The CHAIRMAN. More impressive numbers for the cause. I thank you all. I look forward to the questions.

Senator CRAPO?

Senator CRAPO. Thank you very much.

I will start with you, Ms. Milito. In your testimony, you indicated that there is a cost to a number of these proposals. There are actually a lot of proposals out there. Some have more costs than others, and some are more based on tax policy. But could you follow up or just explore a little bit more what you mean when you say there is a cost to all these proposals—or many of them—but that not all businesses can pay that cost?

Ms. MILITO. Yes, thank you, Senator, for that question. So the costs—you are right. There are a lot of proposals out there, a lot of proposals at the States and a lot of proposals at the Federal level there, and I think we are here today because there is not a Federal requirement for paid leave.

But before I get to your question, I just want to again point out that nearly 80 percent of small businesses do offer paid leave to their workers, and they do it because that is the way they retain talent, that is the way they recruit employees there.

But a paid leave mandate—there is a cost, because it would hinder the business owners' ability to maybe offer other benefits that are more desirable by the employees it is trying to recruit. So for instance, a lot of small business owners I talk with—you know, tight labor market right now. And I hear from my members, "The number one way that I recruit and retain employees is they want higher wages. That is what they want. They want higher wages."

The second benefit employees are looking for is health insurance there. So if you add on something else, another required benefit from the government, then there is going to be strain, and they are going to have to retract on one of those, either wages or potentially the health insurance there.

And again, I just want to go back, that most small business owners are offering paid leave right now.

Senator CRAPO. Or they could—one of the other options they would have is to hire fewer employees?

Ms. MILITO. That's correct too; yes, exactly.

Senator CRAPO. Thank you.

Let me go to you, Ms. Greszler. Paid leave can benefit workers, as you have indicated as a mother of six that you personally understand. At the same time, you rightly pointed out how critical it is that these paid leave policies be flexible. Please elaborate a little bit on what flexible means in this context and how some of the national paid leave proposals would be inherently inflexible?

Ms. GRESZLER. Yes. So, flexibility is so important, because parental leave for the birth of a new child, that is one thing that is relatively predictable. But most leaves are not predictable, and you need access to those benefits quickly. It is something like emailing a boss directly and saying, "I am going to be out for this."

There is a difference between that and having to go through a bureaucratic application process, get medical approval, and then have somebody who does not know who you are, does not know the work you do, does not know the workplace, be in charge of deciding when you are eligible for benefits, how much you are going to get,

and to just have a strict 12 weeks or you must specify this day, and if you do work on a day that you specify, now you have to repay it.

It is just the reality of a government program not working well to meet individuals' needs, versus the flexibility of an individual being able to work directly with their employer, to work out what works best for each of them, and also being able to keep the business running.

Senator CRAPO. Well, thank you. And the chairman and I have both indicated we believe in flexibility, and if there is a way to find that bipartisan solution here, it will involve flexibility.

At the end of your testimony, you went over a number of options that would be workable, and I would assume that you feel that those options would have the flexibility to help build a meaningful policy. Could you just go back—even if you just go back over what you told us in your testimony—but could you go over some of the options that you believe we ought to be considering?

Ms. GRESZLER. Yes. So each of these are an array of options. Nobody would be forced to take them, but they are something that workers could choose from based on what works best for them. I think the most important are the ones that get at the lower-income workforce.

So the Working Families Flexibility Act, that is something that applies to workers who are paid hourly wages. Currently, if you are paid hourly, you are entitled to overtime pay. So, if you work 45 hours in 1 week, then you actually get paid for those 5 hours at a rate of time and a half, 7½ hours' worth of pay.

So, for that worker who worked an extra 5 hours, they could choose between the overtime or accumulating 7.5 hours of paid time off. It is a pure choice; nobody has to take it, and the employer cannot force them to. Also, universal savings accounts, just having that access to one account that you are not fearful about putting money in because if your car breaks down tomorrow, you might not be able to access it.

But if you have one account that can be used for all of life's purposes, people would be more likely to save; that has been shown in other countries that have implemented these. And then you have that safety net there, whether it is for paid family leave or child care or whatever expense comes up.

Also, private disability insurance. About half of workers have that now. You could allow employers to auto-enroll their workers into private disability insurance. Just specify that that is something they can do like they do for 401(k)s, and that could increase their access to that workplace benefit.

Senator CRAPO. Thank you; I appreciate that.

The CHAIRMAN. Thank you, Senator Crapo.

Senator Stabenow?

Senator STABENOW. Well, thank you so much, Mr. Chairman and Ranking Member Crapo. This is such an important discussion, and we have talked about it for years but never seem to actually do what needs to be done for families and for women, who are the primary ones, juggling what is happening for themselves and their families, both children and parents and everything in between, and

at the same time we need them in the workforce. And so there are many challenges.

I wanted to start with Mr. Verhoeven, but I did want to say that in listening to your options, my concern is that, for instance with low-income workers, you said, well, you can work overtime and then choose to get paid for overtime, or you can work overtime and choose not to get paid for overtime, and get family leave.

It seems to me they ought to, if they work overtime, get their overtime and also have family leave. So those do not sound like great choices for low-income people as I am listening, but I certainly support flexibility. There is no question.

But, Mr. Verhoeven, as chair of the Agriculture Committee, I have to say I smile in thinking about you as a family farmer, running a family-owned greenhouse in Albany, OR, and the way you are approaching this for your workers.

All the time we hear about the need for workers, everywhere certainly. And in agriculture, we hear the desperate need for workers—and in every area. Certainly we see this in Michigan as well. Could you speak a little bit more about how the program works in Oregon, because we certainly see paid family leave as pro-workers, pro-families?

You are saying it is also pro-business, which I believe that it is, and that it can be structured in a way that is not costly. Because certainly, for small businesses in particular, that is a huge issue, being able to afford to be able to do something like this.

But universal paid family and medical leave in Oregon; what does that look like for you? How is that structured?

Mr. VERHOEVEN. Thank you, Senator, for the question. Our government program in Oregon makes it tremendously affordable for me to offer these kinds of benefits, really comprehensive benefits to my employees. Again, it is less than truck repairs. They get paid family leave, which includes paid parental leave, time to care for a loved one, paid medical leave, and paid safe leave.

As an employer, for that small investment, I get a big return in terms of retention, promotion, business growth. And I would also add that it has been really, really simple to set up. I cannot afford this kind of comprehensive paid family leave on my own. Our government program makes it really easy to do that, and it makes it easy to set up.

It really is as simple as a software update to our payroll, a poster in the break room. That leaves me with a lot more time to do what my day job is, which is not here in front of you guys; it is growing flowers for garden centers. And I know I can rest assured that the government is managing the program, confirms if a worker qualifies, and of course pays for the leave itself out of the program.

That is a real service and a value to me, my farm, my small business, and certainly my workers.

Senator STABENOW. Is this done in matching funds or through the tax code? What does that look like?

Mr. VERHOEVEN. Thank you. Thank you, Senator, for the question. Our Oregon program is done through a payroll tax. So, as an employer, I pay four-tenths of one one-hundredth of my payroll. So that is——

Senator STABENOW. Say that again? Four-tenths——

Mr. VERHOEVEN. Four-tenths of one one-hundredth of my payroll, a fraction of a fraction. That four thousandths of my payroll, for that small amount, my workers also contribute six-tenths of one one-hundredth of their pay. So, while it is not free, right, I would argue it is a really, really good bargain, because for that, they are getting access to paid parental leave, medical leave, caregiving leave, and I get better retention.

Senator STABENOW. And are you finding, I assume, that you keep workers longer?

Mr. VERHOEVEN. Yes, absolutely.

Senator STABENOW. In terms of retention and the quality of the workers and so on, this, I would assume, pays dividends on the farm and with your business?

Mr. VERHOEVEN. Yes, Senator, thank you for the question. We absolutely see better retention, opportunities for promotion, and of course that leads to business growth for me and my farm.

Senator STABENOW. Right.

Thank you, Mr. Chairman.

The CHAIRMAN. I think we might just want to put Ben in charge of bringing everybody together and working this out. He's got it down, and he is an Oregonian.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman. I am proud to represent the great State of New Jersey, which was the second State in the country to pass a paid family leave program in 2008, and then our State expanded the program in 2019. Our paid leave program has helped countless families and the 71 percent of all New Jersey households with children, more than 1.3 million homes. All parents have paying jobs, and more than 100,000 children are born each year in New Jersey.

The State legislation created a paid leave program that guarantees all workers 12 weeks of family leave, with the lowest-wage workers receiving 85 percent of their pay. This legislation, I believe, should be an example for the country.

Ms. Frye, what are the biggest successes and lessons from New Jersey's paid family leave program that we should consider as we push for national paid leave legislation?

Ms. FRYE. Thank you. Thank you so much, Senator, for that question. And you are right that there is lots of good research on the effectiveness of New Jersey's program. It was the second in the country, and what we know is that it has really helped with some of the things we have already talked about: labor force participation and retention, particularly for women workers.

There is data that shows greater retention of workers who are family caregivers. There is really good research from employers that shows that for the most part, employers say it has either improved morale or productivity, or at worst it is neutral.

So there is lots of good research that shows that the law has been able to both provide a benefit that people needed, but also to make sure that employers could manage it and manage it well.

Senator MENENDEZ. Yes. So human capital, which is essential—we have 10 or 11 million jobs in the country that go unfilled. So creating greater access to that human capital for productivity to take place, as well as higher performance, those are things that the

private sector would want to see as much as any benefit to the individual families, isn't that true?

Ms. FRYE. Well, it is why we think that paid leave is a win-win. And I think when you look at all of the States increasingly—and as Senator Wyden said, there are 14 now including the District of Columbia—one of the reasons that paid leave is growing is because you do see those benefits for workers and for employers.

Senator MENENDEZ. So, I am proud to be an original cosponsor to Senator Gillibrand's FAMILY Act, which would guarantee all workers access to 12 weeks of paid leave, and I look forward to working with her to make it happen.

Latinos and Latinas are far less likely to have access to paid leave than others, and nationally Latinos are 66 percent less likely to have paid leave compared to White workers. This inequality makes it harder for Latinos to spend time with a new child or take care of a sick parent.

To add insult to injury, it also forces many Latinos to drop out of the workforce altogether when they have a child, contributing to the monumental wage gap we see between Latinos and White men. As we know, it takes a Latino worker an average of 2 years to equal what White non-Hispanic males are paid in 1 year.

So, Ms. Frye, why is national paid leave legislation so vital for Latino families?

Ms. FRYE. Well, you have recounted some of the challenges here, and Latino workers generally disproportionately work in jobs where there is no paid leave. That is true for, in particular, low-paying jobs and many in the service sector. So a lot of times Latino workers simply do not have access to leave because of the jobs they work in.

In addition, as you mentioned with Latinos in particular, there is an enormous wage gap, and what we know about the wage gap from people like Nobel Prize winner Claudia Goldin is, there are several different drivers of the wage gap.

One of them is discrimination, one is occupational segregation, and the other is the lack of work family policies, like paid leave and child care. So, when you have paid leave, you enable folks to actually stay in the workforce longer. It enables them to not only earn wages, but grow wages, and that is why paid leave and work family policies are so critical to helping to close the wage gap.

Latinos have one of the largest wage gaps. They earn 52 cents for every dollar a White male makes. That is an enormous gap, and we need to close it.

Senator MENENDEZ. Yes. And finally, Mr. Verhoeven, you certainly talk about the benefits of paid leave as a small business owner. Of course, when an employee is away, it causes strains on a small business, but it is far worse if an employee is forced to leave the business because of a lack of family and medical leave.

What has been the biggest success of the Oregon paid leave program for your business?

Mr. VERHOEVEN. Thank you, Senator, for the question. The biggest success is, it is a tremendous bargain. Again, it costs us less than truck repairs, and I get a really big return on that investment in terms of retention, promotion, and business growth. I see my

workers with more stable home lives, and that equates to more stable work lives at our farm.

The CHAIRMAN. Thank you.

And in order of appearance, next our friend from North Carolina.

Senator TILLIS. Thank you, Mr. Chair.

Mr. Verhoeven, a quick question for you. Is the program funded through employer and employee payroll deductions, or is it subsidized by the State as well? In other words, is it fully funded through the payroll tax deductions or not?

Mr. VERHOEVEN. Thank you, Senator, for the question. In our State of Oregon, the government program is funded through payroll taxes and again, it is less than truck repairs—yes, correct.

Senator TILLIS. I am curious. So they have created a revenue pool that it is funded out of those resources? No other subsidies required. That is good.

Mr. VERHOEVEN. Yes. That is my understanding; correct.

Senator TILLIS. I have a question for Ms. Milito. I am trying to—you know, North Carolina and various States have gone about this differently. We have this for State employees. We do not have it as anything mandatory for businesses. What are the trends that we are seeing? COVID had a lot of bad things, but it had some good things—I mean, we are addressing work-life balance, a number of other policies.

But what could we do short of creating a large, potentially complex—because everything in the Federal Government is large and complex. And so, all of the sudden we go to small businesses—and I remember in the Banking Committee we were having a hearing where someone was talking about how this is a small program. It is only a 4- or 5-page form that a small business needs to fill out.

I do not think people understand how chilling that is to a small business, where, Mr. Verhoeven, you are probably the CEO, the chief marketing officer, the chief financial officer. You are running a lot of your business. So I am in the mode of, let's get paid family leave out there, but let's do it in the most light-handed manner possible.

So, can you give me any ideas or trends, Ms. Milito, on, particularly for small businesses, what is occurring now? Are the market demands, the competition for labor, everything else going on out there—how much of the gap is being filled there, and to what extent does the Federal Government need to be involved?

Ms. MILITO. Thank you for that question, Senator. So I will say, you have heard a lot about flexibility here, but I would also say, any proposal policy should be simple. So, keep it simple. And I will go back to Mr. Verhoeven. You mentioned in Oregon it was a matter of updating your software.

A lot of NFIB members are still doing payroll manually. So then again, that would be more complexity added there too. The carrot is always better than the stick there, so allowing more flexibility. You know, you mentioned COVID and government policies that came out then. You probably might recall the Families First Coronavirus Response Act, which mandated leave and offered a tax credit.

But the tax credit—claiming the credit was really complicated, and the NFIB survey, our research center, found afterwards that

only 43 percent of small employers who had employees take that FFCRA leave claimed the credit. It is just complicated. Most of our members use a tax preparer. So they are doing payroll in-house, sometimes still manually, but they are using a tax preparer. So you know, awareness on the part of sort of the tax preparer community on any sort of tax credit is also very important there.

So that is a long-winded answer to your question, but simplicity is very, very important, and the carrot is more important than the stick. Thank you.

Senator TILLIS. I agree.

Ms. Greszler, tell me a little bit about government programs that, in your view, are falling short, and what more we need to do.

Ms. GRESZLER. Yes. I think the reality of government programs is, they cannot eliminate the costs. They cannot reduce the costs. They can simply redistribute the costs, and when you hear—I have been in discussions with H.R. managers at large companies, and they have said that complying with these State-based programs has been so difficult. And they have ended up telling workers they can take leave and then they had to pay it back. And they said if they did not have to deal with these issues, they would be providing so much more.

So I think that is the problem. Is a government program actually going to help the workers who need the help the most? And I think that that is where the evidence is saying “no.” It is not getting to the lower-income workers who do not have access to leave, because it is a burdensome process.

It is burdensome for employers. Ms. Milito is looking at that credit for the businesses. The JCT thought it would cost over \$100 billion. It cost \$6 billion, because businesses simply did not apply for it, having to go through the process and fill out these forms. If that is burdensome for a business owner, how much more burdensome is it for the low-income worker, who is also managing the medical condition for the leave?

So I think anything that happens has to keep the relationship between the employer and the employee, so that they can flexibly work things out. That might not look like a formal written policy that is measured by the BLS to say you have access, but it nevertheless is having the ability to be able to take leave in a way that works for both the worker and the employer.

Senator TILLIS. Thank you. I am sorry; my time has expired. I had questions for all of you.

Thank you, Mr. Chair.

The CHAIRMAN. I thank my colleague.

Next in order of appearance is Senator Hassan.

Senator HASSAN. Thank you very much, Mr. Chair and Ranking Member Crapo, and to our witnesses for being here today. There is strong public support for a national paid leave program, and I am encouraged that there is growing bipartisan support in Congress, because the current patchwork system is not working.

It is not working for families, and it is not working for our businesses and our economy. Without access to comprehensive, guaranteed paid leave, many hardworking Americans are forced to reduce their hours or leave their jobs altogether when they welcome a child into their family, when they go through their own medical

emergencies, or when they need to care for a sick family member or aging parents.

So I want to start with a question to you, Ms. Frye. It was very good to see you last week. As we discussed in our meeting, many Granite Staters struggle because they do not have guaranteed paid family and medical leave. For instance, I have met with Carrie Duren in Wolfeboro, a single parent of three who served as a caregiver to her father, who had Alzheimer's until his passing in 2019.

With no paid leave, in order to take her father to critical medical appointments, Carrie had to forego hours of pay. She was in between caregiving and critical financial support for her family. She continues to struggle with lack of access to paid leave as she cares for her daughter, who has complex medical needs, juggling part-time jobs at a financial cost.

Ms. Frye, I am sure that you have heard stories like Carrie's throughout the country. How can comprehensive paid leave help people like her who are in a position of caring for their parents, children, or other loved ones?

Ms. FRYE. Well, thank you, Senator. I think you have really hit the nail on the head, that comprehensive paid leave is comprehensive, and it recognizes that what paid leave may look like for one person and the need for one person, is different for another.

What we know, and Ms. Greszler, I think, said this, is that less than a quarter of the leaves that are taken under the FMLA, for example, are for parental purposes. The majority of leave is for personal, and a little over a quarter is for family care.

So you need comprehensive leave to ensure that a person like your constituent can actually take the time that they need to care for their parent. I had a similar issue when I was on the staff of the National Partnership and had to take my dad to chemotherapy. So you need that type of flexibility.

Senator HASSAN. Well, thank you.

Another question, which has to do with our service members who are in the National Guard and Reserves. They lack access to the parental leave that they need to care for and bond with their children after birth, adoption, or foster care placement.

At a time when we are seeing recruiting and retention challenges across the military, we need to act swiftly to remove barriers, so that parents will continue to serve in the military. That is why Senator Murkowski and I are pushing to ensure that our bipartisan Reserve Component Parental Leave Parity Act is included in this year's National Defense Authorization Act. Our bill will strengthen the military and support families by expanding parental leave to fathers and adoptive and foster parents serving in the Reserves and National Guard.

Ms. Frye, why is it critical for our military readiness and strength to ensure that all new parents in the military have access to leave?

Ms. FRYE. Well, it is critical to support our service members across the board, and that means not only service members who need to take time off because they are about to have a child, but also parents who are—you know, maybe a spouse is having a child. I so appreciate the legislation that you and Senator Murkowski are working on.

You know, what we know is having that time off, particularly for a new mom or a new parent, is essential for bonding, for strengthening their family. It is particularly important when you have service members who are doing long deployments. The time that they are able to have with their families is critical.

You know, we know that our military readiness is connected to service members believing that their families are okay. So we have a duty, I think as a Nation, to make sure that they have the tools available to them to make sure their families are as strong as possible.

Senator HASSAN. Well, I appreciate that very much. I see my time is almost up, so I will submit one more question to Mr. Verhoeven for the record.

Thank you, Mr. Chairman.

The CHAIRMAN. Very good. I thank my colleague.

Next is Senator Casey, who has worked on these issues for a long time.

Senator CASEY. Mr. Chairman, thank you. Thanks for working on this issue with us, and thanks for having this hearing. I do not think anyone needs to hear it again, but it bears repeating, how important paid leave is for families, whether they are starting a new family or whether they are in families with older adults, families with members with disabilities or significant medical needs.

The Department of Labor tells us that 20 percent of people taking unpaid FMLA leave do so to care for a non-newborn family member with a serious health condition. That is a lot of families, a lot of people. Family members leave their jobs or reduce their work hours to care for a newborn or a newly adopted child, to provide ongoing care for a family member with a disability, or to care for their aging parents. So it runs the gamut from one end of the age scale to the other.

A constituent of mine, Barbara Gurley, came to our office to talk about her caregiving experience for her late husband. She was talking about how often he fell and the challenges that she had, making sure that they could take care of him before he passed away. The Gurley family had insurance but could not access any paid support for the work she was doing, and they made too much money for local social services. If there had been a paid leave program in place, Barbara could have taken paid time off to care for her husband when he really needed it. So we know this is really hard work, caregiving.

Mr. Verhoeven, you testified that before the new paid leave law in Oregon came into effect, you had an employee who was "draining their retirement savings to care for a dying brother." Can you tell us more about how workers like Barbara Gurley and your employee will be affected by a new, comprehensive paid leave law like the one you have in place in Oregon?

Mr. VERHOEVEN. Thank you, Senator, for the question. Yes, our government program makes it really affordable for me as a small business owner to offer now comprehensive paid family leave, so that no longer is it just parental leave, but it includes the kind of caregiving leave you are talking about: medical leave and safe leave.

That is really at the crux of it for us. As a small business owner without our government program, I could not offer those kinds of things. My workers could not benefit from them. The kind of benefits that they receive makes it easier for them to have a stable home life, which makes it easier for them to have a stable work life.

That is good for them. It is also good for me as a small business owner and as a farmer. If they are stable at home, stable at work, I can see better retention, promotion, business growth.

Senator CASEY. Thanks very much.

And finally, Ms. Frye, if you have any data, I wanted you to share, if you could, how often and when workers need to take time to care for family members other than newborns or newly adopted children. Any national perspective on that, or data?

Ms. FRYE. Well, what we know from the data is, about a quarter of the time, the leave is taken for things that are not self-medical or related to the birth or adoption of a child—so, a significant percentage. And what we also know is that that family caregiving is often the type of caregiving that is left out of other policies.

You know, people may have access sometimes to vacation and so forth, but it is really the family caregiving that often is the missing piece, which is why comprehensive leave is so important. We know one in seven caregivers, for example, report that they have had to either cut back on their hours or drop out of work because they did not have access to family caregiving leave.

We know that women over 50 who have had to drop out of the workforce because they did not have access to caregiving leave lose on average almost \$300,000 over the course of their careers because they have had to drop out of the workforce. So it is a significant impact.

Senator CASEY. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Cassidy is next, and he also has spent a long, long time working on this.

Senator CASSIDY. Yes; thank you, Mr. Chairman.

Yes; first, just a comment. Although you have all pointed out that it is a large fraction but not the complete amount of those who take family leave because of adoption or having a child, Senator Sinema and I have a bill which would allow the pull forward of a portion of a Child Tax Credit to allow a lump-sum payment of \$5,000 at the birth or adoption, and the payment can be used either as income replacement if she chooses to stay home—or if he chooses to stay home—or they can use it for child care if they choose to go back to work.

Yes, they are losing \$5,000 in subsequent years from their Child Tax Credit. On the other hand, as we all know, studies show that if a woman stays attached to the workforce, her future income growth is such that it more than makes up this \$5,000 she is losing in subsequent years.

I spoke about that fast, but if anybody wants more information, I would love to give it to them. And more importantly, I think it is something that can be possibly paid for. I say that right now, sir, because of your mention of the *de minimis* almost payroll tax. But

we have a President who will not support any tax on anybody less than \$400,000, even if it is to save Social Security.

Now, we have first got to line up our priorities. We've got to make sure that Social Security does not go bankrupt, and right now we have had no commitment to making that happen. The old sell about, let's just tax those who make over \$400,000 a year—I will point out that the President has proposed over \$4 trillion on those who make over \$400,000 a year, and none of that money is going to this sort of payroll program.

So on the Federal level, we have to say, yes, it is great that Oregon is doing this, but on the Federal level I do not see a path forward in terms of raising the payroll tax.

Ms. Greszler, though, and, Ms. Milito, when I researched this a few years ago—I was working on this with Senator Sinema—the research I did at the time said that most people—this is several years ago, so with inflation it would be higher—but most workers who make over \$70,000 a year have paid leave of some sort.

Now, it might be paid vacation days or personal days. It was not per se paid leave, but it was time they could take off if their parent were sick or if their child were sick or if they have a child. Is that still the case? I do not know the answer to this, because it has been a while since I have looked at this. Ms. Greszler?

Ms. GRESZLER. Yes. I suspect it has gone up even more since then. The latest data we have is from 2018, and that shows that about 73 percent of workers across all income levels report that they have access to some type of paid leave for an FMLA condition at work, and I think that—

Senator CASSIDY. But to Ms. Frye's point and to your point, you could imagine that is going to be principally people who make above a certain income level. The worker behind the counter at the convenience store, she has a lower wage and probably an hourly wage, and a more tenuous employment circumstance. So again, is this not disproportionately those who are upper-income?

Ms. GRESZLER. It is still disproportionately those who are upper-income, but we have seen the most significant growth in paid family leave policies in those lower-income groups over recent years.

Senator CASSIDY. That's great. Now why have you seen a growth of that? Is it because of the policies that have been advocated in States like Oregon or what?

Ms. GRESZLER. No. The growth that we have seen—and I mentioned it increased sixfold. If you look at the 6 years before the Tax Cuts and Jobs Act was passed versus the 6 years since then, the percentage of workers—as formally measured by the Bureau of Labor Statistics looking at employer policies only—that is where we have seen that sixfold increase.

It is companies like Lowe's, Starbucks, Chipotle, that typically are employing lower-income workers.

Senator CASSIDY. So let me stop you there, because I also was struck when I did this research a few years ago, some companies like Google and Deloitte and others were, in California, providing paid leave as a company policy, and then when California put in their program, they actually pulled back on their business-offered paid leave, and they discharged the obligation to the taxpayer.

And so on net, there is no increased benefit to the worker; there is just less obligation in the case of businesses. Is that a common thing, or is that only California?

Ms. GRESZLER. That is exactly what happens with these State policies. It is a windfall benefit for the employer that already provides a policy. They send their workers to the State program first. Once they have used up all those benefits and had to go through that burdensome application process, then the employer will top them up to bring them to the same level that they had been before. So the worker has to go through two programs to get the same thing that they were.

Senator CASSIDY. Now let me ask you: I am also told that Washington State did it in such a way that was—it avoided that. And again, I am just telling you this because I have been told that, not because I know details. Can you comment on my understanding of the Washington State program, that they avoided this kind of zero sum for the employee but created a windfall for the employer?

Ms. GRESZLER. I believe they have a process where the employer can get a qualification to just run their own program, and to opt out of that. That is something that I would encourage any State or government policy to do: to allow an opt-out for employers who are already providing the minimum level of paid family leave.

Senator CASSIDY. Well, I have questions for you all, but I am out of time. So, thank you all.

The CHAIRMAN. I thank my colleague, and my colleague has been working in good faith on this for a long time. I just want to make a quick point while it is relevant to the debate. It just strikes me that you should not have to sacrifice the Child Tax Credit to get paid leave when you have a child. That is especially true when Ben has given us a path to basically say, “Hey, look, we can offer paid leave that costs less than truck repairs.”

So we’ve got a lot of work to do to try to bring this together. I am going to work very closely with Senator Cassidy. He has put in a lot of time on this, and I appreciate it.

Senator CORTEZ MASTO?

Senator CORTEZ MASTO. Thank you. Thank you, Mr. Chairman and Ranking Member, for this great conversation. It has been very enlightening as well.

And let me just ask Elizabeth Milito. Oregon has a paid leave program. Did the National Federation of Independent Business oppose that program, that statewide program, and do they still?

Ms. MILITO. Yes.

Senator CORTEZ MASTO. Why?

Ms. MILITO. Our members—we are member-driven, and our members took a look at it and opposed it. It was not the right thing for them. It does not offer flexibility. It is a one-size-fits-all. So it is challenging. Again, not all businesses are created equal, and there is a cost associated with it.

Senator CORTEZ MASTO. And the harm to the businesses—can you explain, is it harmful in the sense that it puts some folks out of business, that small businesses could not afford the cost?

Ms. MILITO. There is—so a couple of things. There is the payroll cost there, so there is a cost burden on the business. So there is an employer-side payroll cost there too. There is the recordkeeping,

the administrative burden there, because there is some burden on the employer with adapting their payroll system to account for it there too.

They also need to become familiar with the program, so there is a learning curve there too with familiarity so they can answer their employees' questions about the program there. And then there is also too the potential for workers to take extended leave and the strain on other employees.

Not that an employer would necessarily not offer the leave. They probably—you know again, as I said before, I keep saying, most small business owners do offer a paid leave program, but it might be a PTO program, you know? So it is all sort of in one bucket there, not necessarily as formalized a policy there.

Senator CORTEZ MASTO. And the Oregon law did not exempt or carve out those small businesses that already have a different form of paid leave?

Ms. MILITO. It did not. To my knowledge, it did not, but—

Senator CORTEZ MASTO. Thank you.

Mr. Verhoeven, I am curious about your examples. Can you talk a little bit about how you perceive the Oregon program? Did you see those challenges as well? I am just interested in the State program.

Mr. VERHOEVEN. Yes, thank you, Senator, for the question. I do not see those challenges. Again, I am a small business owner. I am the H.R. department, and our working with our government program has been as easy as a software update to our payroll system and a poster in the break room.

It has made it incredibly simple for me to afford the kind of benefits that I otherwise could not, and offer them to my workers to, again, build that stability in their home, which gives me stability in the workplace and leads to improved retention, opportunities for promotion, and growth for my business.

Senator CORTEZ MASTO. And how many employees do you have?

Mr. VERHOEVEN. I have 26 full-time employees, myself included, and we hire about 24 seasonally.

Senator CORTEZ MASTO. And is it safe to say that a smaller business that has 15 or less employees might have a profit margin that is really slim and not be able to accommodate some of these costs? Is that true or not? Just for the panelists—I am going to open it up to the panelists.

Ms. GRESZLER. Yes, I think the costs are definitely an issue, and it is a bigger burden for smaller businesses. But something that we have not looked at a lot is beyond the dollar cost: it is the ability of the business to keep managing its operations, and that is what is particularly burdensome, if you are a smaller employer and you cannot just pull somebody else in and share the work amongst them.

You know, the Bill and Melinda Gates Foundation, it had a really generous paid leave program. It was offering 12 months, and it was not a cost issue. But they found that they had so many people out that they could not fulfill their mission, and so they actually had to pull that back.

And so that is the difficult needle to thread here: how can you have a policy that is providing the benefits, but also enabling the

employer to keep managing their operations? And that is where you need to be able to have ways that you can pull new workers in without——

Senator CORTEZ MASTO. The flexibility; exactly.

Ms. GRESZLER. Yes, exactly.

Senator CORTEZ MASTO. So I know I have about a minute left, but I know President Trump in his budgets proposed to have the States provide 6 weeks of paid leave to new parents through their existing State unemployment insurance trust funds.

While I think there could be promise in helping States expand paid leave, this proposal did not include any Federal support and left all the details to the States, and I question whether that helps those States, particularly those less affluent States. If they do not have Federal support, they are not going to be able to do this.

So I guess my question to the panel is, looking at this flexibility, looking at what the States have done, should there be Federal support as well, as part of this? Shouldn't it be both State and Federal support coming in to address the paid leave? Let me start with Ms. Frye, because it looks like you have an answer.

Ms. FRYE. Yes. I will quickly say that you are absolutely right, that I think we need a Federal program. I mean, that was proposed during the Trump administration and during the Clinton administration. They had a similar, a closely similar program that would have tapped UI.

And the problem is that sometimes those funds simply are not sufficient, which is why a national program that actually is comprehensive is the preferred strategy.

Senator CORTEZ MASTO. Okay.

Ms. Greszler—I know my time is up. Mr. Chair, if she can answer this question, then we will be done.

Ms. GRESZLER. Yes. Just really quickly, I think the worst thing would be to have a State and a Federal program, because then they could potentially conflict and overlap and make it more difficult. It is a promising option, and I see it as a good one to be a true safety net—to use the State's unemployment insurance programs, because that is really going to get at the workers who do not have access to a program at work, and who tend to be the lower-income ones.

So I think that is one option. You would clearly have to increase the tax on employers to fund that.

The CHAIRMAN. I thank my colleague.

Senator Blackburn?

Senator BLACKBURN. Thank you, Mr. Chairman, and thank you to each of you for your testimony today. I think, Mr. Chairman, we have the power panel. I like this: three women, one guy. But a great topic for women to be leading on.

In Tennessee, I visit with each of our 95 counties every year, and this is your county and city and town Mayors and local elected officials and small business owners, and to a person, the issue that regularly comes up is workforce and how do you keep your workforce, the lack of available workers to fill current job openings.

They are all concerned with this, and one of the things that I have found is that employers want to provide better benefits for their employees. They talk about the need to do that because they want to keep them after they get them trained.

And, Ms. Milito, let me come to you, because Tennessee recently passed a new voluntary law, and it is called the Tennessee Paid Family Leave Insurance Act. This amends the insurance code in the State and establishes paid family leave insurance. So you now have a paid family leave insurance as a new line of insurance that insurers can offer in Tennessee. How important is it that your Federal and State law allows employers to have that flexibility to opt in and to make a benefit like that available?

Ms. MILITO. Thank you for that question, Senator Blackburn. I mean, something like that that removes sort of the economic strain on a business from offering a benefit is something that certainly we would be open to exploring at the NFIB and hearing more about, and that would allow the benefit to be more widely available to employees too. I think that is a great thing.

You know 70—we keep hearing this number—70 percent of Americans want paid leave, but then if you ask if it means a smaller paycheck, 60 percent oppose. So I mean, to your point there, the costs are a concern for both employers and employees too. So if there is a way to get at it that, again, removes the economic strain from employers and employees, that could be a very good thing. So thank you.

Senator BLACKBURN. Yes. We have talked a little bit about the cost of offering a federally mandated leave, and also the impact on the workforce. One thing we have not really touched on is, I would love to hear you and Ms. Milito—I will stay with you—talk about the compliance cost that is there on workforce laws, and what would that do to increasing compliance costs for small business owners.

Ms. MILITO. And that is a great question, because just about every leave proposal that I have reviewed, State or Federal, does have compliance. There is recordkeeping; there is notification. So it might just be—I hear in Oregon, it sounds like it is a poster in the break room. But in other States—I believe in California, you have to hand out a brochure and a poster and notification.

There are potential penalties associated in some of the States if you do not provide that, so sort of a cause of action for the employee if that is not given. This goes back to the simplicity thing there. Small business owners do not have a professional H.R. person in most instances there. They are like Mr. Verhoeven. They are the H.R. person.

So there is usually, again almost always—I have always seen a cost of recordkeeping, and that cost, that is time for the business owner. And then there is the liability risk too if you do not do it right. So thank you.

Senator BLACKBURN. Okay; all right.

Ms. Greszler, let me come to you. What about unintended consequences that could result from changing the idea of something that is considered a benefit that employers can offer, to something that is federally mandated and that the government mandates employees have to have? So what would be the unintended consequences of making that flip?

Ms. GRESZLER. I think the unintended consequences there are, you get a more rigid structure that does not work very well for most people. If three out of four workers who are taking leave are

taking it for their own medical condition or caring for a family member, those are not things that are usually anticipated, and they are often not things that fit nicely into 12 weeks fully off, back on the job the next day.

It is often caring for an elderly parent who might be needing to be home, but not constantly needing to be with them. So maybe a remote option is something that would work, or taking an elderly parent 1 day a week to a doctor's appointment. Those things do not fit into the government programs.

Senator BLACKBURN. Okay. So then, leaving it as a benefit for employers to provide like Tennessee has done with an insurance option that is there and having that line of insurance, that allows the flexibility that employees want is what you are saying?

Ms. GRESZLER. Yes. That is something that an employee could opt into themselves or the business can choose to offer, and nobody would necessarily have to pay for it if they do not want to.

Senator BLACKBURN. Okay; thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague, and my colleague is raising issues that need to be debated. For those of you who are just coming in—and we have had discussions most recently about rigid structures and the like—something like 3 hours ago, 2 hours ago, Mr. Verhoeven of Albany, OR basically said he could offer paid leave for less than it costs for truck repairs.

So that does not suggest to me that we are arming up for some kind of huge, rigid kind of structure, and I still like the idea of putting all four of you together to work this thing out.

Senator Warren?

Senator WARREN. Thank you, Mr. Chair.

So, women workers saw steep job losses during the pandemic, and while women's labor force participation has bounced back, it's been stuck at 10 points lower than men's labor force participation for the past quarter of a century, and that's because women still bear the burden of care work. They take care of children, they take care of sick relatives, they take care of parents with disabilities, and that means that too often, women workers—and particularly women of color—must choose between getting paid or caring for a loved one.

A key way to address this problem is through a national paid family and medical leave program so all workers have the support they need to balance work and caregiving responsibilities. Now some States, including Massachusetts, have already set up their own paid family and medical leave programs.

Ms. Frye, how does Massachusetts' paid leave program work? Can you just explain to everyone how we're set up?

Ms. FRYE. Sure; absolutely, Senator. Thank you. You know, Massachusetts has a very strong program. They have been able to make use of some of the best practices across the country. It offers 12 weeks of paid leave for family reasons, I think 20 weeks for medical purposes.

They have progressive wage replacement, so lower-wage workers get more of their pay, about 80 percent, which is significant. And it has job protection so that people, if they take leave, their job is

protected. So it is an important program. It also allows additional time for military service members as well.

Senator WARREN. Yes. And as I understand it, we cover the overwhelming majority of our workers in Massachusetts with this program. And are workers in Massachusetts actually using the program? What do you see, Ms. Frye, especially with women?

Ms. FRYE. Absolutely. What we know from the early data is that the majority of people who have taken claims are women, a little over 60 percent. More than half of those women have been taking it for their own personal leave. So it is working, and that is important. That is exactly what we want in a program.

Senator WARREN. Good. So we've got it. It is a robust program. People are using it, and the program is relatively new in Massachusetts. But in looking at data from other States that have had paid leave programs for years, the impact seems to be pretty clear.

Ms. Frye, in States like Massachusetts that have paid leave programs, do we see positive economic outcomes, both for workers and for businesses?

Ms. FRYE. Well, that is why it is so important. We definitely see positive outcomes in terms of labor force participation. It allows folks to stay longer, retain their jobs, grow their wages, which is exactly what we want.

You know, our priority is keeping women in the labor market, because it supports them and it supports their families. Women are increasingly breadwinners. Two-thirds of moms are breadwinners, even higher for Black and Latina moms. More than 85 percent of Black mothers are breadwinners in their families.

So, it is so critical to have that labor force attachment, and it also helps to close the wage gap. As I said earlier, what we know is, in Massachusetts in particular, there is a significant wage gap, and this is one of the strategies to help fix it.

Senator WARREN. Oh, this is terrific. I really appreciate your explaining all of this. You know, paid leave helps families improve their economic security, and it's good for businesses at the same time, because we get higher workforce participation when we do this.

Clearly, there is a need for leave programs, especially for women workers. But the State you live in shouldn't determine whether you can take off time from work to care for a sick family member at the same time that you're trying to put food on the table.

We need a national paid leave program. President Biden has called for it. It is time for Congress to act on this. Thank you again.

I yield, Mr. Chair.

The CHAIRMAN. I thank my colleague.

I do not want you all to think that I am beginning to filibuster, but I have a couple of colleagues who may be on the way. So there are a couple of questions that I do think are kind of relevant to the debate.

We haven't said much about rural communities, and this dais has a lot of Senators with substantial rural terrain. Ms. Frye, you have looked into this issue, I gather, and are there some barriers that rural communities face in terms of paid leave?

Ms. FRYE. Well, you know, I think there are a couple of things. One is that oftentimes in rural communities they just have access

to less services. They have to go farther. If you have somebody who has a care need, it is more stressful in terms of being able to access the care that they need, or having to drive people to appointments and things like that.

So having the ability to take time to maybe take somebody to a city that is 1 hour away for a specialized appointment is really critical. It is exactly what families need in particular. The other thing that we know is that rural workers tend to be lower-paid workers.

They are often disproportionately in lower-wage jobs, and many of those jobs do not provide access to paid leave. So you know, having a national program that enables workers across the workforce, regardless of where they reside, to still have access to a leave benefit is particularly important.

The CHAIRMAN. All right.

In the continuation of our hopes that our colleagues will arrive, let me also state a procedural matter, and that is, all Senators and staff have to get their questions in by next Wednesday, November 1st at 5 p.m.

Tell me a little bit—and I will ask you this, Ms. Milito, because we have worked with you all on a variety of issues. As you know, I had a bipartisan health reform bill, the Healthy Americans Act—seven Democrats, seven Republicans—that said, look, the Democrats have an important point of universal coverage, because if you do not have universal coverage, too much cost-shifting; and the Republicans had a legitimate point as well about some marketplace kind of forces.

I am looking at the four of you, and I am saying, “Hey, let’s figure this thing out.” I mean, just listening to you over the last whatever it has been, 2 hours, I hear that a number of colleagues that we invited have been very sympathetic to the flexibility issue.

My hope is that folks in the business community who are thinking about what to do and the concern about rigid structures would say, “Why in the world can’t we get this help to people of modest means?” I mean, that is how I started the discussion 2 hours ago. When people ask me why are we doing this, it is that firefighters and cashiers and all these people who really are of very modest kind of means, they work hard, they want to work hard, but at the same time, when life intervenes, they have to be there for their families.

So, because you all have been involved in kind of coalitions and efforts to try to bring together people with responsible policy—and to me, policy is not about taking each other’s crummy ideas. I think that conservatives make legitimate points on flexibility, and I think progressives have legitimate points with respect to how important the human need is here.

So you have been working on this a lot. What is the path here to break the gridlock? By the way, you know, when we started on some issues around here, Senator Crapo and I were told we did not have a prayer in the world of moving them, and we have been able to, because we have a lot of colleagues here who believe in the sharp pencil theory. So tell us how we get this done.

Ms. MILITO. So, thank you, Senator. You are right. We definitely see—there seems to be an awareness about the need for flexibility

with small business owners, and what works for one business might not work so well for another business there.

I would just ask that your colleagues also build an awareness of the costs on small business too. So, for instance——

The CHAIRMAN. But you are saying—and I share this view—I am sympathetic to flexibility. I mean, I think one of you said something like, well, this is being done for getting government revenue or some such thing. Not on my watch. On my watch, this is being done for two reasons: for economic growth, because we desperately need that—that is what fuels innovation—and helping families.

So that is what we are trying to do, and that is what flexibility is all about. What do you say to your colleagues on that end of the table with respect to getting help and actually making sure it gets to them, without having to give up other assistance if they are of modest means and they have to help their family?

Ms. MILITO. So proposals, I think, need to start modestly, and transposing, for instance, what Oregon has done nationwide, I think—Ms. Greszler could speak more to the potential calls for that, but I say that there are a lot of people and NFIB members that are not willing to absorb that cost——

The CHAIRMAN. I didn't talk—I didn't talk——

Ms. MILITO [continuing]. And it is the creation of another Federal entitlement program. Is that something that my members would support? They would not.

The CHAIRMAN. I didn't talk about taking anybody's model. I am talking about trying to get people to say, "Look, let's get serious about actually resolving it." And when my constituent comes in and says, "We can do paid leave for less than we are spending on truck repairs," I think there is a lane here that I have heard Senators on both sides talk about, where human capital, the needs of people, count as much as the very important investments that I support for your members in terms of equipment and machinery and the like. So that is my final refrain.

Senator Whitehouse will ask his questions, and we will wrap up. But let's say that this forum is a powerhouse panel, and let's continue this conversation and find a path to actually making this happen on our watch.

Senator Whitehouse?

Senator WHITEHOUSE. Thank you very much.

Let me start, if I may, by highlighting a Rhode Island paid leave story. Not everybody has an equal share of good and bad luck in this life, and this story is about a woman who has three kids. Her oldest is 15, medically fragile, nonverbal, and receives ICU-level care at home.

He has been hospitalized twice, and because his mom has paid family leave, she is able to stay with him during some of these crises. And by virtue of her being there, that keeps him out of the hospital, lowering health-care costs for all of us in addition to, I think, being a pretty fair and decent thing to do for a woman who is already carrying a pretty heavy burden of need in her family.

So to quote the mom, expanding this program is crucial to supporting families during difficult times, and so I am very supportive of it for that reason.

Ms. Frye, how do you rate providing family leave in terms of overall economic growth? Does it add value to the economy, or is it a deadweight loss on the economy to provide workers with paid family leave?

Ms. FRYE. Well, Senator, I think you will not be surprised to hear me say that it certainly adds a benefit, a strong economic benefit, to have access to paid family and medical leave, in part because it helps women in particular stay in the workforce. It helps them retain their jobs, which is critical for not only their own economic stability, but it is critical for our national economy.

What we know is, when more women are participating in the workforce, it grows our economy. And we already know that we lose about \$650 billion a year in part because our women's labor force participation does not match that of some of our global partners. So paid leave is an important strategy to address that problem.

Senator WHITEHOUSE. Other countries do it?

Ms. FRYE. Other countries—almost every country does it, Senator, and quite frankly, we ought to be able to do it too, and we know from States that we can do it.

Senator WHITEHOUSE. And if, just say my mom from Rhode Island, if she is forced to choose between a job that does not allow her the leave that is necessary to take care of her child, versus staying home and taking care of the child, I would bet that she and a lot of moms like her would forego the job and stay home. That is the mother's first responsibility: to a child with a disability.

Ms. FRYE. Absolutely.

Senator WHITEHOUSE. So it is the prospect of paid leave when needed, that actually adds her to the workforce, is it not?

Ms. FRYE. Absolutely.

Senator WHITEHOUSE. And is that like a one-off, that everybody else is different, that the only place that would happen is with her in Rhode Island, or is that something that would repeat itself across other families and across other States, that it actually adds to the workforce to have a benefit like this, so that people who have the particular needs like she does feel that they can actually operate in the workforce without compromising their obligations at home?

Ms. FRYE. It absolutely is the case that we have seen across the country, where there are paid leave programs—and we know also from the Family and Medical Leave Act that when people have the assurance of being able to take time off, it not only helps them in terms of the care they need to provide for their families, but it helps with their economic stability.

It is crucial at all times, particularly for women, who are far more likely to be the ones who have to leave their job to provide care, because we know they do that. That is part of what happened during the pandemic, Senator, is that a million women left the workforce. It is because they had no choice but to leave the workforce to care for their families.

Senator WHITEHOUSE. Yes. I think we have had a similar argument here in this committee as regards the Child Tax Credit, which I would argue also helps facilitate work and helps people get to work, because if you are a mom with kids and you get a robust

Child Tax Credit, you can now afford, with those Child Tax Credit dollars, the child care that allows you to go to work. So I think many of these things actually support the workforce and support jobs and economic growth.

So, thank you for being here. The chairman has asked me to gavel out the hearing. I believe as he does, that now is the time for Congress to enact a national paid leave program, that a national comprehensive program would be good for business, good for workers and families, and good for the economy—a triple win.

But a national paid leave program will also make the American workforce more competitive against China. And when small businesses like Ben's thrive, our economy will also thrive.

Members will have 7 days to submit questions for the record for these witnesses. That means Wednesday, November 1st by close of business to get any questions that you have in.

I want to thank all the witnesses again for their time and trouble being here. And with that, the Senate Finance Committee is adjourned.

[Whereupon, at 11:52 a.m., the hearing was concluded.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

This is an important hearing, as nearly every working American will need to take leave from work at some point in their career. The Finance Committee has previously explored this topic, including holding a subcommittee hearing in 2018 and convening a paid leave working group organized by then-Chairman Grassley and Chairman Wyden.

I was a member of that bipartisan working group, which sought to find the most sustainable path forward on family leave policies. As I noted at the time, I am committed to addressing the needs of working Americans, both inside and outside the home, while also ensuring that businesses have the flexibility they need to succeed, particularly in today's challenging economy.

As we will hear today, paid leave can greatly benefit workers and their families—from improving employee morale to helping families meet caregiving responsibilities. However, there are many approaches to expanding paid leave, and the details matter.

Employers across the country are struggling to fill vital roles in their organizations, with nearly 9.6 million jobs remaining unfilled nationally. In a recent survey from the National Federation of Independent Business, 43 percent of small business owners reported job openings they could not fill in the current period.

In light of these workforce challenges, Congress must be careful not to interfere with employers' existing paid leave offerings, which play an important part in their efforts to recruit and retain workers.

According to the Bureau of Labor Statistics, in 2023, 78 percent of private-sector workers have access to paid sick leave and 79 percent have access to paid vacation. Additionally, 73 percent of small employers offer paid time off to the majority of their full-time employees, and 67 percent offer 2 weeks or more of leave.

Imposing a one-size-fits-all paid leave program could limit employers' ability to offer paid leave policies that meet the unique needs of their workforce or significantly diminish existing employer-provided paid leave altogether. Creating a new Federal paid leave program also raises questions about implementation challenges and costs to taxpayers. States' experience standing up paid leave programs illustrate some of the challenges a new Federal program could face.

Several States that have enacted paid leave programs have had difficulty setting up even the most basic components of the program, leading to implementation delays. For example, applicants in multiple States have experienced delays with getting their claims approved, with processing times in one State expected to increase from about 5 weeks to 4 months by 2025 absent additional staffing. One State has had to repeatedly increase the revenue going to the program to avoid a funding deficit. And in another State, analysts have raised concerns that revenues may be too low to pay future benefits.

Even though there are many challenges on this topic, the bipartisan work that continues from members on and off this committee shows the importance of the issue.

I appreciate the witnesses being here today, and I look forward to your testimony.

PREPARED STATEMENT OF JOCELYN FRYE, PRESIDENT,
NATIONAL PARTNERSHIP FOR WOMEN AND FAMILIES

Chairman Wyden, Ranking Member Crapo, and members of the Senate Finance Committee, thank you for the opportunity to testify on the critical topic of paid leave. My name is Jocelyn Frye, and I am the president of the National Partnership for Women and Families.

The National Partnership is a nonprofit, nonpartisan advocacy organization based in Washington, DC. We promote fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help all people, especially women, meet the dual demands of work and family. For more than 5 decades, we have focused specifically on tackling gender-based barriers, often rooted in longstanding stereotypes and biases, used to limit the opportunities available to women, men, gender minorities and all those deemed to be out of step with assumptions about gender norms or roles. Women of color, disabled women, and women who hold other marginalized identities are particularly likely to face these barriers, compounded by prejudice and negative attitudes based on the intersections of their identities. We believe that it is essential to prioritize equity—in our workplaces, in our economy, in health care and health-care systems—to create environments fully equipped to respond to the diverse needs of workers, patients and indeed all people regardless of their background or resources. Our goal is to create a society that is free, fair and just, where nobody has to experience discrimination, all workplaces are family friendly, and every family has access to quality, affordable health care and real economic security.

The National Partnership has been deeply involved in the fight for paid family and medical leave for decades. We wrote the first draft of the Family and Medical Leave Act (FMLA)—which provides unpaid, job-protected family and medical leave—and helped lead the coalition that successfully won its passage in 1993. Our work on the FMLA is rooted in our longstanding commitment to challenge barriers impeding women’s employment and full participation in the economy. The law has been instrumental in helping to counter biases and assumptions about workers with caregiving obligations and needs, and ensure that workers are not treated unfairly when navigating their family and work responsibilities. The FMLA is one of our proudest achievements as an organization, and since its passage has been used more than 460 million times,¹ meaning that millions of workers no longer have to risk their livelihoods in order to take care of their own health or care for their families.

In the 3 decades since the FMLA passed, we have had the privilege of working alongside a number of State and national partners to advance the issue of paid leave. We worked with paid leave champions Representative Rosa DeLauro and Senator Kirsten Gillibrand to craft the Family and Medical Insurance Leave Act (FAMILY Act) that was first introduced in 2013, and to update the bill in 2023 to reflect the growing body of evidence and State innovation on paid leave and the legislative progress made in the Build Back Better Act. We are proud to be part of the Paid Leave for All campaign, a powerhouse coalition that leverages policy and research expertise and its grassroots memberships in the fight to make national paid family and medical leave a reality. We lead the National Work and Family Coalition, a diverse group of more than 200 national and State advocacy organizations that advance supportive workplace policies like paid leave nationally and in States across the country. We also participate in the Care Can’t Wait campaign, a national campaign to advance comprehensive care supports to expand access to child care, paid family and medical leave and home- and community-based services while ensuring high-quality jobs for the care workforce.

We have worked at the national, State and local levels to advance different types of paid leave programs. At the Federal level, our recent work has included successfully advocating for the Federal Employee Paid Leave Act (FEPLA), which provided Federal workers with up to 12 weeks of fully paid leave to welcome a new child. We worked closely with members of Congress and partners to secure the inclusion of emergency paid sick leave and paid family leave in the Families First Coronavirus Response Act (FFCRA)—which, although narrow in scope, still helped

¹National Partnership for Women and Families. (2023, February). *Key Facts: The Family and Medical Leave Act*. Retrieved 16 October 2023, from <https://nationalpartnership.org/report/fmla-key-facts/>.

slow the spread of coronavirus and prevented an estimated 15,000 cases per day.² And we worked day and night alongside our partners and legislative champions to shape the comprehensive, universal paid family and medical leave program that passed the House as part of the Build Back Better reconciliation package in November 2021. We also fought for the creation of a State paid leave research fund within the Department of Labor and worked with several States to help them apply for funding and carry out invaluable research that has been foundational to paid leave efforts across the country. Most recently, we successfully advocated for a provision in the CHIPS and Science Act to allow for more flexibility for people working on Federal science grants who have caregiving responsibilities.

At the State level, we are routinely consulted by the dynamic and innovative advocates who have been fighting for—and winning—paid leave in their States. We have testified at State hearings and carried out extensive research on and analysis of the implementation of State paid leave laws, the benefits of paid leave and negative impacts of lack of access to paid leave—and we continue to do so to this day. We also work closely with business partners to discuss best practices, encourage the adoption of supportive leave policies, and elevate business support for a national paid leave law.³

The breadth and depth of our decades-long experience has given us a deep understanding of the evolution of paid leave policy, what works and doesn't work in program design, and what these programs have meant to millions of workers, businesses, local communities and the American economy as a whole. We believe that paid family and medical leave is a core workplace standard that is necessary, long overdue, and essential to strengthening our economy and creating workplaces of the future that maximize the potential of all workers.

I. PAID LEAVE IS ESSENTIAL FOR THE MODERN WORKFORCE—AND ESSENTIAL FOR STRENGTHENING AND GROWING A MODERN ECONOMY

The need for paid leave is urgent—the millions of families across the country who stand to benefit cannot wait, and its positive impacts on the workforce and economy are clear. The pandemic's sudden disruption of our economy was a stark, sobering demonstration that the lack of comprehensive care supports undermines the ability of workers, especially women workers, to find and keep jobs and economically contribute to their families. Learning from the pandemic's lessons requires building a modern, functioning economy that can tap the full potential of all workers, and to do so requires prioritizing access to comprehensive paid leave. Research consistently shows that paid leave is an indispensable tool, enabling people from all backgrounds to better participate in the economy. Ample evidence from existing paid leave programs shows how to successfully implement paid leave to support workers and businesses, and the policies are overwhelmingly popular with workers and the public. Without action, the Nation risks leaving recent economic gains on the table and stalling future progress. The cost of failing to act—for workers, families and the nation—is too high to ignore.

A. *Learning From History: Correcting Discrimination and Valuing Women's Work*

Our Nation's current lack of a comprehensive, nationwide paid family and medical leave program cannot be divorced from our historical context. For much of our Nation's history, women's labor was viewed very narrowly and often seen as less important than the labor performed by men. Women's work was devalued precisely because it was performed by women, reflected in lower wages and fewer opportunities—a legacy that continues to this day. A large body of research demonstrates these gender dynamics, showing how wages decrease for both women and men as women's share of an occupation increases, even after accounting for other relevant factors.⁴ Additionally, women were often limited to certain sectors, such as the do-

²Pichler, S. Wen, K. and Ziebarth, N.R. (2020, October). COVID-19 Emergency Sick Leave Has Helped Flatten the Curve in the United States. *Health Affairs*, 39(12); Mason J. (2022, February). *Lack of Paid Leave Stifles Economic Recovery and Blocks Women's Return to Work*. Retrieved 19 October 2023, from National Partnership for Women and Families website: <https://nationalpartnership.org/wp-content/uploads/2023/02/lack-of-paid-leave-stifles.pdf>. Unfortunately, the emergency COVID leave expired at the end of 2020.

³Businesses Advancing National Paid Leave. (n.d.). *Businesses are advancing the case for national paid leave*. Retrieved 18 October 2023, from <https://advancingpaidleave.org/>.

⁴For more on the historic devaluation of women's labor, see Cohen, P. and Huffman, M. (2003, March). Occupation segregation and the devaluation of women's work across U.S. labor markets. *Social Forces*, 81(3), 881–908.

mestic sphere,⁵ which lacked essential labor protections,⁶ while other, more lucrative opportunities were foreclosed. Outside of the domestic sector, women have generally faced barriers to training, better-paying jobs and accessing diverse roles in the formal labor market.⁷

In addition to gender, the segregation of work along racial and ethnic lines is also deeply rooted in the Nation's history. From the era of slavery into the ensuing decades, Black women, for example, were always expected to work, mostly in service of White families with their own personal caregiving or family needs deprioritized and taking a back seat.⁸ Entrenched racism meant that Black women were confined to domestic and laborer jobs where their opportunities were limited.⁹ While each demographic group has had their own unique experiences in the labor market, many other women of color—Latinas, Asian and Pacific Islander women, and Native women—have also had to navigate the combined effects of race, ethnic, and gender bias that has relegated them to the lowest paying domestic, service, and laborer jobs.¹⁰

Because of these collective attitudes, the term “women’s work” has often involved care work, disproportionately performed by women of color for little or no pay.¹¹ Such work is frequently seen as not having real value even though it is essential to the sustainability and well-being of families. The importance of caregiving as work, both paid and unpaid, has long been ignored and treated as inconsequential, thus it isn’t always quantified or measured or captured by metrics such as the GDP.¹² National Partnership research shows that women spend nearly twice as much time as men providing unpaid care for children, parents, spouses, and other loved ones.¹³ Overall, Americans’ unpaid caregiving—two-thirds of which is done by women—is worth nearly \$1 trillion each year.¹⁴

The perception that caregiving should be largely understood through a framework of women’s responsibilities—and that women’s responsibilities are not considered labor, nor is their participation in a formal labor market valuable or an economic priority—has directly contributed to the undervaluing of caregiving and care work. It helps us understand why certain types of supports have not been prioritized in our public policy landscape. When efforts to begin a paid leave program began more than 100 years ago, women in what might have been considered as the mainstream American workforce were less common, with women of color and unmarried women much more likely to be engaged in work to support their families than white women.¹⁵ Women across the globe banded together to advocate for working protections, lobbying the newly formed International Labor Organization in 1919 to pass an international standard that included 12 weeks of paid maternity leave, but the

⁵Yellen, J. (2020, May). *The history of women’s work and wages and how it has created success for us all*. The Brookings Institution. Retrieved October 19, 2023, from <https://www.brookings.edu/articles/the-history-of-womens-work-and-wages-and-how-it-has-created-success-for-us-all/>.

⁶Henderson, K. (2020, November). *Why Millions of Workers in the U.S. Are Denied Basic Protections*. Oxfam America. Retrieved October 19, 2023, from <https://politicsofpoverty.oxfamamerica.org/why-millions-workers-us-are-denied-basic-protections/>.

⁷See note 5; Banks, N. (2019, February). Black women’s labor market history reveals deep-seated race and gender discrimination. Retrieved 19 October 2023, from Economic Policy Institute website: <https://www.epi.org/blog/black-womens-labor-market-history-reveals-deep-seated-race-and-gender-discrimination/>.

⁸See note 7.

⁹*Ibid.*

¹⁰Frye, J. (2016, October). *The Missing Conversation about Work and Family: Unique Challenges Facing Women of Color*. Center for American Progress Publication. Retrieved 23 October 2023, from <https://cdn.americanprogress.org/wp-content/uploads/2016/09/30124619/WorkAndFamily-WomenOfColor-Oct.pdf>; Mason, J. and Gallagher Robbins, K. (2023, March). *Women’s Work Is Undervalued, and It’s Costing Us Billions*. Retrieved 18 October 2023, from National Partnership for Women and Families website: <https://nationalpartnership.org/wp-content/uploads/2023/04/womens-work-is-undervalued.pdf>.

¹¹See Frye note 10; see note 7; see note 5.

¹²Folbre, M. (2006, July). Measuring Care: Gender, Empowerment, and the Care Economy. *Journal of Human Development*, 7(2), 183–199.

¹³Gallagher Robbins, K., and Mason, J. (2023, August 14). Women’s unpaid caregiving is worth more than \$625 billion—and it could cost more. National Partnership for Women and Families Blog. Retrieved 16 October 2023, from <https://nationalpartnership.org/womens-unpaid-caregiving-worth-more-than-625-billion/>.

¹⁴*Ibid.*

¹⁵Streeter, L.G. (2021, November 10). Paid family leave isn’t a new fight. Here’s a century’s worth of attempts to get something passed. *The Washington Post*. Retrieved 19 October 2023, from <https://www.washingtonpost.com/lifestyle/2021/11/10/paid-family-leave-isnt-new-fight-heres-centurys-worth-attempts-get-something-passed/>; see note 5.

United States did not ratify the convention and remains the only developed Nation without this standard.¹⁶ Even as women in the workplace became more common, especially during World War II,¹⁷ permanent, sustainable policies to support child care and maternity leave remained out of reach. In the 1960s and 1970s, as women's education increased and they entered the formal workplace in droves,¹⁸ they still faced unemployment and discrimination when they become pregnant or need to care for a loved one, impeding women's abilities to achieve economic independence or support themselves and their families.¹⁹ Employers discriminated against women regardless of their family status, denying employment opportunities to those they believed might become pregnant or need time away from work. The FMLA broke new ground to tackle this problem head on—by connecting the dots between the need to create supports for caregiving, and the need to prevent discrimination aimed mostly, but not always, at women because of their caregiving roles. Under the FMLA, the ability to take leave was established as a gender-neutral protection, available to all eligible workers, to help them fulfill their work and family obligations without penalty and avoid discriminatory treatment. This historical context about how women workers and the work that they perform have been perceived is crucial to understand the current public policy landscape—and the obstacles that have influenced certain supports not being prioritized.

B. Current Challenges Facing Workers That Undermine Maximizing Full Participation in the Economy

Much of the current conversation about the economy has focused on low unemployment and tight labor markets, but the challenges that faced certain categories of workers prior to the pandemic—women, workers of color, disabled workers, and workers in low wage jobs—continue to persist.²⁰ And the cost of not acting to address these shortcomings through critical caregiving investments is high.

Barriers to Women's Full Participation in the Economy

Decades of deliberate policy choices to underinvest in necessary caregiving programs, undermining families' abilities to prioritize their caregiving needs, have had enormous impacts on America's women. Women are the unspoken backbone of our Nation's economy. They drive an overwhelming majority of purchases²¹ and control a growing share of the Nation's wealth.²² Women are nearly half the labor force,²³ and are a key source of economic support for their families. Two-thirds of mothers are their family's primary, sole or co-breadwinners.²⁴ These numbers are even higher for many mothers of color, with Black mothers occupying the highest share—an estimated 85 percent of Black mothers are primary, sole or co-breadwinners for their families.²⁵ Yet, women continue to face numerous barriers to full participation

¹⁶ Siegel, M. (2019, November 29). The Forgotten Origins of Paid Family Leave. *The New York Times*. Retrieved 19 October 2023, from <https://www.nytimes.com/2019/11/29/opinion/mothers-paid-family-leave.html>.

¹⁷ See note 5.

¹⁸ For a history of women's participation in the formal labor market in the United States, see Goldin C. The U-Shaped Female Labor Force Function in Economic Development and Economic History. In Schultz, T.P. (Ed). (1995). *Investment in Women's Human Capital and Economic Development*. Chicago, IL: University of Chicago Press. Goldin's research is part of her Nobel Prize-winning record of scholarship.

¹⁹ Molnar, C. (2005). "Has the Millennium Yet Dawned?": A History of Attitudes Toward Pregnant Workers in America. *Michigan Journal of Gender and Law*. 12(1), 163–187.

²⁰ Harring, A. (2023, February 3). Black women are gaining group in the labor market but still face unique barriers. CNBC. Retrieved 23 October 2023, from <https://www.cnbc.com/2023/02/03/black-women-are-gaining-ground-in-the-labor-market-but-still-face-unique-barriers.html>.

²¹ Numerator. (2023, March). *Breaking Stereotypes: The Women Driving Sales in Male-Centric Categories*. Retrieved 19 October 2023, from <https://www.numerator.com/resources/report/breaking-stereotypes>.

²² Baghai, P., Howard, O., Prakash, L., and Zucker, J. (2020, July). *Women as the next wave of growth in U.S. wealth management*. Retrieved 19 October 2023, from McKinsey and Company website: <https://www.mckinsey.com/industries/financial-services/our-insights/women-as-the-next-wave-of-growth-in-us-wealth-management>.

²³ U.S. Bureau of Labor Statistics. (n.d.). Table A–1. Employment status of the civilian population by sex and age. Retrieved 19 October 2023, from <https://www.bls.gov/news.release/empstat.t01.htm>. In September 2023 women workers were 46.8 percent of the Nation's labor force.

²⁴ Glynn, S.J. (2021, March). *Breadwinning Mothers Are Critical to Families' Economic Security*. Retrieved 23 October 2023, from Center for American Progress website: <https://www.americanprogress.org/article/breadwinning-mothers-critical-families-economic-security/>.

²⁵ *Ibid.*

in today's economy, including discrimination and harassment²⁶ that too often goes unchecked²⁷ and insufficient caregiving supports, even while they continue to do the majority of paid and unpaid caregiving.²⁸ The result is that these forces push many women out of the labor force altogether—as we saw so clearly when the pandemic hit.²⁹ Even when they are able to hold jobs, that work is often undervalued and underpaid. The failure to support women's full participation in the economy comes at a cost to both families and the economy—and paid leave is an essential part of the solution.

Despite the fact that women are disproportionately likely to need paid leave, they are less likely than men to be able to take leave when they need it.³⁰ They are also more likely than men to take leave without full pay or to take unpaid leave.³¹ In part due to a large gender wage gap,³² women are also more likely to report financial distress when taking leave without full pay, with three-quarters of women saying it is much more difficult to make ends meet when on leave.³³ Single women are especially likely to confront challenges when taking leave: more than half report going without pay, and 15 percent report losing a job as a result of taking leave.³⁴

A Lack of Paid Leave Disproportionately Impacts Workers of Color

While paid leave is needed for all families across the country, regardless of race, gender, or ethnicity, we know that both the devaluation of care and the lack of guaranteed paid leave has disproportionate impacts on women of color, especially Black women and Latinas.³⁵ The inadequate access to paid leave for women and communities of color compounds other racial injustices including the racial wealth gap, maternal morbidity and mortality, inequitable access to health care and discriminatory experiences with health-care providers.³⁶ Inadequate paid leave policies cost Black women and their families nearly \$4 billion a year in lost wages,³⁷ a loss that is especially challenging because Black women also face a large gender wage gap.³⁸ Despite their caregiving commitments, surveys find that Black and Latino workers are less able to take leave when they need it.³⁹ In fact, Black women report being unable to take leave 38 percent of the time they need it, resulting in 1.1 million untaken leaves.⁴⁰ And even when they do take leave, they are often forced to do so without pay. On top of the Black women who are unable to take any leave at

²⁶Parker, K., and Funk, C. (2017, December). *Gender discrimination comes in many forms for today's working women*. Retrieved 19 October 2023, from Pew Research Center website: <https://www.pewresearch.org/short-reads/2017/12/14/gender-discrimination-comes-in-many-forms-for-todays-working-women>.

²⁷SteelFisher, G.K., Findling, M.G., Bleich, S.N., Casey, L.S., Blendon, R.J., Benson, J.M., Sayde, J.M., and Miller, C. (2019, October). Gender discrimination in the United States: Experiences of women. *Health Services Research*, 54(2), 1442–1453.

²⁸See note 13.

²⁹Bipartisan Policy Center. (2020, October 28). *New Survey: Facing Caregiving Challenges, Women Leaving the Workforce at Unprecedented Rates*. [Blog post]. Retrieved 18 October 2023, from <https://bipartisanpolicy.org/blog/facing-caregiving-challenges/>.

³⁰Herr, J., Roy, R., and Klerman, J.A. (2020, November). *Gender Differences in Needing and Taking Leave*. Retrieved 19 October 2023, from the U.S. Department of Labor website: https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHd_FMLAGenderShortPaper_January2021.pdf.

³¹*Ibid.*

³²National Partnership for Women and Families. (September 2023). *Quantifying America's Gender Wage Gap by Race/Ethnicity*. Retrieved 19 October 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/02/quantifying-americas-gender-wage-gap.pdf>.

³³See note 30.

³⁴Among partnered women who took a leave, 33 percent reported receiving no pay at all, and 3 percent reported losing a job. See note 30 (*Exhibits 11 and 13*).

³⁵See note 13; Milli, J., Frye, J., and Buchanan, M.J. (2022, March). Black Women Need Access to Paid Family and Medical Leave. Retrieved 19 October 2023, from Center for American Progress website: <https://www.americanprogress.org/article/black-women-need-access-to-paid-family-and-medical-leave/>.

³⁶National Partnership for Women and Families. (August 2018). *Paid Family and Medical Leave: A Racial Justice Issue—And Opportunity*. Retrieved 19 October 2023, from <https://nationalpartnership.org/report/paid-family-and-medical-leave-a-racial-justice-issue-and-opportunity/>.

³⁷See note 35.

³⁸See note 32.

³⁹Horowitz, J., Parker, K., Graf, N., and Livingston, G. (2017, March). *Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies*. Retrieved 19 October 2023, from Pew Research Center website: <https://assets.pewresearch.org/wp-content/uploads/sites/3/2017/03/22152556/Paid-Leave-Report-3-17-17-FINAL.pdf>.

⁴⁰See Milli, Frye, and Buchanan note 35.

all, more than one-quarter (26 percent) of leaves taken by Black women are taken without pay, reducing their and their families' economic security.⁴¹

A Lack of Paid Leave Disproportionately Impacts Disabled Workers

Paid leave is also critical for disabled women workers. Research by the Center for American Progress shows that 16 percent of workers who took FMLA leave did so to address an ongoing health condition, many of which may be disabilities such as chronic migraines, diabetes or multiple sclerosis.⁴² Women workers and Black workers were particularly likely to need this type of leave.⁴³ Though disabled workers may be especially likely to need paid leave to take care of their own health, they report less access to paid leave than nondisabled workers.⁴⁴ This is in part because disabled people are more likely to work in low-wage jobs, which are less likely to offer paid leave.⁴⁵ Disabled workers also need leave to provide care to their family or loved ones. Nearly three out of 10 workers (29 percent) who took leave for an ongoing health condition were also caring for children under 18,⁴⁶ and, similar to LGBTQ+ workers, disabled workers are especially likely to need leave to support their chosen family.⁴⁷ For disabled workers—who have less income and savings to rely on, face significant health disparities, and are more likely to be in poverty⁴⁸—a lack of paid leave compounds existing inequities.

A Lack of Paid Leave Disproportionately Impacts Low-Wage Workers

Low-wage workers and those in service occupations especially lack access to paid leave. Bureau of Labor Statistics data for 2023 shows that workers in management and professional occupations have twice as much access to employer-provided paid family leave (39 percent), than service workers (16 percent).⁴⁹ The gap between the highest-paid workers (48 percent) and lowest-paid (6 percent) is even more stark, with the highest paid workers eight times more likely to have employer-provided paid leave than those with the lowest wages.⁵⁰ While these data are not broken down by gender, National Partnership research demonstrates that women, especially women of color and disabled women, are especially likely to hold low-wage and service sector occupations.⁵¹ Low-wage workers are the least likely to be able to take unpaid leave even if they are eligible,⁵² making paid leave particularly critical for these workers.

The Cost of Inaction on Paid Leave Is High

Failure to act on paid leave and other caregiving policies has tremendous consequences for families and the economy. As women's labor force participation in the United States continues to lag behind other comparable nations, we leave billions

⁴¹ *Ibid.*

⁴² Boesch, D., and Cokley, R. (2020, October). *The Disability Community Needs Paid Family and Medical Leave*. Retrieved 19 October 2023, from Center for American Progress website: <https://www.americanprogress.org/article/disability-community-needs-paid-family-medical-leave/>.

⁴³ *Ibid.*

⁴⁴ U.S. Department of Labor, Office of Disability Employment Policy. (2021, December). *Access to Paid Leave for Family and Medical Reasons Among Workers with Disabilities* (p. 5). Retrieved 19 October 2023, from <https://www.dol.gov/sites/dolgov/files/ODEP/pdf/Access-To-Paid-Leave-For-Family-And-Medical-Reasons-Among-People-With-Disabilities.pdf>.

⁴⁵ Ditkowsky, M. (2023, July). *Systems Transformation Guide to Disability Economic Justice: Jobs and Employment*. Retrieved 19 October 2023, from National Partnership for Women and Families website: <https://nationalpartnership.org/wp-content/uploads/systems-transformation-guide-disability-economic-justice-jobs-employment.pdf>; Mason, J. (2023, September 21). *When We Fight, We Win—Paid Sick Days and Paid Family Leave*. National Partnership for Women and Families Blog. Retrieved 19 October 2023, from <https://nationalpartnership.org/when-we-fight-we-win-paid-sick-days-and-paid-family-leave/>.

⁴⁶ See note 42.

⁴⁷ Gallagher Robbins, K., Durso, L.E., and Bewkes, F.J. (2017, October 30). *People Need Paid Leave Policies That Cover Chosen Family*. Retrieved 19 October 2023, from Center for American Progress website: <https://www.americanprogress.org/article/people-need-paid-leave-policies-that-cover-chosen-family/>.

⁴⁸ See Ditkowsky note 45.

⁴⁹ U.S. Bureau of Labor Statistics. (2023, September). *National Compensation Survey: Employee Benefits in the United States, March 2023* (Excel tables, Leave, Civilian workers). Retrieved 19 October 2023, from <https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm>.

⁵⁰ See Mason note 45.

⁵¹ See Mason and Gallagher Robbins note 10.

⁵² Brown, S., Herr, J., Roy, R., and Klerman, J.A. (2020, July). *Employee and Worksite Perspectives of the Family and Medical Leave Act: Supplemental Results from the 2018 Surveys* (p. 41). Retrieved 19 October 2023, from Department of Labor website: https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018SurveyResults_Appendices_Aug2020.pdf.

of dollars on the table each year.⁵³ In fact, the gap between prime-age women's labor force participation in the United States compared to Canada, Germany, and the U.K. cost the U.S. economy more than \$3 trillion over a 5 year period.⁵⁴ And research from the Center for American Progress shows that even before recent increases in inflation workers were losing more than \$22.5 billion in wages each year due to a lack of paid leave—and the majority of this loss is borne by women workers.⁵⁵

C. Investing in Paid Family and Medical Leave Can Help Address Problems Facing Workers, Workplaces, and Employers

Research proves that the benefits of paid leave are substantial, supporting all workers and the economy overall.

Paid Leave Supports Workers Caring for Older Adults Amidst Demographic Changes

As the U.S. population ages, the need for paid leave to support family caregivers is already acute and only growing more urgent. Right now, about one in five Americans is providing unpaid care to an older or disabled adult,⁵⁶ and these caregivers are disproportionately women.⁵⁷ The need for caregivers is certain to grow in the coming years, as by 2040 the population of adults 65 and older is expected to grow more than 40 percent compared to its 2020 level, reaching more than 80 million people.⁵⁸ About 6 in 10 family caregivers are also in the workforce,⁵⁹ all too often struggling to manage both their caregiving responsibilities and their jobs. One in seven caregivers has had to cut back their hours at work as a result of caregiving, 6 percent report giving up working and five percent report retiring early.⁶⁰ These job impacts undermine caregivers' long-term financial security: men over the age of 50 who leave the workforce to provide care for a parent lose, on average, nearly \$284,000 in earnings and retirement savings—and women, \$324,000.⁶¹ For women of color, that lost income further compounds wage and wealth gaps.

When a lack of support drives caregivers out of the workforce, employers lose talented, experienced employees and our economy suffers. Health and caregiving reasons are main factors behind why nearly 20 percent of prime-age adults are out of the labor force.⁶² But among those who are out of the labor force due to family care, about half say that they would have kept working in their last job if they had had paid family leave.⁶³ And in fact, State paid leave programs have been shown to improve the labor force participation of unpaid family caregivers.⁶⁴ Investments in paid leave are an essential piece of adapting our economy to demographic change.

⁵³Novello, A. (2021, July). *The Cost of Inaction: How a Lack of Family Care Policies Burdens the U.S. Economy and Families*. Retrieved 19 October 2023, from National Partnership for Women and Families website: <https://nationalpartnership.org/wp-content/uploads/2023/02/cost-of-inaction-lack-of-family-care-burdens-families.pdf>.

⁵⁴*Ibid.*

⁵⁵Glynn, S.J. (2020, January). *The Rising Cost of Inaction on Work-Family Policies*. Center for American Progress Publication. Retrieved 23 October 2023, from <https://www.americanprogress.org/issues/women/news/2020/01/21/479555/rising-cost-inaction-work-family-policies/>.

⁵⁶National Alliance for Caregiving and AARP. (2020, May). *Caregiving in the U.S. 2020* (Figure 2). National Alliance for Caregiving and AARP Public Policy Institute Publication. Retrieved 19 October 2023, from <https://www.aarp.org/content/dam/aarp/ppi/2020/05/full-report-caregiving-in-the-united-states.doi.10.26419-2Fppi.00103.001.pdf>.

⁵⁷*Ibid.*

⁵⁸Vespa, J., Medina, L., and Armstrong, D.M. (2020, February). *Demographic Turning Points for the United States: Population Projections for 2020 to 2060*. U.S. Census Bureau Publication. Retrieved 17 October 2023, from <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p25-1144.pdf>.

⁵⁹See note 56.

⁶⁰*Ibid.*

⁶¹MetLife Mature Market Institute. (2011, June). *The MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents* (p. 14). Retrieved 19 October 2023, from <https://www.caregiving.org/wp-content/uploads/2011/06/mmi-caregiving-costs-working-caregivers.pdf>.

⁶²Gitis, B., and Wielk, E. (2023, September 1). *Barriers to Work: A Recent BPC-Artemis Survey of Non-working Americans and the Need for Paid Family and Medical Leave*. Bipartisan Policy Center Publication. Retrieved 19 October 2023, from <https://bipartisanpolicy.org/report/bpc-artemis-survey/>.

⁶³*Ibid.*

⁶⁴Saad-Lessler, J. (2020, October). How does paid family leave affect unpaid care providers? *The Journal of the Economics of Ageing*, 17, 100265. doi: <https://doi.org/10.1016/j.jjeoa.2020.100265>; Anand, P., Dague, L., and Wagner, K.L. (2022, May). The role of paid family leave in labor supply responses to a spouse's disability or health shock. *Journal of Health Economics*, 83, 203632. doi: 10.1016/j.jhealeco.2022.102621.

Paid Leave Programs Benefit Workers' Health and Economic Security

Supporting workers' caregiving and health needs through paid leave has tremendous positive impacts for individuals and families. Numerous studies now show that paid leave programs go a long way to redress long standing inequities for workers, especially women of color. Paid leave programs increase the time new mothers take to bond with new children and recover from birth,⁶⁵ and reduce the incidence of low birth weight and preterm births⁶⁶—with both benefits especially pronounced for Black mothers. Research also links State paid leave programs to improved physical⁶⁷ and mental health for new mothers, including lower postpartum distress,⁶⁸ improved on-time vaccination rates,⁶⁹ greater initiation and duration of breastfeeding,⁷⁰ fewer infant hospitalizations⁷¹ and more. Paid leave increases new fathers' leave-taking,⁷² which supports greater involvement in parenting,⁷³ including for nonresident fathers.⁷⁴ And paid leave for parents supports economic security as well as health; research on the Nation's longest-running paid leave program in California shows increases in income and decreases in poverty as a result of paid leave.⁷⁵

The health and economic effects of paid leave are not limited to parental leave. Only about one in five FMLA claims are taken for a new child; the majority of leaves are taken to address one's own illness or serious health condition.⁷⁶ Research on service and retail workers—a group of workers who are especially likely to lack access to paid leave—demonstrates clear impact. When these workers took paid leave, as compared to unpaid leave, for a new child or to address their own or a loved one's health concern, they were significantly less likely to have difficulty making ends meet or experience hunger and significantly more likely to report happiness and quality sleep.⁷⁷ Paid leave has even been shown to reduce elder nursing home utilization,⁷⁸ which can benefit those adults' health (for example, by lessening

⁶⁵ Rossin-Slater, M., Ruhm, C., and Waldfogel, J. (2013). The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes. *Journal of Policy Analysis and Management*, 32(2), 224–245. doi: 10.1002/pam.21676.

⁶⁶ Stearns, J. (2015, September). The effects of paid maternity leave: Evidence from Temporary Disability Insurance. *Journal of Health Economics*, 43, 85–102. doi: 10.1016/j.jhealeco.2015.04.005.

⁶⁷ Pal, I. (2016). Work, Family and Social Policy in the United States—Implications for Women's Wages and Well-being. Doctoral thesis, Columbia University. Retrieved 19 October 2023, from <https://academiccommons.columbia.edu/doi/10.7916/D87W6C74>.

⁶⁸ Doran, E.L., Bartel, A.P., Ruhm, C.J., and Waldfogel, J. (2020, July). California's paid family leave law improves maternal psychological health. *Social Science & Medicine*, 256, 113003. doi: 10.1016/j.socscimed.2020.113003.

⁶⁹ Choudhury, A.R., and Polachek, S.W. (2019, July). The Impact of Paid Family Leave on the Timing of Infant Vaccinations. I. Z. A. Institute of Labor Economics, No. 12483. Retrieved 19 October 2023, from <http://ftp.iza.org/dp12483.pdf>.

⁷⁰ Pac, J., Bartel, A., Ruhm, C., and Waldfogel, J. (2023, December). Paid family leave and parental investments in infant health: Evidence from California. *Economics and Human Biology*, 51. doi: 10.1016/j.ehb.2023.101308. See also Hamad, R., Modrek, S., and White, J.S. (2019, January). Paid Family Leave Effects on Breastfeeding: A Quasi-Experimental Study of U.S. Policies. *American Journal of Public Health*, 109(1): 164–166. doi: 10.2105/AJPH.2018.304693.

⁷¹ Pihl, A.M., and Basso, G. (2019). Did California Paid Family Leave Impact Infant Health? *Journal of Policy Analysis and Management*, 38(1), 155–180. doi: 10.1002/pam.22101; Kleven, J., Luo, F., Xu, L., Peterson, C., and Latzman, N. (2016). Paid family leave's effect on hospital admissions for pediatric abusive head trauma. *Injury Prevention*, 22, 442–445. doi: 10.1136/injuryprev-2015-041702.

⁷² Bartel, A.P., Rossin-Slater, M., Ruhm, J., Stearns, J., and Waldfogel, J. (2018). Paid Family Leave, Fathers' Leave-Taking, and Leave-Sharing in Dual-Earner Households. *Journal of Policy Analysis and Management*, 37(1), 10–37. doi: 10.1002/pam.22030.

⁷³ Petts, R.J., Knoester, C., and Waldfogel, J. (2020). Fathers' Paternity Leave-Taking and Children's Perceptions of Father-Child Relationships in the United States. *Sex Roles*, 82, 173–188. doi:10.1007/s11199-019-01050-y.

⁷⁴ Pilkauskas, N.V., and Schneider, W.J. (2020, October). Father Involvement Among Non-resident Dads: Does Paternity Leave Matter? *Journal of Marriage and Family*, 82(5), 1606–1624. doi: 10.1111/jomf.12677.

⁷⁵ Romig, K., and Bryant, K. (2021, April). *A National Paid Leave Program Would Help Workers, Families*. Retrieved 20 October 2023, from Center on Budget and Policy Priorities website: <https://www.cbpp.org/research/economy/a-national-paid-leave-program-would-help-workers-families>.

⁷⁶ See note 1.

⁷⁷ Goodman, J., and Schneider, D. (2021, November). The association of paid medical and caregiving leave with the economic security and well-being of service sector workers. *BC Public Health*, 21. doi: 10.1186/s12889-021-11999-9.

⁷⁸ Arora, K., and Wolf, D.A. (2017, November). Does Paid Family Leave Reduce Nursing Home Use? The California Experience. *Journal of Policy Analysis and Management*, 37(1), 38–62. doi: 10.1002/pam.22038.

exposure to infections common in congregate settings), improve staffing ratios for those patients who remain in institutional care and keep more older adults in their homes and communities.

Paid Leave Is a Win-Win for Businesses and Workers Alike

State paid leave programs are also feasible and workable for businesses, including small businesses, and employers even accrue benefits to retention, productivity and morale. Recruiting and training new employees is costly, averaging 24 percent and up to 150 percent of annual wages in certain industries,⁷⁹ and research shows paid leave decreases turnover and increases the likelihood new mothers and low-wage workers return to their previous jobs.⁸⁰ Firm-level analysis of employers in California before and after paid family leave was implemented confirmed that for the average firm, wage costs had not increased and turnover rates had decreased.⁸¹ Research in California also found that for workers in lower quality jobs who needed time off, the share who reported returning to their same employer was nearly 10 percentage points higher among those who used the State paid leave program compared to those who did not⁸²—a major benefit to employers in a tight labor market where replacing workers can be challenging. And employers cite increases in employee morale, with an executive from Deloitte (a corporation with locations in numerous paid leave program States)⁸³ testifying before a Senate Finance subcommittee that, “[our] expanded leave program has had a profound impact on our people, and the realized benefits have far outstripped concerns about operational disruption from expanded leave.”⁸⁴

Employer profitability and employee performance also improve with paid leave. A study found that after implementing their own paid leave policies, manufacturing companies saw a \$2.57 return for every \$1.00 invested in their workforce, on average, and tech companies a \$2.64 return per \$1.00 invested.⁸⁵ A study conducted for the New Jersey Business and Industry Association found that after the State’s paid leave program was implemented, the majority of businesses experienced no negative impact on profitability or performance, and that “[r]egardless of business size, based on survey results, New Jersey businesses have had little trouble adjusting to requirements of the Paid Family Leave law.”⁸⁶ A study of New York State firms with fewer than 100 employees found the majority were supportive of the paid family leave program, and that it led to an increase in employers’ ease of handling long employee absences.⁸⁷

Paid Leave Strengthens the Economy and Women’s Labor Force Participation

Paid leave is hugely important to the Nation’s economy. A lack of paid leave can have devastating impacts, but when access to paid leave increases, our economy sees significant benefits. After a steep decline in women’s labor force participation

⁷⁹ Bahn, K., and Sanchez Cumming, C. (2020, December). *Improving U.S. labor standards and the quality of jobs to reduce the costs of employee turnover to U.S. companies* (p. 4). Retrieved 20 October 2023, from Washington Center for Equitable Growth website: <https://equitablegrowth.org/wp-content/uploads/2020/12/122120-turnover-costs-ib.pdf>.

⁸⁰ National Partnership for Women and Families. (2023, October). *Paid Leave Is Good for Business*. Retrieved 20 October 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>.

⁸¹ Bedard, K., and Rossin-Slater, M. (2016, October 13). *The Economic and Social Impacts of Paid Family Leave in California: Report for the California Employment Development Department*. Retrieved 20 October 2023, from https://edd.ca.gov/siteassets/files/disability/pdf/PFL_Economic_and_Social_Impact_Study.pdf.

⁸² Appelbaum, E., and Milkman, R. (2011). *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California*. Center for Economic and Policy Research Publication. Retrieved 20 October 2023, from <https://www.cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

⁸³ Deloitte. (n.d.) Our offices. Retrieved 20 October 2023, from <https://www2.deloitte.com/us/en/footerlinks/office-locator.html>.

⁸⁴ Examining the Importance of Paid Family Leave for American Working Families: Hearings before the Subcommittee on Social Security, Pensions and Family Policy, 115th Cong. (2018) (testimony of Carolyn O’Boyle).

⁸⁵ Panorama and American Sustainable Business Council. (2019, October). *The Business Impacts of Paid Leave: A financial analysis of the return on investment of paid family and medical leave*. Retrieved 20 October 2023, from https://assets-global.websitefiles.com/62448c65f2a3dc7ae94193bd/62448c65f2a3dc0f7a4195a2_Business-impacts-of-paid-leave-A-Panorama-report.pdf.

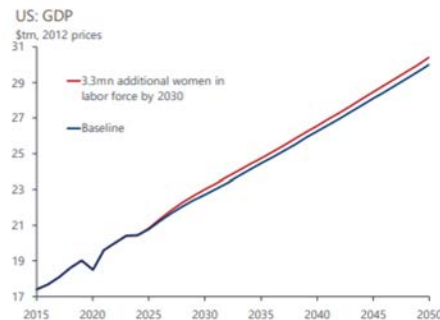
⁸⁶ Ramirez, M. (2012). New Jersey Business and Industry Association: *The Impact of Paid Family Leave on New Jersey Businesses*. Retrieved 20 October 2023, from <https://bloustein.rutgers.edu/wp-content/uploads/2012/03/Ramirez.pdf>.

⁸⁷ Bartel, A., Rossin-Slater, M., Ruhm, C.J., Slopen, M., and Waldfogel, J. (2021, April). *The Impact of Paid Family Leave on Employers: Evidence from New York*. NBER Working Paper 28672. Retrieved 17 October 2023, from <https://www.nber.org/papers/w28672>.

in the early days of COVID—largely due to increased caregiving responsibilities with few initial supports—prime-age women’s labor force participation has recovered significantly, with nearly 78 percent of U.S. women ages 25–54 in the labor market.⁸⁸ This recovery has been driven in large part by policies to support caregiving such as paid leave, investments in child care and home- and community-based services, and flexible work arrangements (such as hybrid work), the prevalence of which increased during the pandemic as States, companies and the Nation adopted more supportive workplace policies.⁸⁹ These trends make clear that paid leave and other caregiving supports are essential for the Nation’s resiliency and these important investments must continue.

The labor force participation recovery that was created in large part by these policies followed years of stagnant rates and policy inaction that left the United States falling farther and farther behind comparable economies.⁹⁰ Even now, those recent gains still leave women in the United States behind global peers in terms of labor force participation. Now, however, we could be poised to close the gap. In fact, if current trends in women’s labor force participation continue, economists estimate that prime-age women’s labor force participation may finally catch up to that in comparable advanced economies within 5 years, adding an estimated 3.3 million women to the U.S. workforce by the end of the decade.⁹¹ Increasing the number of women in the labor force would ensure there are more workers to fill jobs essential to our economy like health care, infrastructure, and more. It would also boost the Nation’s GDP. Economists estimate that adding 3.3 million women to the workforce will result in a nearly one percent increase in GDP over 5 years.⁹² But this is dependent on women’s continued access to supportive policies like paid leave.

Chart 4: Higher female participation would be a medium-term boost



Source: Oxford Economics/Haver Analytics

⁸⁸ The labor force participation rate for U.S. women ages 25–54 declined from 77.0 percent in February 2020 to 73.5 percent in April of the same year. It hit an all-time U.S. high of 77.8 percent in June 2023, still several points behind comparable rates in peer countries like Canada, Germany, and the United Kingdom. U.S. Bureau of Labor Statistics. (n.d.). *Labor Force Statistics from the Current Population Survey (Series ID: LNS11300062 Civilian labor force participation rate, seasonally adjusted)*. Retrieved 20 October 2023, from <https://data.bls.gov/PDQWeb/ln>; see note 29; Pearce, M. (2023, October). *Surge in female labor force participation a key upside risk*. Retrieved 20 October 2023, from Oxford Economics website: <https://www.oxfordeconomics.com/wp-content/uploads/2023/10/US-Surge-in-female-labor-force-participation-a-key-upside-risk.pdf>.

⁸⁹ See Pearce note 88.

⁹⁰ OECD Stats. (n.d.) *LFS by sex and age—indicators*. Retrieved October 20, 2023, from: https://stats.oecd.org/Index.aspx?DataSetCode=lfs_sexage_i_r. Differences in State policies in the U.S. also produced variation in mothers’ labor force participation, with stronger State paid leave and child care policies associated with smaller employment gaps for mothers. See Duran-Franch, J., and Regmi, I. (2022, August). *Family-Friendly Policies and the Motherhood Employment Gap during the COVID–19 Recovery*. Retrieved 20 October 2023, from Roosevelt Institute website: https://rooseveltinstitute.org/wp-content/uploads/2022/08/RI_FamilyFriendlyPolicies_IssueBrief_202208.pdf.

⁹¹ See Pearce note 88. Comparison is to the average rate in other G7 nations.

⁹² *Ibid.*

This opportunity for women's increased workforce participation comes at a critical time in our economy's history. Inflation is substantially higher now than just a few years ago,⁹³ making it harder for women and families to put food on the table, pay rent or afford the goods and services that are the backbones of local economies.⁹⁴ And while inflation has come down from its peak,⁹⁵ the Federal Reserve continues to signal the potential for additional interest rate increases,⁹⁶ despite the fact that inflation has not been primarily driven by wages.⁹⁷ Researchers estimate that increasing women's labor force participation will improve our chances of a "soft landing," which would combine increased GDP with reduced inflation.⁹⁸ This, in turn, would likely lead to lower interest rates, reducing borrowing costs, supporting the housing market and stimulating the economy writ large.⁹⁹

Economists fear that these positive trends may not last without action.¹⁰⁰ Yet despite the overwhelming evidence in favor of paid leave, access to this critical economic support remains uncertain for tens of millions of workers across the country, and for the businesses needing to attract and retain them. While States have continued to advance paid leave policies, including two new States in 2023 alone,¹⁰¹ large swathes of the country continue to be left out without Federal action, and American Rescue Plan funding for child care has expired, creating a cliff that will leave many families without affordable access to child care.¹⁰² With women's partial, precarious economic gains in jeopardy, now is the time for Congress to act. That's why it's so encouraging to see the members of this committee prioritizing the issue of paid leave through today's hearing.

II. PAID LEAVE MUST BE UNIVERSAL AND COMPREHENSIVE TO MEET WORKERS' NEEDS

Creating strong supports to ensure that all workers can navigate their work and family responsibilities without jeopardizing their jobs or their economic security is essential. The FMLA was a groundbreaking first step, establishing as a baseline principle protections allowing workers to take time off for caregiving or self-care. But the limitations of the law have always meant that additional action would be needed to close gaps and help as many workers as possible. Although the FMLA has benefited millions of workers, many workers are not able to make use of the FMLA's protections because of the law's eligibility criteria, and due to the fact that many workers cannot afford to take unpaid leave. Only 56 percent of the overall workforce, including part-time workers, is eligible for the FMLA,¹⁰³ only 39 percent

⁹³Smialek, J. (2023, October 12). Inflation Slowdown Remains Bumpy, September Consumer Price Data Shows. *The New York Times*. Retrieved 20 October 2023, from <https://www.nytimes.com/2023/10/12/business/inflation-cpi-report-september.html>.

⁹⁴Kearl, M. (2023, August 21). *Top Effects of Inflation on Consumer Behavior: 2023 Inflation Trends*. Medallia Blog. Retrieved 20 October 2023, from <https://www.medallia.com/blog/inflation-effects-consumer-behavior-data-trends/>.

⁹⁵See note 93.

⁹⁶Cox, J. (2023, October 11). Fed officials see "restrictive" policy staying in place until inflation eases, minutes show. CNBC. Retrieved 20 October 2023, from <https://www.cnbc.com/2023/10/11/fed-minutes-october-2023.html>.

⁹⁷Shapiro, A.H. (2023, May). *How Much Do Labor Costs Drive Inflation?* Retrieved 20 October 2023, from Federal Reserve Bank of San Francisco website: <https://www.frbsf.org/economic-research/publications/economic-letter/2023/may/how-much-do-labor-costs-drive-inflation/>; Weber, I.M., and Wasner, E. (2023). Sellers' inflation, profits and conflict: Why can large firms hike prices in an emergency?. *Review of Keynesian Economics*, 11(2), 183–213 doi:10.4337/roke.2023.02.05.

⁹⁸See Pearce note 88; see also Gallagher Robbins, K. (2022, June 30). Investing in Caregiving: An Equitable Way to Reduce Inflation. *U.S. News & World Report*. Retrieved 20 October 2023, from <https://www.usnews.com/news/health-news/articles/2022-06-30/investing-in-caregiving-an-equitable-way-to-reduce-inflation>.

⁹⁹Kliesen, K. (2010, October). *Low Interest Rates Have Benefits . . . and Costs*. Retrieved 20 October 2023, from Federal Reserve Bank of St. Louis website: <https://www.stlouisfed.org/publications/regional-economist/october-2010/low-interest-rates-have-benefits-and-costs>.

¹⁰⁰See Pearce note 88.

¹⁰¹National Partnership for Women and Families. (September 2023). *State Paid Family & Medical Leave Insurance Laws*. Retrieved 20 October 2023, from <https://national-partnership.org/wp-content/uploads/2023/02/state-paid-family-leave-laws.pdf>.

¹⁰²Quinlan, C. (2023, September 30). Women workers could bear economic brunt as Federal child care funding ends. *Kansas Reflector*. Retrieved 20 October 2023, from <https://kansasreflector.com/2023/09/30/women-workers-could-bear-economic-brunt-as-federal-child-care-funding-ends/>; Kashen, J., Valle Gutierrez, L., Woods, L., and Milli, J. (2023, June). *Child Care Cliff: 3.2 Million Children Likely to Lose Spots with End of Federal Funds*. Retrieved 20 October 2023, from The Century Foundation website: <https://tcf.org/content/report/child-care-cliff/>.

¹⁰³Figure includes both the public and private sector workforce. See note 1.

is both eligible for the FMLA and can afford to take 6 weeks of unpaid leave,¹⁰⁴ and only 35 percent can afford to take 12 weeks unpaid leave without financial distress.¹⁰⁵

Paid leave policy experts understand that an equitable paid leave program must be universal: covering all workers, including part-time, hourly and temporary workers; and covering all employers, with mandatory coverage and inclusive of small businesses. It also must be comprehensive, covering the wide range of medical and caregiving needs of families, including but not limited to parental leave, leave for one's own serious health condition, and the serious health condition of a loved one, including chosen family members. The benefits themselves must be meaningful, in a duration and amount sufficient for low-wage workers to meet their needs; they must be secure, by protecting workers from being penalized or losing job opportunities for taking leave; and they must be funded sustainably.

The public support and demand for paid leave has helped to fuel a national conversation about paid leave that has continued to grow in profile, especially during and in the ongoing aftermath of the COVID-19 pandemic. This increased attention has led to many different ideas about how best to design a paid family and medical leave program that meets the needs of workers and families. Importantly, there is more and more research about what works and what does not—learning from a growing number of State-based programs, along with data from other private sector and international efforts. While the increased interest in paid leave is an important step forward, it is crucial to build programs that actually solve—and don't ignore or exacerbate—the problems that workers are navigating. Accordingly, we believe proposals that, for example, do not cover all workers, do not allow workers to take different types of caregiving leave, or do not give workers an actual right to take leave are not the right approach. There are essential elements that must be foundational features of an effective paid family and medical leave programs that meet the current needs of workers.

A. *Paid Leave Must Be Universal and Guaranteed*

The evidence from 30 years of the Family and Medical Leave Act and 20 years of State paid leave programs makes it clear that a comprehensive program has to cover the vast majority of the workforce and be guaranteed. The most effective State strategies have sought to cover as many workers as possible with less cumbersome eligibility criteria—and to ensure that they have the right to an adequate amount of leave for family and self-care reasons.

A lack of universal paid leave to cover all workers and all employers has resulted in heavily lopsided access along existing lines of social and economic inequality. For example, 65 percent of the highest paid workers—those in the top 10 percent of wage earners—receive disability insurance through their employers, making them over six times more likely to have this benefit than the lowest paid workers (10 percent).¹⁰⁶ Workers in managerial and professional jobs are more than twice as likely (52 percent) to have access to these benefits than service workers (23 percent).¹⁰⁷ Forty-seven percent of full-time workers have access compared to 21 percent of part-time workers.¹⁰⁸ Although the data does not break out access by gender or race and ethnicity, occupational segregation means that women of color and disabled women are disproportionately more likely to work in low-paid service jobs,¹⁰⁹ and women

¹⁰⁴ Affordability is defined as being able to take unpaid leave for the 6 weeks without income falling below 200 percent of the Federal poverty line. Joshi, P., Walters, A.N., Wong, E., Shafer, L., and Acevedo-Garcia, D. (2023, March). *Inequitable Access to FMLA Continues*. Retrieved 18 October 2023, from Diversity Data Kids website: <https://www.diversitydatakids.org/research-library/data-visualization/inequitable-access-fmla-continues>.

¹⁰⁵ Affordability is defined as being able to take unpaid leave for 12 weeks without income falling below 200 percent of the Federal poverty line. diversitydatakids.org. 2023. *Working adults' eligibility and affordability for FMLA unpaid leave (percent) by race/ethnicity*. Calculated from Current Population Survey Public Use Microdata Files (IPUMS-CPS). Retrieved 19 October 2023, from https://data.diversitydatakids.org/dataset/working-adults-eligibility-and-affordability-for-fmla-unpaid-leave-percent-by-race-ethnicity?_external=True.

¹⁰⁶ See Mason note 45.

¹⁰⁷ *Ibid.*

¹⁰⁸ U.S. Bureau of Labor Statistics. (2023, September). *National Compensation Survey: Employee Benefits in the United States, March 2023 (Excel tables, Short-term disability, Civilian workers)*. Retrieved 18 October 2023, from <https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm>.

¹⁰⁹ See Mason and Gallagher Robbins note 10.

and people of color are more likely to be working part-time involuntarily.¹¹⁰ These disparities are therefore also likely to be present along lines of race and gender.

The disparities in access also apply to industries and small businesses that are crucial to a healthy national economy. In construction—one of the industries with a high demand for workers in light of the massive infrastructure investments being overseen by the Biden administration—only 31 percent of workers have access to short-term disability insurance through their employers.¹¹¹ Large businesses are nearly twice as likely to offer disability insurance as small businesses,¹¹² reflecting the disparity in resources that makes it hard for small businesses to compete with large ones for the best employees. An approach to paid leave that is not working for the small businesses that are the foundation of our economy, or the growing industries that are critical to our future, is an approach that does not work for America.

A handful of States have recently enacted laws that do not guarantee paid family and medical leave, but instead permit private insurers to offer family leave insurance plans that employers (and in some cases, employees) can opt to purchase for their employees. It is too early for us to have evidence of whether such plans are effective—and given the relative lack of mandatory transparency and reporting requirements for these programs, it is possible that we will never have the same level of detailed, public information about how these plans are playing out that we have for the public programs. The limited information that has been made available about the implementation of New Hampshire’s voluntary insurance law shows that about two percent of the State’s workforce is covered by its voluntary plan.¹¹³ Unfortunately, the data show that the private short-term disability market—a similar, opt-in approach—has failed to result in widespread access to leave: in 2023, only 41 percent of America’s workers had access to short-term disability insurance through their employers, and this access rate has barely budged in the last 15 years.¹¹⁴ Furthermore, laws to permit the sale of opt-in paid family leave insurance products typically provide no guarantee that premiums will be affordable or even transparent for small employers, or that premiums will be uniform across employers regardless of size or employee demographics.¹¹⁵

The transformational potential of paid family and medical leave will only be fully realized if it is attainable for the people who have the most to gain and the businesses that drive our economy. Universal, mandatory programs have proven that they can achieve this goal.

B. Benefits Must Be of Sufficient Duration and Size and They Must Be Secure

Paid leave benefits must last long enough to address common medical and caregiving needs of workers. For example, for new parents, public health experts recommend at least 12 weeks of leave in order to establish and support breastfeeding, reduce risk of postpartum depression, and support strong bonds between children and their parents and caregivers.¹¹⁶ Needs vary for other conditions requir-

¹¹⁰ Golden, L. (2020, February). *Part-time workers pay a big-time penalty*. Retrieved 18 October 2023, from Economic Policy Institute website: <https://www.epi.org/publication/part-time-pay-penalty/>.

¹¹¹ U.S. Bureau of Labor Statistics. (2023, September). *National Compensation Survey: Employee Benefits in the United States, March 2023* (Short-term disability, Civilian workers). Retrieved 18 October 2023, from <https://beta.bls.gov/dataViewer/view/timeseries/NBU11600004547000028248>.

¹¹² See Mason note 45.

¹¹³ Based on reporting that employers with 6,100 employees have opted in to coverage and 9,000 State employees are covered, and U.S. Bureau of Labor Statistics data finding 749,500 people were employed in New Hampshire, as of April 2023. Green, R. (2023, April 19). “New NH paid family and medical leave program signs up 149 employers.” *NHPR*. Retrieved 17 October 2023, from <https://www.nhpr.org/nh-news/2023-04-19/paid-family-medical-leave-new-hampshire-signs-up-149-employers>; U.S. Bureau of Labor Statistics. (2023, October 13). *Economy at a Glance: New Hampshire*. Retrieved 17 October, 2023 from: <https://www.bls.gov/eag/eag.nh.htm>.

¹¹⁴ See Mason note 45.

¹¹⁵ New Hampshire permits its insurance carrier to experience-rate premiums for employers and individuals opting into the State coverage, for example. RSA 21-I:103, III (2021). Laws recently enacted in Virginia, Arkansas, Florida, Tennessee, and Texas do not include provisions setting or limiting premium rates beyond the broad, non-specific limitations placed on all other insurance products. Va. Code Ann. §§ 38.2–107.2, 38.2–135, 38.2–316, 38.2–1800 (2022); Ark. Code Ann. § 23–62–112 (2023); Fla. Stat. 624.6086, 627.445 (2023); Tenn. Code Ann. § 56–36 (2023); Tex. Ins. Code § 8.1255.

¹¹⁶ WORLD Policy Analysis Center, UCLA Fielding School of Public Health. (2018, February). *A Review of the Evidence on the Length of Paid Family and Medical Leave*. Retrieved 20 October

ing parental or family care, but serious or chronic health conditions may require several weeks of leave.¹¹⁷ For example, a typical hospital stay for a child with pediatric cancer is about 12 days, and a child may have three to six stays per year.¹¹⁸ The FMLA established a Federal standard of up to 12 weeks of family and medical leave and evidence from States demonstrates this is a minimum for meeting workers' needs.

It is also critical that the program pay an amount of benefits that allows workers at all wage and income levels to not jeopardize their ability to afford basic expenses while on leave. Without ensuring a program provides benefits that are as close as possible to full wages for the lowest paid workers, workers living paycheck to paycheck are unable to take the leave they need. Adequate wage replacement is also vital for gender equity: when paid leave replaces closer to full usual wages, men are more likely to take their share of parental leave,¹¹⁹ which in turn helps equalize involvement in caregiving.

Paid leave is also not accessible to workers if they are not protected from retaliation or other penalties for using the leave. This is particularly critical for workers of color, who are more likely to report concerns about retaliation or job loss for taking leave.¹²⁰ A meaningful paid leave policy for workers should include protections from retaliation so that all workers can feel they can take the leave they need without fear of discrimination or retaliation.

C. Paid Leave Must Be Comprehensive to Meet the Full Range of Workers' and Families' Needs

We believe it is essential to cover the full range of needs for workers and not pick and choose which kinds of families deserve support. A comprehensive paid leave program ensures that certain groups of workers are not marginalized and avoids preferring certain types of caregiving over others. Thus, it's critical that any national paid leave program supports all types of leave, including medical, caregiving, and parental.

Covering medical and caregiving leave in paid leave programs—the vast majority of leave taken under FMLA¹²¹—ensures workers have the supports they need to thrive during difficult times. Paid medical and caregiving leave has been shown to contribute to financial health. Data from the Financial Health Pulse survey shows that workers who have access to paid leave for medical or caregiving purposes are 14 percentage points more likely than those without access to report having low (or no) financial stress.¹²² For workers who experienced a serious illness or injury in

2023, from <https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>.

¹¹⁷ Among parents of children with chronic health conditions, about two-thirds reported that their longest leave ranged from 1–4 weeks, and about 80 percent reported needing 12 weeks or less. RAND Health. (2010). Perceived Effects of Paid Family Leave Among Parents of Children with Special Health Care Needs. Retrieved 20 January 2020, from https://www.rand.org/pubs/research_briefs/RB9445/index1.html; congenital heart disease typically requires up to 1 week of hospitalization for surgery, plus 3 to 8 weeks of recovery time. National Institutes of Health, U.S. National Library of Medicine. (n.d.) Pediatric heart surgery—discharge. *MedLine Plus Publication*. Retrieved 20 January 2020, from <https://medlineplus.gov/ency/patientinstructions/000015.htm>; for hospice patients, stays can range from less than 1 week to more than 6 months, but the average length of stay is 97 days. National Hospice and Palliative Care Organization. (2022, December). NHPCO Facts and Figures: 2022 Edition. Retrieved 20 October 2023, from <https://www.nhpco.org/wp-content/uploads/NHPCO-Facts-Figures-2022.pdf>.

¹¹⁸ See note 116.

¹¹⁹ Lenhart, A., Swenson, H., and Schulte, B. (2019, December 4). *Lifting the Barriers to Paid Family and Medical Leave for Men in the United States*. Retrieved 20 October 2023, from New America website: <https://www.newamerica.org/better-life-lab/reports/lifting-barriers-paid-family-and-medical-leave-men-united-states/>; Dow, W.H., Goodman, J.M., and Stewart, H. (2017, November). *San Francisco's Paid Parental Leave Ordinance: The First Six Months*. Population Sciences at University of California Berkeley Publication. Retrieved 20 October 2023, from: <https://www.populationsciences.berkeley.edu/sites/default/files/SF%20Paid%20Parental%20Leave%20-%20UC%20Berkeley%20issue%20brief%201.pdf>.

¹²⁰ Schneider, D., and Harknett, K. (2021). Paid Family & Medical Leave in the U.S. Service Sector (Table 3). Harvard Shift Project Publication. Retrieved 20 October 2023, from https://shift.hks.harvard.edu/wp-content/uploads/2021/06/PMFL_Brief_6.09.21.pdf.

¹²¹ Brown, S., Herr, J., Roy, R., and Klerman, J.A. (2020, July). *Employee Leave-Taking Patterns*. Retrieved 18 October 2023, from U.S. Department of Labor website: https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018PB2LeaveTaking_StudyBrief_Aug2020.pdf.

¹²² Garon, T., McKay, J., and Mason, J. (2021). *Unpaid and Unprotected: How the Lack of Paid Leave for Medical and Caregiving Purposes Impacts Financial Health*. Retrieved 18 October 2023, from <https://www.unpaidandunprotected.org/>.

Continued

their household in the past year, those with access to paid leave were 26 percentage points less likely than those without to report financial hardships, such as trouble paying for housing, food, or health care.¹²³

Including medical and caregiving leave also ensures paid leave programs address the full range of workers' needs. More than half of leaves taken under FMLA are taken for an employee's own serious health condition and 20 percent are taken for caregiving for an immediate family member's illness, while leave to care for a new child makes up only a quarter of leaves.¹²⁴ Parental-only policies would therefore fail to meet the vast majority of the demand for leave. Family caregiving leave and personal medical leave are particularly important to disabled people and their families, low-wage workers, older adults, veterans, military families and other workers with personal and family caregiving responsibilities.¹²⁵

A paid leave program without family caregiving is particularly harmful for women, who still carry out the bulk of family caregiving responsibilities,¹²⁶ but are less likely than men to report having access to paid leave for caregiving or medical purposes.¹²⁷ And a program without paid medical or family caregiving leave also excludes many disabled workers, particularly disabled women of color workers, who are more likely to work in low-wage jobs¹²⁸ that are the least likely to provide paid leave.¹²⁹ A paid leave program designed only to value and accommodate the care needs of new parents—or that otherwise restricts eligibility to a narrow definition of caregiving—doesn't address the needs of those currently least likely to have access.

Additionally, comprehensive paid leave must inclusively define family to reflect the needs and diversity of America's families, including extended family members, like siblings and grandchildren, as well as chosen family, defined as "loved ones people consider family but to whom they may not have a legal or biological relationship."¹³⁰ Research shows that nearly one-third of people in the United States have taken leave to support the caregiving of a chosen family member.¹³¹ This type of leave is particularly important for LGBTQIA+ and disabled workers.¹³² Nearly every State paid leave program goes beyond the FMLA's limited definition of family, and several have successfully included chosen family as well.¹³³ It's imperative that a national program incorporate a modern and inclusive definition of family too.

III. STATE PROGRAMS GUARANTEEING COMPREHENSIVE PAID LEAVE ARE A PROVEN SUCCESS

Policymakers across States have spent nearly 20 years developing and innovating State programs to guarantee comprehensive, universal paid family and medical leave—with clear positive results for workers and businesses. Public programs to provide paid family and medical leave are the only proven solutions to expand paid leave access to workers across geography, job type, race, disability status, gender and income. They are also the only policy solution on the table that has a large and

ber 2023, from National Partnership for Women and Families website: <https://nationalpartnership.org/wp-content/uploads/2023/02/unpaid-and-unprotected-how-lack-paid-leave-impacts-financial-health.pdf>.

¹²³ *Ibid.*

¹²⁴ See note 121.

¹²⁵ Between 12 and 23 percent of military caregivers are not related to the veteran or service-member they are caring for. Ramchand, R., Tanielian, T., Fisher, M.P., Vaughan, C.A. et al. (2014). *Hidden Heroes: America's Military Caregivers* (p. 33). Retrieved 10 October 2023 from RAND Corporation website: https://www.rand.org/pubs/research_reports/RR499.html.

¹²⁶ Sharma, N., Chakrabarti, S., and Grover, S. (2016, March 22). Gender differences in caregiving among family-caregivers of people with mental illnesses. *World Journal of Psychiatry*, 6(1), 7–17. doi: 10.5498/wjp.v6.i1.7; see Gallagher Robbins and Mason note 13.

¹²⁷ See note 122.

¹²⁸ U.S. Bureau of Labor Statistics. (2023, February 23). *Persons with a Disability: Labor Force Characteristics—2022* (Press release). Retrieved 18 October 2023, from <https://www.bls.gov/news.release/pdf/disabl.pdf>; see also Ditkowsky, M. (2023, February 23). *New Data on Disability Employment: Small Gains But Institutional Barriers Remain*. Retrieved 18 October 2023, from <https://nationalpartnership.org/new-data-on-disability-employment-small-gains-but-institutional-barriers-remain/>.

¹²⁹ See Mason and Gallagher Robbins note 10.

¹³⁰ Medina, C., and Weston Williamson, M. (2013, March). Paid Leave Policies Must Include Chosen Family. Retrieved 19 October 2023, from Center for American Progress website: <https://www.americanprogress.org/article/paid-leave-policies-must-include-chosen-family/>.

¹³¹ See note 47.

¹³² *Ibid.*

¹³³ See note 130.

growing body of research documenting their benefits to public health, to workers' economic well-being, and to employers.¹³⁴

Research shows that paid leave insurance offered through the private market creates large gaps in access, especially for lower wage workers. In public State programs, however, the majority of workers gain coverage and those large gaps in people's ability to use leave based on income and other factors narrow considerably. Our analysis of labor force data and program rules finds that on average, close to 90 percent of workers in a State are eligible for leave under State programs.¹³⁵ That compares to only 41 percent nationally for employer-provided short-term disability insurance—available on the private market for decades—and 27 percent for employer-provided paid family leave.¹³⁶

Near-universal coverage and equitably designed benefits help ensure gender and racial equity in access and utilization. For example, we know that women and workers of color are generally less likely to have access to paid leave through their jobs. But in Washington State, the first to collect and report data disaggregated by race/ethnicity, women and workers of color make up about the same shares of workers eligible for the State's paid leave program as they do in the workforce at large.¹³⁷ And women and Black and Latino workers are actually slightly overrepresented among approved paid leave claims—exactly what we would hope to see in light of the disproportionate caregiving burden and health inequities those groups experience.¹³⁸

Washington

	Women	Black Workers	Hispanic/ Latino Workers
Percentage of Workforce	46%	4%	11%
Percentage of Workers Eligible for Paid Family and Medical Leave	46%	4%	12%
Percentage of Approved Paid Family and Medical Leave Claims	57%	7%	17%
<i>Source: Washington Employment Security Department.</i>			

In New Jersey, where data on race/ethnicity has recently become available, we also see significant uptake by women and by Black and Latino workers.¹³⁹

¹³⁴ National Partnership for Women and Families. (2022, February). *Paid Leave Works: Evidence from State Programs*. Retrieved 16 October 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-works-evidence-from-state-programs.pdf>.

¹³⁵ In Rhode Island, 78 percent of workers are eligible; in New Jersey, 88 percent; in Washington, 94 percent; and in Maryland (once implemented), 94 percent. Unpublished calculations by the National Partnership for Women and Families based on the number of people in each State's labor force and the number of workers expected to meet minimum eligibility thresholds in each State based on program rules. U.S. Census Bureau American Community Survey 1-Year Data for 2021, via IPUMS USA, University of Minnesota, www.ipums.org.

¹³⁶ National Partnership analysis of data from the U.S. Bureau of Labor Statistics National Compensation Survey. See Mason note 45.

¹³⁷ Washington State Employment Security Department. (2023, September 15). *Paid Family and Medical Leave Customer Data*. Retrieved 16 October 2023, from <https://esd.wa.gov/labormarketinfo/paidleave/customer-data>.

¹³⁸ *Ibid.*

¹³⁹ New Jersey Department of Labor and Workforce Development, Office of Research and Information. (2023, June). *Family Leave Insurance and Temporary Disability Insurance Combined Annual Activity Report 2021*. Retrieved 16 October 2023, from <https://www.nj.gov/labor/myleavebenefits/assets/pdfs/Annual%20FLI%20TDI%20Report%20for%202021.pdf>. U.S. Census Bureau. (2023, September). *American Community Survey 1-Year Estimates* (Table S2301). Retrieved 16 October 2023, from data.census.gov. (Unpublished calculations based on combined claims data in Table 4 and Table 9 of New Jersey FLI and TDI report, and population and employment rate data for New Jersey in American Community Survey.)

New Jersey

	Women	Black Workers	Hispanic/ Latino Workers
Percentage of Workforce	47.1%	12.1%	21.5%
Percentage of Approved Paid Family Leave and Temporary Disability Insurance Claims	70.4%	14.3%	17.9%
<i>Source: National Partnership for Women and Families analysis of data from the New Jersey Department of Labor and Workforce Development and U.S. Census Bureau.</i>			

IV. THERE IS BROAD AND SUBSTANTIAL VOTER SUPPORT FOR COMPREHENSIVE PAID FAMILY AND MEDICAL LEAVE

Voters believe that the government can and should play a role in supporting families balancing work and caregiving.¹⁴⁰ Comprehensive, inclusive paid leave policies are popular with all types of voters. Eighty percent of voters want Congress to pass a comprehensive national paid family and medical leave program, including 90 percent of Democrats, 77 percent of Independents, and 69 percent of Republicans. Support is especially strong among women (83 percent),¹⁴¹ including suburban women (79 percent),¹⁴² and voters of color (86 percent among Black voters, 85 percent among Hispanic voters, 83 percent among AAPI voters).¹⁴³

Support is also strong for all types of paid leave: 89 percent of voters support a Federal paid leave program that allows workers to take time to recover from their own serious illness or health condition, 87 percent support leave for workers to care for a seriously ill or disabled family member, and 83 percent support leave to care for a new child.¹⁴⁴ While all types of voters support different types of leave, Republican and independent voters are especially supportive of providing personal medical leave, underscoring the importance of not only passing paid leave for new parents.¹⁴⁵

States have been moving on paid leave because voters want it. In Delaware, 85 percent of voters supported a paid family and medical leave program.¹⁴⁶ Voters in swing States also support paid leave. Colorado enacted its paid leave program

¹⁴⁰ Lake Research Partners Poll (2022, November). On file with the National Partnership for Women and Families.

¹⁴¹ Navigator Research. (2023, June 2). Paid Family and Medical Leave: A Guide for Advocates. Retrieved 19 October 2023, from <https://navigatortresearch.org/wp-content/uploads/2023/05/Navigator-Update-06.02.2023.pdf>.

¹⁴² National Partnership for Women and Families. (2020, November). *Voters Show Bipartisan Support for Permanent Paid Sick Days and Paid Family Leave*. Retrieved 19 October, 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/02/voters-show-bipartisan-support-for-permanent-paid-sick-days-and-paid-family-and-medical-leave.pdf>.

¹⁴³ See note 141.

¹⁴⁴ Jacobs, S. (2023, February 3). *Voters Across Party Lines Overwhelmingly Support a Federal Paid Leave Program*. Data for Progress Blog. Retrieved 19 October 2023, from: <https://www.dataforprogress.org/blog/2023/2/3/voters-across-party-lines-overwhelmingly-support-a-federal-paid-leave-program>.

¹⁴⁵ In a poll of likely voters in seven battleground States, including Nevada, North Carolina, Pennsylvania, and Wisconsin, overwhelming majorities of voters supported all purposes of leave regardless of party affiliation. Ninety-four percent of likely voters in these States supported paid leave for a personal serious illness, breaking down to 97 percent of Democrats, 92 percent of independents, 92 percent of Republicans, and 94 percent of undecided voters—and for all affiliations, a majority of voters rated their level of support as “strong.” With respect to leave to care for a seriously ill family member, 91 percent supported overall, with 97 percent of Democrats, 87 percent of independents, 86 percent of Republicans, and 91 percent of undecided voters. For leave to care for a new child, support was at 88 percent overall, 94 percent of Democrats, 90 percent of independents, 81 percent of Republicans, and 95 percent of undecided. Global Strategy Group and Paid Leave for All Action. (2021, May). *New Survey Shows Voters in Senate Battleground States Want Paid Leave Urgently, as Part of Infrastructure Package*. Retrieved 19 October 2023, from <https://globalstrategygroup.com/wp-content/uploads/2020/05/PLFA-BG-Press-Memo-F06.01.21.pdf>.

¹⁴⁶ Blue Delaware. (2022, March 8). *Paid Leave is Enormously Popular among Everyone Everywhere*. (Poll conducted by Change Research.) Retrieved 19 October 2023, from <https://bluedelaware.com/2022/03/08/paid-leave-is-enormously-popular-among-everyone-everywhere/>.

through a ballot initiative that won by a 15-point margin, including in Republican-leaning counties like Weld County, El Paso County, and Las Animas County.¹⁴⁷

Paid leave remains popular in States with paid leave programs, including among small businesses. A survey of small employers (100 or fewer employees) in New York and New Jersey found that support increased from 2019 to 2020, especially among firms that had employees use paid leave.¹⁴⁸ In California, a 2023 survey found more than eight in 10 small business owners supported a number of proposals to expand the State's paid leave program.¹⁴⁹

V. CONCLUSION

As the Nation continues to recover from a devastating pandemic, we must learn from the past and make smart investments to support workers, businesses, and our economy. The conversation about paid family and medical leave and other caregiving investments does not occur in a vacuum—it is an integral part of a broader, important discussion about how we build an economy for the future that works for everyone. What the pandemic taught us is that there are essential gaps in our policy infrastructure that we must fill in order to ensure that all workers, especially women, can be full participants in the economy. Decades of history and experience have shown that women's progress in the labor market has not occurred without intentional, concrete action to combat barriers and expand opportunity. When these doors are opened, women are eager to walk through them—and they have done so successfully, in ways that have contributed enormously to our economy and our country.

Access to leave for caregiving purposes has been a pivotal strategy to support women workers, to ensure that they—and all workers—are not treated unfairly at work when addressing their caregiving responsibilities.

Comprehensive paid family and medical leave is no longer an issue that we can continue to put off—a lack of action has already cost us dearly. Each day, millions of Americans worry about how they will manage the seemingly impossible task of caring for themselves and for their loved ones without sacrificing their financial security. This sense of apprehension springs to their minds the moment they awake—and it keeps them up at night as they lay in bed.

We can dramatically improve the lives of families in every segment of our Nation by enacting thoughtful, comprehensive, intentional interventions to meet the needs of all workers. There are innovative, inclusive, State models that are already working around the country—and there is an opportunity for the members of this committee to exhibit bold leadership at the Federal level to address a problem that is long overdue for a solution.

Thank you for the invitation to join this important discussion and for your consideration of these comments.

QUESTIONS SUBMITTED FOR THE RECORD TO JOCELYN FRYE

QUESTIONS SUBMITTED BY HON. MARIA CANTEWELL

Question. Paid leave is critical to supporting women in the workforce. Throughout the country, more than 24 million working women are the primary caretakers for children and family members. For these women, the ability to take time off to care for a family member without losing income or their job is a big concern.

¹⁴⁷ *The New York Times*. (2020, November 3). Colorado Proposition 118 Election Results: Establish Paid Medical and Family Leave (Results by County). Retrieved 16 October 2023, from <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-colorado-proposition-118-establish-paid-medical-and-family-leave.html>; *The New York Times*. (2020, November 3). Colorado Presidential Election Results (Results by County). Retrieved 19 October 2023, from <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-colorado-president.html>.

¹⁴⁸ Bartel, A.P., Rossin-Slater, M., Waldfogel, J., Slopen, M., and Ruhm, C.J. (2021, December). Support for Paid Family Leave among Small Employers Increases during the COVID-19 Pandemic. *Socius: Sociological Research for a Dynamic World*, 7. doi:10.1177/23780231211061959.

¹⁴⁹ Small Business Majority. (2023, July 12.) *Opinion Poll: California small business owners support expanding paid family leave protections, increasing paid sick days*. Retrieved 19 October 2023, from <https://smallbusinessmajority.org/our-research/workforce/ca-small-business-owners-support-expanding-paid-family-leave-protections-increasing-paid-sick-days>.

The COVID-19 pandemic heightened these issues; over 1 million women left the workforce during the pandemic because they did not have access to affordable child care. In the first year of Washington's paid family leave program, about two-thirds of the claims were filed by women, and women continue to have the highest participation rates in the program. Recently, Maria from Marysville reached out to my office in support of paid family and medical leave policies. Maria is the caregiver for both her son and elderly mother, who have both had medical emergencies over the past few years. Access to paid leave would help her take them to doctors' appointments and do other caregiving tasks without risking her paycheck. We must do more to ensure that women, like Maria, are able to stay in the workforce.

How would Federal paid leave requirements improve employment opportunities for women in the workforce, like Maria?

Answer. Evidence from State paid leave programs makes it clear that comprehensive, inclusive paid leave helps workers—especially women—stay connected to their jobs and the labor market amid health and caregiving challenges. Evidence from California demonstrates that access to paid leave increases the likelihood mothers are employed 1 year after birth and that working mothers who take paid parental leave show increased work hours in the years following birth. In New Jersey, along with New York and California, women whose spouse had a major health shock were 7 percentage points less likely to leave their job for caregiving after paid leave was implemented. Paid leave is also linked to increased labor force attachment for family caregivers, a group that is anticipated to grow as our population ages.

The benefits of paid leave are especially important for workers with lower wages who are less likely to have access to paid leave in the absence of a public program. Research in California found that 83 percent of workers in lower quality jobs who used the State paid leave program reported returning to the same employer, 9 points higher than workers who did not use the program. This not only helps workers, it is a major benefit to employers in a tight labor market where replacing workers can be challenging. Federal paid leave would also support employment opportunities for women by leveling the playing field across businesses, which may not be as able to start a program as a large company with a dedicated Human Resources Department, but have benefited from State paid leave programs which have offered grants and administrative assistance.

Question. The Census Bureau found that, nationwide, women in the workforce faced steeper job losses and slower job recovery than men due to the COVID-19 pandemic. What trends in women employment are you seeing as our economy recovers from the pandemic?

Answer. The pandemic exacerbated policy gaps and failures that existed prior to COVID, making clear that most women were already navigating an economy and workplaces that were not built with their experiences in mind. Women, especially women of color, entered the pandemic with inadequate support for balancing work and caregiving responsibilities—and today that support is still lacking.

For example, jobs in essential caregiving industries, such as child care and nursing and residential care facilities, have not returned to pre-pandemic levels,¹ despite the fact that the economy overall has more than 4.5 million additional jobs since before COVID started. The failure to rebuild these caregiving industries creates a double bind for women, who are more likely to work in caregiving jobs,² and whose labor force participation is improved when they have access to caregiving supports such as paid leave, child care and home- and community-based supports for disabled and elderly adults.

What's more, even though labor force participation for prime-age women has recently hit an all-time high, the United States still lags behind many of our partner nations who provide significantly more caregiving support, harming individual families as well as the economy overall. Recent research from the Department of Labor reveals that if prime-age women in the United States participated in the labor force at the same rate as women in Germany and Canada, approximately 5 million additional women would be in the labor force, resulting in an additional \$775 billion in economic activity annually.

¹As of October 2023 these two industries combined are more than 200,000 jobs below their pre-COVID employment levels (author's calculation), <https://www.bls.gov/ces/data/employment-situation-table-download.htm>.

²For example, women are more than 90 percent of child-care workers and more than 80 percent of personal care aides, <https://www.bls.gov/cps/cpsaat11.htm>.

Moreover, Black women, Latinas, Native women, disabled women, and women with less education face particular barriers. Despite their high rates of labor force participation, Black women continue to face larger wage gaps and high rates of unemployment than their White counterparts, harming their own and their families' economic security. Latinas and Native women also face elevated rates of unemployment and large wage gaps,³ as do disabled women. And mothers of young children with lower levels of education have not experienced the same recovery as their college-educated counterparts.

As our Nation continues to recover, we must build an economy that values the labor of all women, especially women of color. We must transform our approach to the economy as a whole, tackling persistent barriers that have undermined women's employment and implementing policies designed to promote sustained economic security and equity.

Links

<https://www.jstor.org/stable/43867293>
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3701456/>
<https://equitablegrowth.org/access-to-paid-family-leave-improves-u-s-womens-labor-market-outcomes-following-a-spouses-health-shock/>
<https://www.sciencedirect.com/science/article/abs/pii/S2212828X2030030X>
<https://nationalpartnership.org/wp-content/uploads/frye-senate-testimony-exploring-paid-leave.pdf>
<https://www.cornellpress.cornell.edu/book/9780801478956/unfinished-business/>
<https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>
<https://nationalpartnership.org/warning-signs-latest-job-report-chance-to-save-child-care-jobs-day-november-2023/>
https://www.finance.senate.gov/imo/media/doc/10252023_frye_testimony.pdf
<https://caseforchildcare.org/2020CaseForChildCare.pdf>
<https://nationalpartnership.org/wp-content/uploads/systems-transformation-guide-disability-economic-justice-jobs-employment.pdf>
<https://www.brookings.edu/articles/prime-age-women-labor-market-recovery/>
<https://nationalpartnership.org/report/improving-employment-outcomes-economic-security-for-black-women/>
<https://www.bls.gov/cps/data.htm>
<https://www.brookings.edu/articles/prime-age-women-labor-market-recovery/>

PREPARED STATEMENT OF RACHEL U. GRESZLER, SENIOR RESEARCH FELLOW, GROVER M. HERMANN CENTER FOR THE FEDERAL BUDGET, THE HERITAGE FOUNDATION

My name is Rachel Greszler. I am a senior research fellow at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

As a mother of six young children—and having multiple family members and friends battle cancer in recent years—I understand the need and desire for workers to take leave and the necessity for paid family leave to be flexible and accommodating. And having family and friends who own small businesses, I also understand how difficult it can be to manage paid family leave while continuing to serve customers and patients. The good news is that the strong labor market and realities of the COVID-19 pandemic contributed to a surge in workers' access to paid family leave over the past 6 or so years.

Even as paid family leave has many benefits, it is not without cost or consequence for workers, employers, ordinary Americans, and the entire economy. Structuring leave programs in ways that minimize costs and maximize access and flexibility is

³Native women's unemployment rates are consistently higher than White women's. Author's analysis of Bureau of Labor Statistics Current Population Survey data, annual averages, data for women 16 and older.

crucial to ensuring that the maximum benefits reach the greatest number of workers with the least disruption to employers and the people they serve.

In my testimony today, I would like to cover three topics that can help inform policymakers as they consider what the Federal Government can and should do regarding paid family leave. First is to examine the current landscape of paid family leave and family-friendly work arrangements across the U.S. Second is to contrast employer-provided paid family leave with government-provided paid family leave. And third is to consider policies that could help expand workers' access to paid family leave and other work flexibilities.

THE STATE OF PAID FAMILY LEAVE AND WHAT FAMILIES WANT

Families are the foundation of society, and it is important that family members be able to care for one another. Paid family leave helps support families in their roles of caring for one another across generations, and it can benefit workers and employers alike.

Support Is Widespread and Access Is Growing. Nearly all Americans support paid family leave, and predominantly in response to workers' desires for it, employers have responded in recent years with new and expanded paid family leave policies. Over the past 6 years alone, the percentage of workers with access to paid family leave has increased by 80 percent, from 15 percent to 27 percent of workers.¹ Much of this recent increase has accrued to lower- and middle-wage workers as large companies like Lowe's, Starbucks, Walmart, and Chipotle have added paid family leave benefits.

While this measure from the Bureau of Labor Statistics only includes workers whose companies have formal, written paid family leave policies, many more workers—particularly those who work for small employers—can take paid family leave through informal policies. A 2018 Department of Labor survey found that 73 percent of employees report having access to paid leave for their own illness or medical care (which includes maternity leave).² Of workers who took leave, 66 percent received pay (42 percent received full pay, 24 percent received partial pay) and 34 percent received no pay. These pay percentages are almost certainly higher in 2023 as paid family leave programs have expanded significantly since 2018.

Moreover, while those surveys track employer-provided paid family leave benefits, 14 States have now enacted government-paid family leave programs. Although not all workers who live in States that have paid family leave laws are eligible to receive benefits, 28 percent of the workforce currently live in States that have active paid family leave programs and another 6.5 percent live in States that have passed legislation to implement paid family leave programs in the next few years.³

Who Takes Leave and Why? According to the most recent 2018 survey from the Department of Labor, 15 percent of workers (about one out of every seven) take family or medical leave each year, and the average leave lasts 5.5 weeks (28 business days).⁴

Contrary to common perception, the most frequent reason for taking leave is not for the birth or adoption of a child, but for workers' own health conditions. Of all family and medical leaves reported, one of every four (25 percent) was for the arrival of a new child; two of every four was for a worker's own serious health condition; and about one of every four was for a family member's health condition or other reason (such as a family member's military deployment).⁵

¹ Bureau of Labor Statistics, "National Compensation Survey," percent of civilian workers with access to paid family leave, <https://data.bls.gov/pdq/SurveyOutputServlet> (accessed October 18, 2023).

² Scott Brown, Jane Herr, Radha Roy, and Jacob Alex Klerman, "Employee and Worksite Perspectives of the Family and Medical Leave Act: Executive Summary for Results from the 2018 Surveys," submitted to the Department of Labor by Abt Associates, July 2020, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018SurveyResults_ExecutiveSummary_Aug2020.pdf (accessed October 18, 2023).

³ Author's analysis of State-level labor force statistics from the Bureau of Labor Statistics. States that have active paid family leave programs include: California, Connecticut, the District of Columbia, Massachusetts, New Jersey, New York, Oregon, Rhode Island, and Washington. States that have enacted programs that are not yet active include: Colorado, Delaware, Maine, Maryland, and Minnesota.

⁴ Brown et al., "Employee and Worksite Perspectives of the Family and Medical Leave Act: Executive Summary for Results from the 2018 Surveys."

⁵ *Ibid.*

Unmet Need for Leave Is Modest. Despite only 56 percent of workers qualifying for job-protected leave under the Family and Medical Leave Act (FMLA), 82 percent of private-sector employees report having access to leave for at least one qualifying FMLA reason.⁶ Only 7 percent of all workers report having an unmet need for family or medical leave over the past year.⁷ Low-wage workers (earning less than \$15 per hour) were more likely to report an unmet need for leave (9 percent) compared to other workers (6 percent). The most commonly cited reason for not taking leave was an inability to afford unpaid leave (66 percent), followed by fear of losing a job (45 percent).

While lower-wage workers are less likely to work in jobs that provide paid family leave, they are also more likely to be ineligible for leave even while working for an employer or living in a State that provides paid family leave because virtually all paid leave programs have tenure-based requirements to qualify for leave and lower-wage workers tend to have shorter job tenures. Moreover, even when eligible for leave, lower-wage workers are less likely to be able to take leave if they receive less than full-wage replacement.

Paid Family Leave Is Only One Factor Affecting Working Families. While nearly all working parents say paid family leave is important to helping them balance work and family, it is far from their biggest priority. A 2018 Cato Institute poll asked current workers to select which of six options “would be the best way to help you balance work and family.”⁸ The results, in order of preference were:⁹

- (1) More flexible work schedules (34 percent);
- (2) Ability to work remotely (25 percent);
- (3) More affordable day care (11 percent);
- (4) Ability to work part-time hours (8 percent);
- (5) More paid parental leave (6 percent); and
- (6) Extended after-hours child care (4 percent).

These results indicate that more than 10 times as many workers would prefer more workplace flexibility than more paid parental leave.¹⁰ That makes sense considering that workplace flexibility affects families’ every day lives while paid family leave is an irregular need.

A post-COVID-19 2021 survey by the Institute for Family Studies looked at the childcare preferences of parents with children ages 4 and under and found the majority of parents prioritize workplace flexibility that allows for family care. As a working mother of six young children, these preferences resonate with me. Without the flexibility that my employer voluntarily provides me, I would not work at all, and thus paid family leave would be irrelevant to me. But flexibility is not something that lawmakers can impose on employers, as certain occupations and organizations are conducive to flexibility while others are not. I also believe that flexibility works best when it is mutual on the part of both employers and workers. That is not possible with one-sided government mandates.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Emily Ekins, “Cato Institute 2018 Paid Leave Survey,” The Cato Institute, released December 11, 2018, <https://www.cato.org/sites/cato.org/files/survey-reports/pdf/cato2018paidleave-survey-updated.pdf> (accessed October 20, 2023).

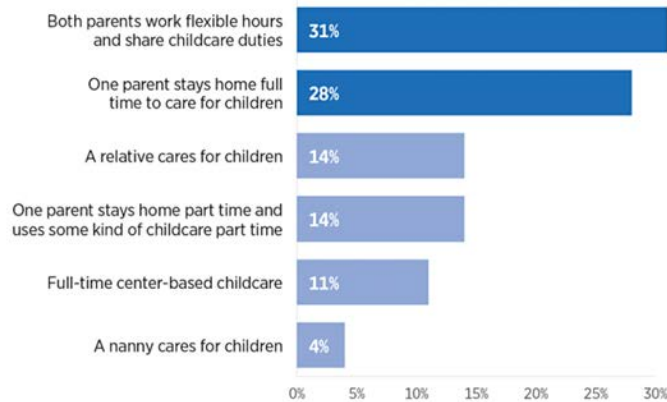
⁹ The Cato survey results also included 9 percent of respondents who chose “Other” with the option to specify something else that would best help them, and 2 percent of respondents either did not answer or responded “Don’t know.”

¹⁰ Combining the three workplace-flexibility and work-hours-flexibility responses (1, 2, and 4) covers 67 percent of workers’ highest preferences, compared to 6 percent saying more paid parental leave would help most.

CHART 1

Post-COVID-19 Childcare Preferences Shift Toward Home, Family, and Work Flexibility

PREFERENCES OF PARENTS WITH CHILDREN AGES 0 TO 4



NOTE: Percentages do not sum to 100 due to rounding.

SOURCE: Wendy Wang and Janet Erickson, "Homeward Bound: The Work-Family Reset in Post-COVID America," Institute for Family Studies, August 2021, <https://ifstudies.org/ifs-admin/resources/final-ifs-parents-report.pdf> (accessed March 13, 2023).

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Yet, the very work arrangements that many parents prioritize are under threat by recent regulations from the Department of Labor that will soon be implemented (such as the independent contractor and overtime rules discussed in the final section) and also by bills that passed the House in recent Congresses—the Protecting the Right to Organize (PRO) Act¹¹ and the Paycheck Fairness Act.¹² These policies would hurt, instead of help, families by making it harder or impossible for many workers to have flexible schedules, to work remotely, or to work part time.

By upending independent work and impeding remote work and flexible hours, these policies would take away jobs and income opportunities, and restrict workplace flexibility, with some of the biggest burdens falling on women, individuals with medical conditions or disabilities, and single parents.¹³

EMPLOYER-PROVIDED VERSUS GOVERNMENT-PAID FAMILY LEAVE

All paid family leave policies have benefits and costs, but not all paid family leave policies are equal. A key to maximizing benefits and minimizing costs is balancing the need for accessible and accommodating benefits for workers with employers' needs to maintain operations (without hurting customers and employees who fill in for absent coworkers).

¹¹ H.R. 2474, Protecting the Right to Organize Act of 2019, <https://www.congress.gov/bills/116/congress/house-bills/2474> (accessed October 20, 2023).

¹² H.R. 7, Paycheck Fairness Act, <https://www.congress.gov/bills/116/congress/house-bills/7?q=%7B%22search%22%3A%5B%22Paycheck+Fairness+Act%22%5D%7D&s=1&r=1> (accessed October 20, 2023).

¹³ Rachel Greszler, "6 Ways a Union-Backed Bill Will Upend the Job Market," *The Daily Signal*, February 5, 2020, <https://www.dailysignal.com/2020/02/05/6-ways-a-union-backed-bill-will-upend-the-jobs-market/>; and Rachel Greszler, "Democrats Want to Close the 'Gender Pay Gap.' Here Are 4 Ways Their Proposal Would Backfire," *The Daily Signal*, January 31, 2019, <https://www.dailysignal.com/2019/01/31/democrats-want-to-close-the-gender-pay-gap-here-are-4-ways-their-proposal-would-backfire/>.

Workers Need Accessible and Accommodating Paid Family Leave. Other than the birth or adoption of a child—which makes up only one of five leaves taken by workers—workers’ needs are widespread, often unexpected, and can include unknown lengths.

The struggle with government programs is that since the bureaucrats who run them do not know anything about workers’ personal needs or the nature of their jobs, they have to set one-size-fits-all rules. And without the daily interaction that occurs between workers and employers, government programs require a burdensome application and approval process as opposed to a worker’s ability to simply talk with or email his boss to notify her of his need for leave.

Those government application processes can be daunting. The District of Columbia’s 54-page handbook on paid family leave benefits explains that workers must: wait to apply for benefits until after they have experienced a family or medical event that caused them to miss work; submit personal information and a leave plan; obtain and submit detailed forms to be completed by a certified health provider; wait for a decision from the government’s program administrators; and then wait for a benefit check, which is a portion of workers’ usual paychecks.¹⁴

Once an application is approved, workers must follow the prescribed leave plan to a T. Partial-leave days are not an option; if a worker needs 2 hours of leave for an appointment, she must claim the entire day as leave. If she did not know about the appointment when submitting her application, she must petition for a change in leave, which can only be done once per month. If she ends up working on a day she requested for leave, she will have to repay her benefits or forgo future benefits. All of that is not conducive to many workers’ needs, nor to the modern workforce.

For example, the combination of remote work and flexible hours has allowed one of my coworkers to care for his mother who suffered a stroke—without missing a paycheck and without having to formally use paid family leave. That type of arrangement was not possible through the existing DC Government program because he could not possibly know in advance what would be the daily needs of his mother. Moreover, what he needed was to be able to care for his mother in short increments throughout the day—every day—but the government program requires all-or-nothing care or work.

Just as the government program did not work for my coworker, a government program would not work well for many people. In addition to many workers not being able to go weeks without a paycheck or months with a reduced one, many leaves are not planned events. The last thing that workers need while faced with medical emergencies, hospitalizations, or long-term health and family-care struggles is to have to collect paperwork and get approval from a government program, including for things as simple as switching a doctor’s appointment from Monday to Wednesday.

Employers Need to Maintain Control Over Operations. Aside from the direct costs of providing paid family leave, a crucial component to enabling leave is the ability to manage a company’s operations amidst workers’ leaves. The Bill and Melinda Gates Foundation realized this when the foundation had to cut its 52-week paid family leave program in half because it was too disruptive to the foundation’s operations. Because the policy was the foundation’s own, it was free to modify it based on needs.¹⁵

When Denmark implemented a similar 52-week government-paid parental leave program in 1994, it led to significant unintended consequences. An economic analysis of this program on the nursing industry found that it “led to a sudden, unintended, and persistent 12-percent reduction in nurse employment.” The consequences of that reduction included a 17-percent increase in inpatient readmissions, an 89-percent increase in newborn readmissions, a delay in technology adoption, and a 13-percent increase in nursing home mortality over the 3-year period following enactment.¹⁶

¹⁴ Department of Employment Services, “Employee Handbook: DC Paid Family Leave,” Version 3, published March 2022, https://dcpaidfamilyleave.dc.gov/wp-content/uploads/2023/06/PFL_EmployeeHandbook-March-2022.pdf (accessed October 23, 2023).

¹⁵ “Bill Gates’ Foundation Says 52-Week Paid Leave Isn’t Doable After All, But Will Give New Parents \$20,000,” CNBC, February 6, 2019, <https://www.cnbc.com/2019/02/06/bill-melinda-gates-foundation-cancels-52-week-paid-parental-leave.html> (accessed October 17, 2023).

¹⁶ Maya Rossin-Slater, Christopher J. Ruhm, and Jane Waldfogel, “The Effects of California’s Paid Family Leave Program on Mothers’ Leave-taking and Subsequent Labor Market Out-

Across the U.S., employers in States with government-paid family leave programs have less ability to manage their operations without interruptions that burden other employees or limit customers access to goods and services. For example, while I know many people—myself included—who have utilized employer-provided paid family leave policies and have kept their foot in the door at work to help things move along in their absence, I also know new mothers who, when utilizing formal government-paid family leave programs have had their access to email and all computer systems shut off while they were on leave, out of their employer's fear of a lawsuit if they did any work. Such rigid prohibitions hurt companies and customers, as well as employees who can miss out on promotions or find it harder to come back to work after taking leave.

While acknowledging that paid family leave is beneficial for workers, it imposes costs on employers. Inserting a middleman—a bureaucratic government administration—between workers and employers prevents both parties from flexibly balancing their needs and desires in ways that minimize costs and consequences for workers, employers, and customers.

Government Programs Crowd Out Employer-Provided Paid Family Leave. A 2017 Pew Research Center poll found that over 70 percent of Americans believe that employers—as opposed to Federal or State governments—should be responsible for providing paid family leave.¹⁷

Table 2. Americans Support Paid Family Leave and Want Employers to Provide It

PERCENT OF AMERICANS SUPPORTING

TYPE OF LEAVE	WHO SHOULD PAY?		
Mothers following birth/adoption of child	82%	Employers	62%
Fathers following birth/adoption of child	69%	Workers	18%
Workers to deal with their own serious health condition	85%	State governments	13%
Workers to care for family members with serious health conditions	69%	Federal Government	11%

NOTE: 82 percent of Americans support paid maternity leave. This implies that 18 percent believe workers who want to take leave from work should pay for it themselves through personal savings or using vacation and paid time off.

SOURCE: Juliana Menasce Horowitz, Kim Parker, Nikki Graf, and Gretchen Livingston, “Americans Widely Support Paid Family and Medical Leave, But Differ Over Specific Policies.” Pew Research Center, March 23, 2017, <http://www.pewsocialtrends.org/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/>, (accessed March 12, 2018).

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Yet, a government program would crowd out employer-provided paid family leave programs by discouraging employers who do not yet offer their own paid family leave programs from starting them. And a government program would also shift part of the costs of existing employer-provided paid family leave onto taxpayers.¹⁸

Such crowding out is already happening with State-based programs. At a July 11, 2018, Senate Finance subcommittee hearing, Carolyn O’Boyle, representing Deloitte, explained that while Deloitte has its own employer-provided paid family leave program, the company instructs in States that have government programs to first apply

comes,” National Bureau of Economic Research Working Paper No. 17715, December 2011, <http://www.nber.org/papers/w17715> (accessed October 20, 2023).

¹⁷Juliana Menasce Horowitz et al., “Americans Widely Support Paid Family and Medical Leave, But Differ Over Specific Policies,” Pew Research Center, March 23, 2017, <https://www.pewsocialtrends.org/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/> (accessed October 20, 2023).

¹⁸Based on a recent economic analysis that showed a 60-percent crowd-out rate of privately provided health insurance due to government provision, policymakers can expect significantly higher crowd-out from a Federal paid family leave program; such benefits would be less valuable, as they would lack the special tax benefit for employer-provided health insurance. Jonathan Gruber and Kosali Simon, “Crowd-Out Ten Years Later: Have Recent Public Insurance Expansions Crowded Out Private Health Insurance?”, National Bureau of Economic Research Working Paper No. 12858, January 2007, <http://www.nber.org/papers/w12858.pdf> (accessed October 20, 2023).

for and utilize the State-provided paid leave benefits. Deloitte then tops those benefits off to bring them up to what Deloitte's program provides. That is a transfer of costs from within Deloitte's operations to State taxpayers. Larger companies have more resources to help workers navigate State paid family leave programs and are thus more likely to take advantage of government programs, but even large companies complain about the complexity and rigidity of government programs.

In a conversation with HR representatives from large companies, managers expressed frustrations and reported significant compliance costs from State-based paid family leave programs. They noted that they were often unable to help employees understand which benefits they could receive, that some employees had to pay benefits back, and that complying with State-based paid family leave programs left them with fewer resources to devote to employee compensation. Moreover, when asked if a Federal program would make things easier for them, employers unanimously said that it would make things more difficult for them.

Existing Government Programs Fall Short for Low-Income Workers. Despite their intent to particularly benefit lower-income workers who are less likely to have access to paid family leave, most government programs are highly regressive. While government programs tax all workers, they primarily benefit middle-income and upper-income earners. That skewed distribution is the result of lower eligibility among low-wage workers (government programs require a minimum job tenure or number of hours); lower awareness of government programs; less ability to make ends meet with partial wage replacement; greater concerns with the rules and confusion about the application process; and concerns about job protection.

A 2019 report from the Independent Women's Forum, "Expanding Paid Family Leave Without Disadvantaging Low-Income Families," highlighted the difficulties that government-paid family leave programs across the globe have encountered in helping low-income families:¹⁹

- **California.** A 2013 analysis by the California Senate's Research Office found that fewer than 4 percent of workers in the lowest income bracket (below \$12,000) filed paid family leave claims with the State, compared to nearly 21 percent of workers in the highest income bracket (above \$84,000).²⁰
- **Canada.** A 2016 study found that only about 45 percent of Canadian mothers with household incomes below C\$30,000 receive paid family leave benefit from the government, compared to between 75 percent to 85 percent of Canadian mothers with household incomes above C\$60,000.²¹ The study's authors noted that "[d]espite proportionate and obligatory contributions of all employers and employees to these programs, the distribution of benefits is unbalanced and aids the social reproduction of higher-income families."²²
- **Norway.** Norway tried to increase access to paid maternity leave for lower-income mothers by providing 100 percent replacement rates, but a study found that "the extra leave benefits amounted to a pure leisure transfer, primarily to middle and upper income families."²³ The authors of the study concluded that "the generous extensions to paid leave were costly, had no measurable effect on outcomes and poor redistribution properties."²⁴

The Proposed Federal Program Would be Costly and Excessively Burdensome. The Family and Medical Insurance Leave Act (FAMILY Act) is Democrats' leading proposal to establish a new Federal entitlement for paid family and medical

¹⁹ Kristen Shapiro, "Expanding Paid Family Leave Without Disadvantaging Low-Income Families," Independent Women's Forum, July 2019, http://pdf.iwf.org/PFL_For_Low-Income_Families.pdf (accessed October 20, 2023).

²⁰ Leonor Ehling, "California's Paid Family Leave Program Ten Years After the Program's Implementation, Who Has Benefited and What Has Been Learned?", California Senate Office of Research, July 1, 2014, <https://sor.senate.ca.gov/sites/sor.senate.ca.gov/files/Californias%20Paid%20Family%20Leave%20Program.pdf> (accessed October 20, 2023).

²¹ Lindsey McKay, Sophie Mathieu, and Andrea Doucet, "Parental-Leave Rich and Parental-Leave Poor: Inequality in Canadian Labour Market Based Leave Policies," *Journal of Industrial Relations*, Vol. 58, No. 4 (2016), pp. 1–20, <http://www.andreadoucet.com/wp-content/uploads/2016/11/Doc-10-McKay-Mathieu-Doucet-2016-JIR-FINAL.pdf> (accessed October 20, 2023).

²² *Ibid.*

²³ Gordon B. Dahl, Katrine V. Løken, Magne Mogstad, and Kari Veia Salvanes, "What Is the Case for Paid Maternity Leave?", April 20, 2015, <https://econweb.ucsd.edu/~gdahl/papers/paid-maternity-leave.pdf> (accessed October 20, 2023).

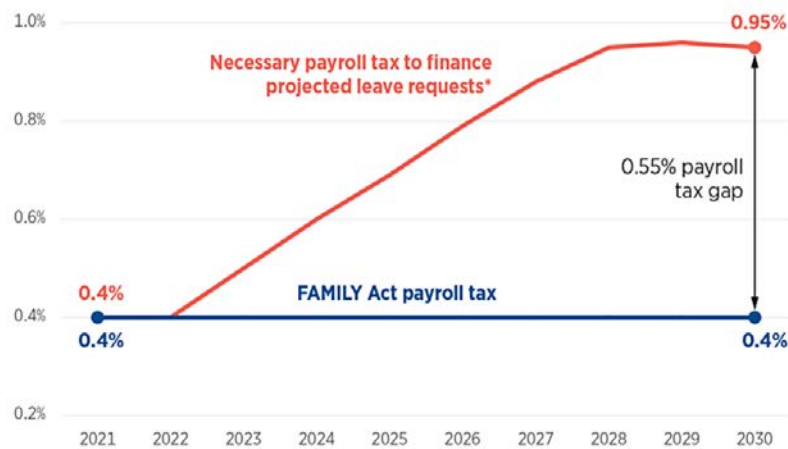
²⁴ *Ibid.*

leave.²⁵ The FAMILY Act would be funded with a 0.4-percentage-point payroll tax split between workers and employers and would provide up to 12 weeks per year of paid family and medical leave.

The Congressional Budget Office (CBO) analyzed the 2019 version of the FAMILY Act²⁶ and found that the new entitlement would be quickly unfunded and cover fewer than half of the leaves that workers take.²⁷ According to the CBO analysis, the new 0.4-percentage-point payroll tax to fund the program would fall short of its expenses just 1 year after benefits begin.

CHART 1

New Payroll Tax Hike for FAMILY Act Would Not Cover Costs



* Assuming no program expansion.

NOTE: Author's estimates include the CBO's estimated negative impact of higher payroll taxes on other federal revenues (an average reduction in other revenues equal to 11.7 percent of the new payroll tax), thus representing the tax rates necessary to make the program deficit neutral.

SOURCE: Author's calculations based on projections from Congressional Budget Office, Congressional Budget Office, "Budgetary Effects of H.R. 1185, the FAMILY Act," letter to the Honorable Kevin Brady, February 13, 2020, https://www.cbo.gov/system/files/2020-02/hr1185_2.pdf, February 13, 2020, https://www.cbo.gov/system/files/2020-02/hr1185_2.pdf (accessed February 23, 2020).

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²⁵ S. 1714 and H.R. 3481, The FAMILY Act, 118th Congress (2023–2024), <https://www.congress.gov/118/bills/s1714/BILLS-118s1714is.pdf> (accessed October 19, 2023).

²⁶ H.R. 1185, The FAMILY Act, 116th Congress (2019–2020), <https://www.congress.gov/bills/116/congress/house-bill/1185/text> (accessed October 19, 2023).

²⁷ Congressional Budget Office, "Budgetary Effects of H.R. 1185, the FAMILY Act," letter to the Honorable Kevin Brady, February 13, 2020, https://www.cbo.gov/system/files/2020-02/hr1185_2.pdf (accessed October 19, 2023).

Table 1. CBO Estimate: Fewer Than Half of Workers Who Need Leave Will Benefit From FAMILY Act

Reason for Leave	Percent of All Leave Taken	Covered by FAMILY Act	Not Covered by FAMILY Act
New child*	21.1%	11.1%	10.0%
Own medical condition	54.6%	27.3%	27.3%
Care for family member's medical condition, or other FMLA-covered reason	20.0%	3.3%	16.7%
Non-FMLA reason or unspecified**	4.3%	0.0%	4.3%
Total	100.0%	41.7%	58.3

*The CBO report says 70 percent of new parents would be eligible to take leave, and within that group, “most” new mothers and “about half” of new fathers would take leave. This data assumes that 100 percent of eligible mothers and 50 percent of eligible fathers would take leave.

**The FAMILY Act would not cover non-FMLA reasons, and the author assumes it would not cover the 1.0 percent of unspecified reasons for leave.

SOURCES:

- Share of workers who need to take leave who use FAMILY Act benefits: Congressional Budget Office. Congressional Budget Office, “Budgetary Effects of H.R. 1185, the FAMILY Act,” letter to the Honorable Kevin Brady, February 13, 2020, https://www.cbo.gov/system/files/2020-20/hr1185_2.pdf (accessed February 23, 2020).
- Distribution of all leaves: Abt Associates, “Family and Medical Leave in 2012: Technical Report,” prepared for Jonathan Simonetta, U.S. Department of Labor, Exhibit 4.4.2 Medical reasons for taking leave. Revised April 18, 2014, <https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/FMLA-2012-Technical-Report.pdf> (accessed February 25, 2020).

After 6 years, the program’s costs would equal 240 percent of its revenues, meaning policymakers would either have to ration benefits or more than double taxes. Most importantly, the CBO estimated that the program would provide benefits to only four out of every 10 workers who need to take family or medical leave.

The most recent, 2023 version of the FAMILY Act would significantly expand benefit eligibility, impose tremendous burdens on employers—especially small businesses, invite substantial misuse and abuse, and be significantly more costly and underfunded than prior versions of the FAMILY Act.²⁸

For starters, the FAMILY Act extends the FMLA’s job protections to all workers who have been employed with a company for 90 days or more.²⁹ Currently about 70 million workers do not have access to FMLA job protection either because they work for a smaller employer or because they have not been employed for the FMLA’s requirement of 12 months or more. Thus, the FAMILY Act would extend FMLA job protections to tens of millions of workers. While job protection is seemingly a good thing (no one wants a woman to lose her job because she had a child and had to take leave from work), providing job protection for all FMLA purposes can be particularly burdensome for small employers, which is why Congress excluded them from the FMLA. For example, a Heritage Foundation report by James Sherk provided an example of a 911 call center where five of the seven day-shift employees had FMLA certifications.³⁰ Since that work is so specialized, when employees take unannounced leave, their coworkers have to work overtime, leaving exhausted workers handling emergency situations.

Moreover, FMLA has been extensively misused and abused in certain workplaces in which obtaining an FMLA certification is a means for workers to take time off whenever they want with immunity. Reports from HR managers, significant variance in the use of FMLA across otherwise similar worksites, and trends in FMLA use around holidays and weekends (it is often referred to as the Friday and Monday Leave Act) suggests significant misuse and abuse of FMLA. Turning currently unpaid leave into paid leave will only exacerbate FMLA misuse and abuse.

²⁸ S. 1714 and H.R. 3481, The FAMILY Act, 118th Congress (2023–2024).

²⁹ U.S. Department of Labor, “Family and Medical Leave (FMLA),” <https://www.dol.gov/general/topic/benefits-leave/fmla> (accessed February 7, 2020).

³⁰ James Sherk, “Use and Abuse of the Family and Medical Leave Act: What Workers and Employers Say,” Heritage Foundation Special Report No. 16, August 28, 2007, <https://www.heritage.org/jobs-and-labor/report/use-and-abuse-the-family-and-medical-leave-act-what-workers-and-employers-say>.

The current FAMILY Act also extends paid family leave to individuals who have little attachment to the labor force. To qualify for benefits, an individual can have as little as one penny of earnings in the prior quarter and must have only \$2,000 in earnings over the prior 2 years. For someone making \$10 per hour, that amounts to an average of fewer than 2 hours of work per week. The current FAMILY Act also extends leave to workers to care for non-kin individuals with whom the individual has a family-like relationship.

The current FAMILY Act's significant expansions will vastly increase the cost of the Federal paid leave entitlement without adequately financing those expansions. The current FAMILY Act's proposal to apply the 0.4-percentage-point tax to earnings above the Social Security payroll tax cap will only increase revenues by about 17 percent.³¹ Even if the current FAMILY Act did not increase benefit eligibility from the 2019 version, CBO's analysis indicates that the proposed tax increase would only keep the program solvent 1 year longer, with revenues falling short in the second year of benefit payments instead of the first year. By the 10th year, revenues would still be less than half of CBO's estimate of the cost of a less-expansive FAMILY Act (the 116th Congress version would have covered only 42 percent of the leaves workers take).

Considering the massive expansion in eligibility and benefits in the 2023 FAMILY Act, it is likely that the payroll tax will need to be at least three times as high as specified. For the median household with an income of about \$70,000, that would amount to an extra \$840 in Federal taxes. As the experience of other countries, States, and current Federal entitlement programs demonstrates, those costs would likely rise significantly over time.

In addition to increased taxes for workers, the current FAMILY Act imposes tremendous burdens on employers who are already struggling with labor shortages. Enabling virtually all workers to access paid family leave benefits and providing those who have been on the job at least 90 days with additional workplace protections will make it even more difficult for employers to run their businesses and to meet customers' demands and patients' needs. In particular, the current FAMILY Act specifies that employers cannot interfere with employees' rights under the law ("interfere" could be broadly interpreted to include asking a simple question related to an employee's leave). It also creates effective immunity from disciplinary, dismissal, or adverse action for an entire year after the worker takes leave. This is done by establishing a "rebuttal presumption of retaliation," whereby any adverse action an employer takes against an employee is presumed to be in retaliation for the worker having taken leave. Since the Act allows workers to take up to 12 weeks of leave every year, workers who take leave every year could become nearly impossible to discipline or dismiss.

Government Programs and Mandates Have Unintended Consequences for Women. While laws regarding paid family leave almost always aim to particularly help women, they can have the opposite effect in practice.

Generous government-paid family leave programs in other countries have reduced women's prospects of promotion, contributed to lower relative wages, and created disjointed workforces with women dominating part-time jobs and men dominating full-time jobs.³² Thus, it is no coincidence that America is the only industrialized nation without a Federal paid family leave policy and where women's earnings are among the highest in the world compared to men's and where the highest proportion of women hold top-level and management positions.

Both California's and New Jersey's State-based paid family leave programs had the unintended consequence of increasing the unemployment rate and the duration

³¹Over the past 10 years (2012–2021), an average 17 percent of earnings have been above Social Security's taxable maximum. Social Security Administration, *Annual Statistical Supplement*, 2022, Table 4.B1—Number of workers with Social Security (OASDI) taxable earnings, amount of earnings, and Social Security numbers issued, selected years 1937–2021, <https://www.ssa.gov/policy/docs/statcomps/supplement/2022/supplement22.pdf> (accessed October 21, 2023).

³²See Jenna Stearns, "The Long-Run Effects of Wage Replacement and Job Protection: Evidence from Two Maternity Leave Reforms in Great Britain," University of California, Davis, January 14, 2017, <http://economics.ucdavis.edu/events/papers/28Stearns.pdf> (accessed October 20, 2023); Christopher J. Ruhm, "The Economic Consequences of Parental Leave Mandates: Lessons from Europe," National Bureau of Economic Research Working Paper No. 5688, July 1996, <http://www.nber.org/papers/w5688.pdf> (accessed October 20, 2023); and Sven R. Larson, "A Fork in the Road of the American Welfare State," SSRN Research Paper 2019, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3467127 (subscription required).

of unemployment for young women.³³ Even with low awareness and up-take rates, researchers estimated that New Jersey's paid family leave program reduced young women's employment rates by an estimated 8 percent to 9 percent.³⁴ And a recent analysis of California's program using administrative data from the IRS found that new mothers who used California's paid family and medical leave program had 7 percent lower employment and 8 percent lower annual earnings 6 years to 10 years after giving birth than new mothers who did not use the program. (That study also has the surprising finding that California's paid family leave program reduces women's fertility rates).³⁵ Even though the United States' Family and Medical Leave Act (FMLA) only enables *unpaid* family and medical leave, and only applies to companies with more than 50 employees, it has still reduced women's likelihood of being promoted³⁶ and thwarted women's wage gains relative to men.³⁷

Even liberal economists such as professor and scholar Harry Holzer have noted, "A mandatory paid leave policy might well lead employers to begin discriminating in hiring against less-educated women in the child-bearing ages, especially minority women."³⁸ While government mandates cause employers to fear absences that are out of their control and lawsuits for even unknowingly failing to follow complicated rules, employer-provided policies have fewer consequences because they do not insert a middleman between workers and employers. Consequently, employers who voluntarily provide paid family leave benefits are unlikely to discriminate against workers who may take leave and are more likely to accommodate workers' leaves in an effort to keep them employed with the company.

Most Americans Are Unwilling to Accept the Costs and Trade-offs of a Federal Paid Family Leave Program. A 2018 survey by the Cato Institute found that most Americans—74 percent—support a Federal paid family and medical leave program; but that support dropped precipitously when asked about the costs, or trade-offs, of such a program.³⁹ At a price tag of \$450 more in taxes each year—the likely minimum cost for a program like the FAMILY Act⁴⁰—fewer than half of Americans (48 percent) supported a national paid leave program.⁴¹ In reality, however, a national paid leave program would cost much more—as much as thousands of dollars per year in new taxes, according to the American Action Forum.⁴²

Americans are not willing to exchange more debt for a Federal paid family leave program as only 40 percent of Americans support paid family leave if it means high-

³³Tirthathanmoy Das and Solomom W. Polachek, "Unanticipated Effects of California's Paid Family Leave Program," Institute of Labor Economics Discussion Paper No. 8023, March 2014, <http://ftp.iza.org/dp8023.pdf> (accessed October 20, 2023).

³⁴Joshua Reed and Donald Vandegrift, "The Effect of New Jersey's Paid Parental Leave Policy on Employment," Munich Personal RePEc Archive Paper No. 74794, October 28, 2016, https://mpra.ub.uni-muenchen.de/74794/1/MPRA_paper_74794.pdf (accessed October 20, 2023).

³⁵Martha J. Bailey, Tanya S. Byker, Elena Patel, and Shanthi Ramnath, "The Long-Term Effects of California's 2004 Paid Family Leave Act on Women's Careers: Evidence from U.S. Tax Data," NBER Working Paper No. 26426, October 2019.

³⁶This study found that women who were hired shortly after passage of the FMLA were 8 percentage points less likely to be promoted compared to those hired before it: Mallika Thomas, "The Impact of Mandated Maternity Benefits on the Gender Differential in Promotions: Examining the Role of Adverse Selection," Cornell University ILR School, September 6, 2016, <https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1015&context=ics> (accessed October 20, 2023).

³⁷This study found that White women's wages had been converging at a rate of 0.70 percentage points per year in the decades prior to passage of the FMLA and have converged at a rate of 0.03 percentage points since. For Black women, convergence rates fell from 0.30 percentage points prior to the FMLA to 0.05 percentage points afterwards. Peter Q. Blair and Benjamin Posmanick, "Why Did Gender Wage Convergence in the United States Stall?", National Bureau of Economic Research Working Paper No. 30821, January 2023, https://www.nber.org/system/files/working_papers/w30821/w30821.pdf (accessed October 19, 2023).

³⁸Harry J. Holzer, "Paid Family Leave: Balancing Benefits and Costs," AEI-Brookings Project on Paid Family Leave *Social Mobility Memo*, January 30, 2017, <https://www.brookings.edu/blog/social-mobility-memos/2017/01/30/paid-family-leave-balancing-benefits-and-costs/> (accessed October 20, 2023).

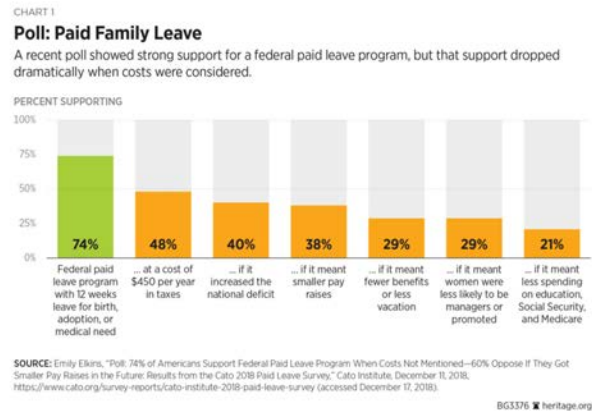
³⁹Ekins, "Cato Institute 2018 Paid Leave Survey."

⁴⁰The \$450 cost is based on a critique by the AEI-Brookings Working Group on Paid Family Leave report, arguing that the FAMILY Act's costs are likely underestimated. The CATO survey uses a 16-percent take-up rate and an average leave duration of 7 weeks.

⁴¹Ekins, "Cato Institute 2018 Paid Leave Survey."

⁴²Ben Gitis, "The Cost of Paid Family Leave Law," American Action Forum, October 2015, <https://www.americanactionforum.org/research/the-cost-of-paid-family-leave-law/> (accessed October 20, 2023).

er deficits.⁴³ Americans appear even less willing to give up their own personal compensation or to forgo promotions for women: Only 38 percent of Americans support a Federal paid leave policy if it means lower pay raises for them, and even fewer—29 percent—are willing to exchange such a program for fewer benefits for them or for a reduced likelihood of promotions for women.⁴⁴ That has, unfortunately, been the case with national paid family leave policies, including both unpaid mandates⁴⁵ and generous national programs.⁴⁶



Americans were least willing to support a Federal paid family leave program if it meant giving up other valued government services. Only 21 percent of Americans said they would trade lower funding for education, Social Security, and Medicare in order to implement a national paid family leave program.⁴⁷ This is an important reality because Social Security and Medicare are both massively underfunded and Social Security is projected to run out of money within a decade, resulting in automatic and across-the-board benefit cuts of 23 percent (about \$5,000 for the average retiree). Adding another unfunded entitlement program would further jeopardize the ability of existing entitlement programs to provide scheduled benefits.

Another survey, commissioned by the Independent Women's Forum, asked Americans about their concerns over a Federal paid family leave policy. Americans' biggest concern was that "people will find a way to abuse this type of policy."⁴⁸ About half of all Americans were concerned about abuse, including 56 percent of conservatives, 52 percent of moderates, and 38 percent of liberals. Americans' other top concerns were that a Federal paid family leave policy "only benefits workers who plan to have children, which is unfair to those who do not" (38 percent); "workers will have to pay more taxes and will have less money for themselves and their families" (37 percent); and it "discourages businesses from providing their own parental leave benefit" (34 percent).⁴⁹

POLICIES TO EXPAND WORKERS' ACCESS TO PAID FAMILY LEAVE AND WORK-LIFE FLEXIBILITY

It is important that family members be able to care for one another, and in a time when many households are headed by a single adult or both spouses are working,

⁴³ Ekins, "Cato Institute 2018 Paid Leave Survey."

⁴⁴ *Ibid.*

⁴⁵ Malika Thomas, "The Impact of Mandated Maternity Benefits on the Gender Differential in Promotions: Examining the Role of Adverse Selection," March 6, 2019, <https://irs.princeton.edu/sites/irs/files/event/uploads/Draft030619.pdf> (accessed October 20, 2023).

⁴⁶ Christopher J. Ruhm, "The Economic Consequences of Parental Leave Mandates: Lessons from Europe," National Bureau of Economic Research Working Paper No. 5688, July 1996, <http://www.nber.org/papers/w5688.pdf> (accessed October 20, 2023).

⁴⁷ Ekins, "Cato Institute 2018 Paid Leave Survey."

⁴⁸ Heart Mind Strategies, "Paid Leave Messaging Research: Public Report," prepared for the Independent Women's Forum, April 29, 2019, <https://pdf.iwf.org/Paid-Leave-Poll-Hearts-and-Mind%202019.pdf> (accessed October 20, 2023).

⁴⁹ *Ibid.*

providing necessary care can require taking time off work. Employers who fail to recognize and provide for this need risk losing good workers and incurring high turnover costs. Fortunately, a competitive global economy, the 2018 pro-growth tax cuts, and the workplace adaptations related to the COVID-19 pandemic have spurred more and more employers to voluntarily provide paid family leave to their workers. Moreover, 14 States have enacted paid family leave programs that vary in program design and administration, and a handful of other States have optional paid family leave programs.

Tax Credits Versus Mandates. Tax credits for paid family leave policies will always have fewer unintended consequences than government mandates because credits are optional. The effectiveness of tax credits at increasing access to paid family leave depend on the structure of the credits. Temporary credits are less likely to induce employers to enact permanent new benefits, and credits that impose significant requirements on employers are less likely to be utilized. Meanwhile, credits that are available to employers who already provide the specified policy will raise taxpayers' costs without generating new benefits for workers.

The Tax Cuts and Jobs Act of 2018 (TCJA) included a temporary tax credit for employers who paid family leave to their workers. That credit was supposed to last only through 2019 but has since been extended through 2025. To qualify for the credit, employers must have a formal written policy that meets minimum requirements, including providing at least 2 weeks of paid family leave, being available to employees who have worked for the employer for at least 12 months, and providing at least 50-percent benefit replacement rates. The credit equals a quarter of the paid family leave wages paid (so, between 12.5 percent and 25 percent) to workers who have incomes below a specified threshold. In 2023, employers can claim credits for workers whose total wage compensation did not exceed \$81,000 in 2022. To claim the credit, employers must file two IRS forms and must reduce their tax deduction for employee compensation by the amount of the credit. The credit was and is available to employers with existing paid family leave policies that meet the credit's requirements, as well as to employers who provide short-term disability insurance plans that meet the requirements.

The efficacy of the tax credit at expanding access to paid family leave is not yet known. In particular, it is not clear what portion of tax credits claimed went to employers who already provided paid family leave or short-term disability insurance policies versus how many were spurred to create new policies as a result of the credit. The Joint Committee on Taxation estimated that the credit would cost about \$2.2 billion per year in tax revenues over the first 3 years (2018–2020) and about \$0.8 billion per year over the next 5 years (2021–2025).

A back-of-the-envelope estimate suggests that \$0.8 billion per year equates to about 1.1 million workers receiving the credit. (This estimate assumes workers have average wages of \$50,000 per year, they each take the average of 5.5 weeks of leave, and they receive a 75 percent benefit replacement.) Considering that upwards of 40 million workers have access to paid family leave at work, and that roughly 23 million workers take family leave each year, the credit would appear to benefit relatively few workers.⁵⁰ Moreover, it is unclear how many of the workers for whom employers claim the credit would have had access to paid family leave even without the credit.

A provision of the paid family leave tax credit that may be preventing particularly smaller employers from claiming it, even if they decide to provide some paid family leave, is the “non-interference” language. That language specifies that an employer cannot interfere with any attempted use of the benefits of the policy. Employers may rightly fear that “interfere” could be interpreted to include an employer asking to work with an employee in scheduling his paid leave or asking that employee to do work—even answering an email or a phone call from a coworker filling in for that employee—while on leave. Additionally, because smaller companies tend to face greater liquidity constraints, the lag between when an employer provides paid family leave and when the company files taxes and eventually receives the credit may render it less effective.

COVID-19 Family Leave Credit Underutilized. Another temporary credit in the Families First Coronavirus Act covered 100 percent of employers' costs for wages and health-care benefits for workers at companies with 500 employees or

⁵⁰ Bureau of Labor Statistics, “National Compensation Survey,” and Brown et al., “Employee and Worksite Perspectives of the Family and Medical Leave Act: Executive Summary for Results from the 2018 Surveys.”

fewer who took family leave for reasons related to the COVID-19 pandemic. The original credit expired at the end of 2020. Subsequent legislation modified and extended the credit through September 30, 2021. The original credit was estimated by the Joint Committee on Taxation to cost \$105 billion. According to IRS administrative records through July 15, 2021, the IRS had processed only \$6.7 billion worth of employers' claims for the credit between the second quarter of 2020 and the first quarter of 2021.⁵¹ This suggests that the credit was highly underutilized. Possible reasons for so few businesses claiming the 100 percent paid family leave credit could include fewer needed leaves than anticipated and administrative complexity and confusion, including the credit's interaction with other COVID-19 policies.

Conditional tax credits for paid family leave are arguably less effective than across-the-board tax reductions. To the extent that policymakers consider using the tax code to encourage the provision of paid family leave, a temporarily lower tax rate for companies that do not currently provide paid family leave and that enact new paid family leave policies would be better targeted than credits available to employers with existing policies. Moreover, businesses may be more inclined to implement new policies if they have fewer strings attached and do not include the administrative burden of tracking and submitting claims for each individual worker's leave.

If policymakers enact Federal paid family leave legislation, it should be optional to prevent the unintended costs and consequences. The following proposals are all entirely optional ways to help expand paid family leave to workers who lack the ability to take it and to businesses that cannot yet afford to provide it:

Enact the Working Families Flexibility Act. The Working Families Flexibility Act would allow lower-income, hourly workers to choose whether they want to accumulate paid leave overtime pay when they work more than 40 hours in a week. Paid leave, or so-called comp time, would accumulate at 1.5 times the rate of overtime, so 4 hours of overtime 1 week would equal 6 hours of paid leave. This proposal would particularly help lower-income workers who are least likely to have access to paid family leave.

Enact Universal Savings Accounts. Universal Savings Accounts would enable all Americans to save in a single, simple account for all their needs and to take money out for paid leave, for children's education, or any other life needs that arise without paying a penalty for early withdrawal. The ability to use tax-preferred savings for paid family leave would be particularly helpful for independent, part-time, and temporary workers.

Expand Private Disability Insurance. Private disability insurance covers workers own medical needs and maternity leave. Already, about 50 percent of full-time private-sector workers currently have private disability insurance at work.⁵² Providing clarity that employers can automatically enroll workers in private disability insurance, just as they can automatically enroll workers in retirement savings (so long as they provide a clear option to opt out), could encourage more employers to provide private disability insurance.

Pursue Pro-Growth Tax Policies. Perhaps the single most impactful thing that policymakers can do to enable more employers to be able to provide paid family leave is to allow employers to return more of workers' output to them in compensation, like paid family leave, as opposed to sending it to the government through taxes.

The success of the Tax Cuts and Jobs Act reduced the top corporate tax rate from 35 percent to 21 percent and lowered the top effective tax rate on S corporations from 37 percent to 29.6 percent. Many businesses used these tax reductions to increase employees' compensation, including paid family leave. In the 6 years leading up to the tax cuts, the percent of workers with access to employer-provided paid family leave increased only 3 percentage points, from 12 percent to 15 percent. In the 6 years following passage of the TCJA, that percentage shot up 12 percentage points, from 15 percent to 27 percent.⁵³

⁵¹ Congressional Budget Office, "The Budgetary Effects of the Tax Credit for Employer-Paid Sick and Family Leave During the Coronavirus Pandemic," July 16, 2021, <https://www.cbo.gov/publication/57362> (accessed October 19, 2023).

⁵² Rachel Greszler, "Private Disability Insurance Option Could Help Save SSDI and Improve Individual Well-being," Heritage Foundation Backgrounder No. 3037, July 20, 2015, <http://report.heritage.org/bg3037>.

⁵³ Bureau of Labor Statistics, "National Compensation Survey."

Do Not Regulate Away Paid Family Leave and Flexibility. Regulations are another drag on employee compensation, both because of the dollar costs and the burdens of rigid rules. A number of recently proposed regulations threaten to make it more difficult and less likely for employers to offer paid family leave. The Department of Labor's soon-to-be-finalized Independent Contractor rule would make it harder for employers to hire short-term contractors to cover the work of employees who are out on paid family leave. That rule would also take away flexible work options that enable workers to choose when they work. The Department of Labor's recently proposed overtime rule (effectively subjecting all employees who make less than about \$55,000 per year to overtime standards) could backfire on currently salaried employees who could end up having to use up their paid time off just to maintain a full paycheck in weeks when they log fewer than 40 hours. And salaried workers who are converted to hourly employees as a result of the rule may lose access to workplace benefits that are only provided to salaried employees.

Instead of enacting new regulations that tie employers' and employees' hands and take away flexible work options, policymakers should look to eliminate costly and unnecessary regulations so that more of employers' resources can go to employees' compensation instead of to lawyers, accountants, and administrators. In addition to saving time and money, fewer regulations specifically geared at paid family leave policies would reduce employers' legal fears about offering it.

Unlike a one-size-fits-all Federal entitlement program, these policies would help to meet workers' unique needs, in flexible and accommodating ways, at a cost they can afford.

QUESTIONS SUBMITTED FOR THE RECORD TO RACHEL U. GRESZLER

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. You have written about the importance of taking a measured Federal approach on paid leave.

Can you please elaborate how, in your view, the Federal Government can best partner with States and employers to address some of the current gaps we are seeing in the paid family leave space?

Answer. I appreciate how you have framed it, as it is gaps and not gaping holes that U.S. workers and employers face when it comes to paid family leave today. A Federal mandate or Federal entitlement would eviscerate many current private and State and local paid family leave programs, so this is not where Federal policy should start. Instead, Federal policy should look to fill in gaps with options for workers and employers.

For example, by specifying that employers can automatically enroll workers in private disability insurance plans like the are allowed to do for retirement plans, more employers would do just that, resulting in more workers having access to private disability insurance that covers the overwhelming majority of workers' paid family leave needs. Private disability insurance can be attractive for employers because they do not have to manage the leave and it can be of little or no cost to them, depending on whether or not they subsidize it for workers. In addition, allowing workers to save tax free in a single, simple Universal Savings Account (USA), whereby they could withdraw funds without penalty for any need including taking family or medical leave, would specifically help fill the gaps where workers lack access to paid family leave. USAs have been particularly popular among lower-income workers in Canada and South Africa, presumably because they are more flexible and do not siphon off workers savings to be used only for specified purposes.

Question. Additionally, in your testimony, you highlighted the importance of protecting certain flexibilities for employers looking to implement paid leave programs.

Can you elaborate on the importance of these flexibilities and how you suggest my colleagues and I work to protect them as we evaluate opportunities for the Federal Government to bolster efforts on paid family leave?

Answer. The majority of paid family leave needs are not like pregnancy, which is known many months in advance of the need for leave. Rather, many paid leave needs arise unexpectedly, and they also may include a need for intermittent leave as opposed to entire weeks or months away from work. When considering policies, it is important to fully consider not only how such policies might help people, but also how they might unintentionally hurt people. For example, the District of Co-

lumbia's paid family leave stipulations require government approval of all leave requests, but this prohibits flexibility because employees have to submit all needs for leave weeks in advance, and they cannot take partial days of leave. That causes problems if, for example, a medical appointment is changed, or if the appointment only requires missing 2 hours of work instead of a whole day. Moreover, if someone ends up working on a day that they requested and were approved for leave—including even just answering a work phone call or email—they will have to repay the benefits they received for that day. This type of policy simply does not work for many workers and many family and medical leave needs.

Question. As Congress evaluates opportunities for Federal action on paid family leave, one question that often shapes the discussion is—should Congress create a new entitlement program to address the gaps in the current system or build off of existing Federal programs? In your written testimony, you highlighted the challenges of creating a new entitlement program.

In your view, what are the benefits to enacting a paid leave program that builds off of an existing program in comparison to creating an entirely new entitlement program?

Answer. Creating a Federal paid family leave entitlement would eviscerate existing employer-provided and State and local programs that are tailored to their own populations, which are a tiny fraction of the entire U.S. population. Many existing employer-provided paid family leave policies—both formal and informal—are serving workers and employers well and should not be disrupted with a Federal mandate, Federal entitlement, or even Federal regulations that could end up doing more to limit paid family leave than to expand it.

If the Federal Government were to establish any type of paid family leave policy or program, it should be entirely optional, and geared towards allowing workers who do not have access to paid family leave to be able to purchase it. This could include following the model of Virginia (and now multiple other States) that have enabled private insurers to offer paid family leave insurance policies to individuals.

QUESTION SUBMITTED BY HON. CHUCK GRASSLEY

Question. In your written testimony you talked about how, statistically, low-income families are less likely to file paid leave claims.

What considerations are important to ensure that paid leave programs and policies are accessible for low, middle, and high wage earners alike?

Answer. Voluntary, employer-provided paid family leave programs as well as personal savings (such as through Universal Savings Accounts, which could include employer contributions into them) provide the best pathway to meaningfully expand paid family leave to lower-income groups. The reality of the situation is that the nature of many lower-income Americans' work makes them ineligible for most government-created paid family leave programs. This is because lower-income workers are more likely to work for small employers that do not have to provide job-protected family and medical leave, lower-income earners tend to have significantly shorter job tenure that leaves them ineligible for government paid family leave programs, and most government programs provide only partial wage replacement and lower-income earners often cannot afford to keep paying their bills with only partial pay.

Thus, policymakers should look to something like Universal Savings Accounts, or even emergency savings accounts that lower-income workers could use for whatever need arises—including paid family leave—and regardless of their employment situation. While it may be tempting to provide tax credits to companies for paid family leave provided to lower-income workers, experience with such tax credits during the COVID-19 pandemic showed that they were hardly utilized because of the regulations and requirements (even seemingly minor ones like “non-interference”) that came with them. As avoiding potential liability associated with managing a formal paid family leave program appears to be a legitimate concern of employers, private disability insurance offers a potential way for companies to provide paid family and medical leave benefits without having to take on the costs and liabilities of managing a program. Congress could help encourage greater access to and enrollment in private disability insurance by clarifying that employers can automatically enroll employees into such insurance plans similar to how they are allowed to automatically enroll employees into retirement plans.

PREPARED STATEMENT OF ELIZABETH MILITO, EXECUTIVE DIRECTOR,
SMALL BUSINESS LEGAL CENTER, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Chairman Wyden, Ranking Member Crapo, and members of the Senate Committee on Finance, on behalf of the National Federation of Independent Business (NFIB), I appreciate the opportunity to submit for the record this testimony for the Senate Committee on Finance hearing entitled, “Exploring Paid Leave: Policy, Practice, and Impact on the Workforce.”

My name is Elizabeth Milito, and I serve as the executive director of the NFIB Small Business Legal Center. The NFIB Small Business Legal Center is a nonprofit, public interest law firm established to provide legal resources and be the voice for small businesses in the Nation’s courts through representation on issues of public interest affecting small businesses.

NFIB is the Nation’s leading small business advocacy organization, advocating on behalf of nearly 300,000 small business owner members in Washington, DC and all 50 State capitals. NFIB’s mission is to promote and protect the right of our members to own, operate, and grow their businesses. NFIB proudly represents small businesses nationwide from every industry and sector.

NFIB members define our neighborhoods and fill our communities with character. They create local jobs and homegrown economic opportunities for small business owners and their employees alike. NFIB members are your local hardware store, the restaurant your family eats at on Friday, the neighborhood florist and barber, the mechanic who fixes your car, and the plumber, roofer, and landscaper who work on your home.

Small businesses employ nearly half the country’s private-sector workforce.¹ When small businesses succeed, communities flourish. A strong, vibrant small business economy supports local tax bases, governments, and schools. It is estimated that 68 cents of every dollar spent at a local small business is reinvested into the community.² Small businesses are vital to our communities.

I describe our membership and the importance small business has on our economy to illustrate one of the key points of my testimony and what I think often gets lost in the public policy discussions here in Washington, DC. There is no such thing as a “one-size-fits-all” policy that works for every business or every industry. Consider the varied types of small businesses you frequent—pizza parlor, auto shop, dry cleaner, hair salon—some have employees that are strictly full-time, others strictly part-time or hourly. Some have a combination of both. Perhaps others are seasonal employers. Small businesses face complex issues that are unique to them, and when solutions to perceived problems are put in place by government, policymakers too often paint business with a broad brush and fail to consider the unique structure of Main Street employers.

The number of small business owners who struggle to fill positions is at a historically high level.³ Small businesses are increasing compensation and benefits. They are providing flexibility so employees can pick their kids up from daycare or go to a doctor’s appointment. However, many small business owners are staunchly opposed to one-size-fits-all inflexible and costly mandates from Washington. Just as we know from past decisions the best political intentions do not always play out as desired. Therefore, we must also examine the likely consequences to small employers from new government mandates.

NFIB has long opposed inflexible or mandated leave requirements for a variety of reasons. But today, I would like to focus on three concerns of NFIB and its members: (1) leave mandates impede flexibility, which is the key to making small businesses the “employers of choice” in our communities; (2) leave mandates impose inordinate complexity and costs on small businesses; and (3) leave mandates lead to death by a thousand mandates.

¹*Frequently Asked Questions About Small Business 2023*, U.S. Small Business Administration, Office of Advocacy (March 7, 2023), available at <https://advocacy.sba.gov/2023/03/07/frequently-asked-questions-about-small-business-2023/>.

²*The Multiplier Effect of Local Businesses*, American Independent Business Alliance, available at <https://www.amiba.net/resources/multiplier-effect/>.

³NFIB Research Center, *Small Business Economic Trends Survey* (NFIB September SBET Survey) (October 10, 2023), <https://www.nfib.com/content/press-release/economy/small-business-optimism-dips-in-september-as-inflation-remains-top-problem/>.

1. SMALL BUSINESSES AND EMPLOYEE BENEFITS: FLEXIBILITY MAKES SMALL BUSINESSES THE “EMPLOYERS OF CHOICE” IN OUR COMMUNITIES

Providing paid family leave can have several benefits for businesses, including increased employee morale, loyalty, and retention, as well as improved recruitment efforts. However, ultimately, each business must weigh the costs and benefits of offering paid family leave and make their decision based on their unique circumstances and not through legislative decree. Please do not take away what’s left of the flexibility we have to accommodate our workers’ needs. We hope that you will look to reduce the burden on running our business rather than adding payroll tax increases to our already rising operational costs and administrative and compliance burdens. Please consider the struggle that small businesses have been through in the last 3 years before putting another expensive and time-consuming mandate on us. —NFIB Member—Brattleboro, VT

Often the public and media link the term “employers of choice” with big corporations that offer Cadillac employee benefit programs and have seemingly endless resources to throw around, but the reality is that creating good jobs doesn’t have to be that complex or challenging. Small businesses have demonstrated time and again that being an “employer of choice” means becoming an employer that potential and existing employees want to work for. Small businesses do this by offering competitive compensation and investing in employees and their communities.

Unfortunately, however, mandated leave proposals often envision a one-size-fits-all mandate that would handicap businesses’ ability to attract workers at a critical time. Across the Nation, small business owners are seeing a growth in sales but are stunted by not having enough workers. Finding qualified employees remains the biggest challenge for small businesses and is slowing economic growth. Owners are raising compensation and offering bonuses and benefits to attract the right employees.

The NFIB Research Center showed the Small Business Optimism Index (<https://www.nfib.com/surveys/small-business-economic-trends/>) decreased half a point in September to 90.8.⁴ September’s reading marks the 21st consecutive month below the 49-year average of 98.⁵ Business owners remain pessimistic about future business conditions, which has contributed to the low optimism they have regarding the economy. Forty-three percent of owners reported job openings that were hard to fill, up 3 points from August and remaining historically high as owners can’t hire enough workers due to few qualified applicants. Finding qualified workers is the number-one-cited problem for small business owners, surpassing all other issues including inflation.⁶

One of the primary ways in which small businesses attract and retain talented workers is by providing innovative benefits like flexible leave policies, designed specifically to fit the needs of their employees and their businesses. The majority of small business owners already include paid leave in their compensation packages. According to an NFIB national small business poll, a majority of small business owners indicated that they already provide flexible leave. Most small employers (73 percent) offer paid time off (PTO) to the majority of their full-time employees, and 67 percent of them offer 2 weeks or more of leave.⁷ The number of days offered is dependent on an employee’s length of service in 76 percent of small businesses offering the benefit.⁸

Most small business owners work hard to ensure compliance with employment and labor laws in a workplace that treats employees fairly, pays decent wages, and provides good benefits, but their informal and unstructured nature and more limited financial resources require greater flexibility in creating policies and solutions. Indeed, small businesses are leaders in flexible working arrangements, a key benefit for many of their employees.

Studies have shown that small businesses are more likely to allow employees to change starting and quitting times, work some regular paid hours at home occasion-

⁴ NFIB Research Center, *Small Business Economic Trends Survey* (NFIB September SBET Survey) (October 10, 2023), <https://www.nfib.com/content/press-release/economy/small-business-optimism-dips-in-september-as-inflation-remains-top-problem/>.

⁵ *Id.*

⁶ *Id.*

⁷ NFIB National Small Business Poll, *Employee Compensation and Small Business* (2016), available at http://www.411sbfacts.com/files/NFIB_SBP_Emp-Compensation2017_v2.pdf.

⁸ *Id.*

ally, have control over when to take breaks, return to work gradually after childbirth or adoption, and take time off during the workday to attend to caregiving or other family or personal needs without loss of pay.⁹ Flexible work arrangements like these directly correlate with increased employee satisfaction.¹⁰

In summary, expanding leave mandates has two results that impact flexibility in the workplace. Mandating one-size-fits-all policies forces small business owners to eliminate unique programs that benefit their businesses, their customers, their employees, and ultimately their communities. In addition, leave mandates increase costs for small businesses, which almost always limits the flexibility of small businesses to provide benefits that many employees already enjoy.

2. SMALL BUSINESSES AND MANDATED LEAVE: THE COMPLEXITY OF COMPLIANCE AND UNFORESEEN, UNINTENDED, AND HIDDEN COSTS

As a small business, we have always strived to offer the best benefits that we can for our employees, which include 5 paid holidays, and up to 10 vacation days, not to mention health insurance, a SIMPLE IRA plan, etc. With the current economic climate, it is difficult to offer competitive wages and benefits and still keep the business profitable. Adding another mandated benefit will just make that even more difficult, not to mention the time it will take to track the proposed PTO which is different than our current system. We are already extremely flexible with our employees and have given a lot of grace through the pandemic and the many challenges that it has created. —NFIB Member—Decatur, IL

Small businesses depend on predictability to stay competitive. Mandated leave policies, however, further complicate compliance with workforce laws for employers and raise costs on businesses. Mandated leave is not a free benefit for employees; mandated leave comes with a cost that businesses will have to shoulder and will eventually be absorbed by the employer, employees, and customers. In a small business with a finite number of resources, this translates into less money available for wage increases, health insurance and other benefits, and hiring additional employees.

Small businesses, which are the backbone of our economy, are especially vulnerable to the impact of labor mandates. Small firms typically have few administrative staff members and little human resources experience or regular access to legal counsel. Only about 12 percent of small businesses have a human resources (HR) professional or dedicated employee who handles personnel matters.¹¹ In most small businesses, HR matters are handled by the business owner or an employee who handles back office and administrative tasks. This means that the recordkeeping and reporting requirements mandated by leave proposals will fall more times than not on the business owner. About 50 percent do payroll in-house.¹² Adding a Federal leave mandate to existing State and local labor and employment law requirements would complicate an already difficult legal and regulatory environment for small businesses and would expose these businesses to legal challenges.

Additionally, whether an employer is subject to a paid leave mandate or subject to an unpaid leave mandate, leave laws generally impose onerous recordkeeping requirements with which small businesses would need to comply, including new leave tracking, notification, documentation, and reporting requirements. Records would need to be maintained to demonstrate compliance.

When the Family and Medical Leave Act was passed, the Senate debated small business exemptions from such burdensome mandates.¹³ The Senate ultimately agreed on an exemption for small businesses with fewer than 50 employees. The Senate wisely understood that it would be more difficult for small business owners

⁹ *Workplace Flexibility: Information and Options for Small Business*, U.S. Department of Labor Women's Bureau (2015), available at https://www.dol.gov/wb/WorkplaceFlexibility_508_FINAL.pdf.

¹⁰ *Workplace Flexibility Survey—Strategic Use of Flexible Work Arrangements*, Society for Human Resource Management (2014), available at [https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/pages/2014-workplace-flexibility-survey-strategic-use-of-flexiblework-arrangements-\(fwas\).aspx](https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/pages/2014-workplace-flexibility-survey-strategic-use-of-flexiblework-arrangements-(fwas).aspx).

¹¹ NFIB Research Center, *NFIB National Small Business Poll Business Structure* (2004), available at [http://www.411sbfacts.com/files/bizstructurepoll\[1\].pdf](http://www.411sbfacts.com/files/bizstructurepoll[1].pdf).

¹² *NFIB National Small Business Poll Tax Complexity and the IRS* (2017), available at NFIB: The Voice of Small Business—National Small Business Poll (411sbfacts.com).

¹³ S. Amdt. 1 to S. 5—103rd Congress (1993–1994) | [Congress.gov](https://www.congress.gov) | Library of Congress.

to comply with this new mandate and would potentially be more disruptive to the operations of small firms.

As we have observed, the best way to increase employee compensation is through economic growth where employers must boost compensation to retain and attract employees. Congress must focus on policies that strengthen the economy and reject mandates that increase red tape and costs for small businesses.

3. DEATH BY A THOUSAND MANDATES

I am a small business with 3 employees. I would like to have a 4th employee but because of the high taxes I already pay, I cannot afford to. I could easily afford a 4th employee with the taxes I pay now. Instituting . . . paid leave and the tax to pay for it would really hurt my business—maybe even having to go down to 2 employees. That would make it harder for me and I would probably consider dissolving my business. —NFIB Member—Little Falls, MN

Efforts to expand labor mandates never stop. For small business owners, it's nearly impossible to keep up with the unprecedented number of changes in the past few years.¹⁴ A federally mandated leave program will further complicate the patchwork quilt of labor laws that are problematic and confusing for employers and create unintended consequences for workers, businesses, and for the economic environment.

Understanding and complying with the complexity of a new mandate is expensive, both in terms of time and money. According to the Small Business Administration, workplace compliance costs small businesses 36 percent more per employee than it costs large businesses.¹⁵

Additionally, any new mandates would fall on businesses during an unprecedented surge of regulatory costs and burdens imposed by the current administration. In a little over 2½ years in office, this administration's regulatory agenda has saddled businesses with more than \$436 billion in new final rule costs and more than 220 million paperwork hours.¹⁶ If there ever was a time for Congress to not increase mandates and red tape for small businesses, that time is now.

Federally mandated leave would add another benefit to the growing list of expenses that employers must absorb. In recent years, leave laws have passed in a dozen States.¹⁷ Some of these State initiatives were funded via payroll deductions, only to later be modified to be strictly employer funded. Many enacted paid leave mandates additionally incorporate private right of action language, which opens small employers up to an increased threat of litigation.

A federally mandated leave program will put small businesses at a competitive disadvantage in attracting and retaining employees. In today's economic environment, not only are employers competing to attract workers, but the competition amongst States for employers and jobs is fierce. Businesses in States with mandated leave programs will not fare well.

CONCLUSION

Small business owners understand the changing dynamics in the workplace—they are grandparents, parents, and caregivers, too—and they want to do all they can to attract and retain the best employees. But when it comes to benefits, flexibility is key for small businesses. Mandated leave laws represent a significant challenge for small business owners since flexibility is critical for a small business, and mandated leave laws are generally anything but flexible, simple to comply with, and affordable.

Small business owners can and do offer support to employees in their lives away from work, whether it's for their own care or to care for a parent, child, or other

¹⁴ National Conference on State Legislatures, *Paid Sick Leave* (July 21, 2020), available at <https://www.ncsl.org/labor-and-employment/paid-sick-leave>.

¹⁵ *The Impact of Regulatory Costs on Small Firms*, SBA Office of Advocacy (2010), available at <https://www.sba.gov/sites/default/files/The%20Impact%20of%20Regulatory%20Costs%20on%20Sm>.

¹⁶ Dan Goldbeck, *Billion-dollar Week Trend Continues Apace: October 10–13*, American Action Forum (October 16, 2023), <https://www.americanactionforum.org/week-in-regulation/billion-dollar-week-trend-continues-pace-october-10-13/>.

¹⁷ National Conference on State Legislatures, *Paid Sick Leave* (July 21, 2020), available at <https://www.ncsl.org/labor-and-employment/paid-sick-leave>.

family member, but they must have flexibility in creating a policy that works for both the employees and the business.

On behalf of all the small-business owners of the NFIB, thank you for focusing on this important issue and inviting me to appear before the committee.

QUESTIONS SUBMITTED FOR THE RECORD TO ELIZABETH MILITO

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. I have long been supportive of finding opportunities for the Federal Government to partner with States and employers in providing greater flexibility for working parents. One of the very important aspects of this conversation is looking specifically at how small businesses are impacted by the current paid family leave system.

What are some of the barriers that small businesses often face in offering paid family leave?

Answer. Small businesses are particularly hard-hit by the current economic conditions. The number of small business owners who struggle to fill positions is at a historically high level, and leave proposals often envision a one-size-fits-all mandate that would handicap businesses' ability to attract workers at this critical time. One of the primary ways that small businesses attract employees—along with increasing compensation and benefits—is to offer flexible leave policies. However, mandates are expensive and inflexible; they would prevent businesses from being able to offer more flexible leave. Add in the cost of compliance—which is significantly higher for small businesses—and the challenge of keeping up with an ever-increasing set of regulatory requirements, and it becomes clear that mandatory paid family leave would be a massive burden on small business owners. Until economic conditions improve, and the existing regulatory burden lessens, business owners are unable to provide paid family leave.

Question. In your view, how can Congress work to help address some of these barriers?

Answer. The best way that Congress can address these barriers is by strengthening the economy and avoiding further regulations on small business—especially a one-size-fits-all paid leave mandate that would treat small businesses the same as large companies. Congress should keep in mind that 50 percent of small businesses do payroll in-house¹ and most do not have HR departments to shoulder the burden of compliance. Instead, small businesses should be able to retain flexibility in creating policies that work for both them and their employees.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. As chairman of the Finance Committee, I convened a bipartisan working group to study the issue of paid leave to try and find a bipartisan consensus on what the Federal Government's role should be. It's been several decades since we've updated Federal family leave laws. It's important to have bipartisan discussions about existing private and public paid family leave benefits and identify gaps in coverage to ensure working families have the flexibility to care for their loved ones.

We know that many employers currently offer paid leave benefits. We should consider potential avenues to encourage more employers to begin offering paid leave options to workers as well as how to sustain these benefits in the long term.

Can you share your thoughts on how to incentivize employers of different sizes to provide paid leave options to employees for the first time and for the long term?

Answer. Small businesses want to provide the best compensation and benefits for their employees. However, instituting more regulations in tough economic times will have the complete opposite effect. Instead of growing their businesses, employing more workers, and offering more benefits, businesses will be forced to shrink their work force and cut benefits. Rather than increasing the regulatory burden on small businesses, Congress ought to reduce this burden. Congress must focus on policies

¹NFIB *National Small Business Poll Tax Complexity and the IRS* (2017), available at NFIB: The Voice of Small Business—National Small Business Poll (411sbfacts.com).

that strengthen the economy and reject mandates that increase red tape and costs for small businesses. This will incentivize small businesses to continue improving employee benefits.

Question. During my annual county meetings, I hear from businesses in every industry about labor shortages and finding qualified workers to fill open positions. How do we ensure businesses have the flexibility to offer the pay and benefits that fit their budgets and help attract and retain workers?

Answer. Finding qualified workers is the number one cited problem for small business owners, surpassing all other issues, including inflation.² The solution lies in affording small businesses the ability to choose their own policies. Employer-designed leave policies allow employees the day-to-day flexibility to pick their kids up from daycare or go to a doctor's appointment. However, if small businesses are forced to provide paid family leave, they will not be able to afford the flexible leave policies that bring in new employees. Congress should ensure that businesses can design and implement the policies that are most attractive to workers rather than having to conform to an unaffordable paid family leave mandate.

PREPARED STATEMENT OF BEN VERHOEVEN,
PRESIDENT, PEORIA GARDENS, INC.

Good morning, Chairman Wyden, Ranking Member Crapo, and members of the Senate Committee on Finance.

Hello there. I'm Ben Verhoeven. I'm a second-generation farmer and nursery owner. I run a family-owned greenhouse in rural Albany, OR. I'm proud to say my 26 year-round and 24 seasonal employees receive great benefits which, in the big picture, don't cost me much, but mean a lot to everyone, and they're good for business. My workers can get paid family leave, which covers parental leave, medical leave and leave to care for a loved one. In addition to paid family leave my workers can get health care, paid vacation, paid sick time and a pension.

Many industry groups claim that policies like ours will hurt business. That's just not true.

Paid family leave costs me less per year than truck repairs, and has a much greater effect on the lives of the people I work with.

Our farm began offering 12 weeks of full pay parental leave in 2016. We have since worked to help pass paid family leave for all Oregonians. Together, we can expand these benefits to all Americans.

Before my workers had paid family leave they told me stories of draining their retirement savings to care for a dying brother. This is now a thing of the past. I know a mother who no longer must rely on donated sick time to plan for a second child. I have seen a young man, raised by a single mother, grow into a strong and loving father of two. These are real stories from my workers, made possible by paid family leave.

In Oregon, under our State's new Paid Leave Oregon program, my farm can now provide paid family leave with my workers.

Opponents of paid leave will tell you that only workers benefit. Therefore, all the financial costs should fall on workers' shoulders. This is not true. As an independent business owner I benefit when my employees do not have to choose between their loved ones and a paycheck. As a farmer I benefit when my workers have a stable home life, which begets a stable work life.

Since offering paid parental leave in 2016 we have seen a return on our investment as valuable employees, including many fathers, return to work and future promotions. This helps my business prosper and grow.

As a business owner I also benefit from stronger, healthier, more resilient markets. Lessening the financial hardship of an illness, a birth, or a family crisis leaves more savings in people's pockets, savings that they can put towards homes and gardens.

²NFIB Research Center, *Small Business Economic Trends Survey* (NFIB September SBET Survey) (October 10, 2023), <https://www.nfib.com/content/press-release/economy/small-business-optimism-dips-in-september-as-inflation-remains-top-problem/>.

As any farmer will tell you, we are subject to the forces of Mother Nature. A crop failure affects our business in the same way a sudden illness affects a family. This is why I feel strongly that coverage should be expanded to include all businesses and workers. Life events like birth, illness and ailing parents happen to all of us, regardless of the size of company we work for.

I would also add that as a farmer and a small business owner, national paid family leave is a good bargain. I cannot afford comprehensive paid family leave on my own, which is why a program like the one we have in Oregon, is the best way forward. Our State's program costs businesses like mine less than offering stand-alone plans, and I know that my workers are also contributing.

As a small business owner, I am the HR department. Our State program has been much easier to set up than the private insurance options, also allowed under the new Oregon law, that we explored. Working with our State has been as simple as a software update to our payroll, and a pre-printed poster in the breakroom. Oregon's program manages the process, confirms a worker qualifies, and of course pays for the leave itself out of the fund. This is a real service, both for me and for my workers.

A comprehensive and permanent paid family leave program is good for workers, benefits employers, and secures our economy for generations. It's the right thing to do for business. It's the right thing to do for workers.

Thank you.

QUESTIONS SUBMITTED FOR THE RECORD TO BEN VERHOEVEN

QUESTION SUBMITTED BY HON. MAGGIE HASSAN

Question. According to a recent poll by the Bipartisan Policy Center, 72 percent of adults ages 20–54 who are not in the labor force say that personal health or family caregiving are their main reasons for not working. Guaranteed, job-protected paid leave helps attract people to the workforce and reduces turnover, which also saves businesses time and money. However, many employers struggle to provide paid leave to their employees—especially small businesses. This leaves most working people in the United States without employer-provided paid family leave, including nearly three-quarters of Granite Staters.

What benefits to your company do you expect to come from Oregon's newly established comprehensive, guaranteed paid leave program?

Answer. Our experience offering paid parental leave since 2016 has been one of improved retention, opportunities for promotion, and business growth. Now, thanks to our comprehensive government paid leave program, our company can afford to expand benefits to include paid medical, caregiving, and safe leave. We expect to see better retention not just from new parents, but now the majority of our workforce.

Because workers will be more likely to stay at their jobs for longer when they have the benefit of paid leave, business owners like myself will save on hiring and training new employees. Oregon's new program will also help level the playing field for small businesses, as it will allow them to offer the same benefits as their larger competitors. Stronger small businesses and better quality jobs are key to economic resilience.

The kind of events that are covered by comprehensive paid leave are infrequent, but important in people's lives. The poll you cite aligns with my experience as a small business owner. When push comes to shove, people will take the time to care for themselves or a loved one. The question is do we leave them draining their retirement and unmoored from employment or do we support them on a path to return to work? A comprehensive and permanent paid leave program is an affordable way to retain valuable employees who can return to work from stable homes and build stability in the workplace. A more stable workplace allows me to focus on growing my business.

QUESTION SUBMITTED BY HON. MARIA CANTWELL

Question. Paid family and medical leave programs help businesses manage their employees, medical leave needs, and levels the playing field for employers of all

sizes. I cosponsored the proposed Healthy Families Act because it would allow workers in businesses with 15 or more employees to earn up to 7 paid sick days each year. This would help workers meet their health needs and caregiving responsibilities without jeopardizing their employment.

However, while many small employers want to provide paid leave benefits, they often struggle to do so on their own. Washington State was the first State to offer small business grants to help offset the costs of implementing a paid leave program.

As a small business owner, can you expand on how Oregon's paid leave program has helped both your business and employees? How could the paid leave system be improved to better support you and your workers?

Answer. Thank you for working to provide paid sick leave to workers.

At our farm we are proud that we began offering 12 weeks of full pay parental leave beginning in 2016. However, I cannot afford comprehensive paid family and medical leave on my own. In Oregon, our government-run program now gives me a very affordable way to expand the benefits that I can offer to my workers. These include not just parental leave, but also paid medical leave, paid caregiving leave and paid safe leave. It still costs me less than truck repairs. To be exact, it costs me four-tenths of one one-hundredth of my payroll, a fraction of a fraction. This is a small price to pay for such an important benefit. Additionally, I know that my workers are also contributing. By sharing the cost, everyone benefits.

Most workers, when forced to choose between their loved ones and a paycheck, will choose their loved ones. At the same time, most workers cannot financially cover that gap. That leaves people in financial hardship while at the same time disconnecting them from the workforce. When someone leaves the workforce it means businesses like mine must pay the high cost of hiring and training new employees. Oregon's paid family leave program keeps folks in the workforce and helps me retain valuable employees.

Some opponents of government-run paid leave have claimed that employers are best suited to make the decision if a worker qualifies for leave. This is not true. As a small business owner, I am the HR department. Our government-run program has been as simple to work with as a software update to our payroll and a pre-printed poster in the break room. Not only has it been simple to set up, it takes a significant HR burden off my plate. I do not want to be the gatekeeper for these benefits. I am a farmer. I do not have the time or the expertise to develop my own program rules for paid leave criteria. Neither do I have the time or the expertise to evaluate each request. Thanks to our State program, I know the government manages the process, confirms if a worker qualifies, and of course pays for the leave itself out of the fund. That is a real service, both for me and for my employees.

As for how a paid leave system could be improved in our State, I would suggest doing away with options to provide leave through private insurance. This is currently allowed in Oregon, but the private insurance options we looked into had significantly higher HR requirements for our business, both in setup and ongoing maintenance. They also create a confusing patchwork of benefits. In Oregon the State program has seen Oregon workers submit leave requests only to be informed that their employer opted out of the government program. The worker then needs to ask their employer for guidance on how to apply elsewhere. Ultimately in this scenario the worker's benefits are delayed and the business that chose to opt out has further HR strain. Anything that can be done to avoid this kind of confusion is good for workers and good for business.

A government program like we have in Oregon allows businesses and farms like mine a simple and affordable way to provide comprehensive paid family and medical leave to workers. We will continue to see improved retention of valuable employees. Our workers will continue to have stability in the home, which begets stability in the workplace. A comprehensive and permanent paid family leave program is the right thing to do for business and the right thing to do for workers.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

The Finance Committee meets this morning to talk about a pressing issue—paid leave.

Why are we holding this hearing? Because low- and middle-income workers are falling through the cracks—people like construction workers, nurses, or cashiers who are trying to juggle work obligations with families who need them.

The American people understand this and know what is needed to make sure everyone has a chance to get ahead. According to poll after poll, over 70 percent of Americans want national paid leave. They know that too often, without it, workers are forced to make the impossible choice of a paycheck or caring for a loved one in need.

Paid leave is so crucial for American workers that a recent poll from the Bipartisan Policy Center showed that paid family and medical leave benefits are just as important as pay when considering starting or returning to work. Americans want to work. They want to pay their bills and provide for their families. But life can intervene, and sometimes family has to come first. In fact, that same Bipartisan Policy Center poll shows that 72 percent of Americans who are not currently working say that it's because of a personal health or family caregiving situation. Congress talks lots about America's worker shortage crisis. This is an opportunity to do something about it.

In a nation as powerful and prosperous as ours, somehow the United States is the only developed nation in the world without a national paid leave program. Today, only one in four workers in America have access to paid leave. Progress has been made. Fourteen States and the District of Columbia now have comprehensive paid leave laws on the books, but major gaps still remain.

It doesn't have to be this way, and it shouldn't be this way. America has an opportunity to better support America's workers—and better support America's economy. We just need to roll up our sleeves and do what my mother always said—take out our sharpest pencils—and get to work on paid leave.

And because Oregon is a small business State, I'm happy that today the Finance Committee will have the opportunity to hear from Ben Verhoeven, who owns a small family farm in Albany, OR. If you are looking for a community that encapsulates taking out a sharp pencil and making things work, look no further than Albany.

Colleagues, today you will hear Mr. Verhoeven say that providing paid leave has helped him hang onto incredible employees and helped his business to grow and thrive. He will also tell us how new government programs back home have made providing paid leave to his employees easy and affordable. In the Finance Committee, let's work together to make sure all small businesses across America can do what Mr. Verhoeven has done. When small businesses thrive, our economy thrives.

I'm looking up and down the dais and have heard members on both sides talk about how America needs to successfully compete against China. Well, if you want to compete, we've got to be in a position to have people go to work. Guaranteed paid leave is a missing piece of the puzzle.

When you're competing against China, every dollar counts. The National Partnership for Women and Families estimates overall that our economy is missing out on \$650 billion in economic activity by not providing paid leave and other caregiving supports to women. If we are going to out-compete China, we need to put policies in place that leverage our economy at all levels.

Our country is strong enough and good enough to make paid leave happen for all Americans, so let's get out our sharpest pencils.

COMMUNICATIONS

A BETTER BALANCE
250 W. 55th Street, 17th Floor
New York, NY 10019
tel: 212-430-5982
[abetterbalance.org](https://www.abetterbalance.org)

Statement Submitted by Sherry Leiwant, Co-President and Co-Founder

A Better Balance (ABB), is a legal advocacy organization whose mission is to fight for policies that protect American workers from having to choose between caring for themselves and their families and maintaining their economic security. We have helped draft and pass paid family and medical leave (PFML) laws in states around the country and have assisted in the implementation of those laws. There are now 14 laws that guarantee PFML benefits to almost all workers in those states. Our chart outlining these laws can be found here: <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>.

ABB runs a free and confidential legal helpline to assist workers in balancing work, health, and family. Through that helpline we hear from thousands of workers about their real-life problems in states where PFML is not available and about how important this benefit is to workers in states that do have such programs. From our experience in the states and from our callers, we know that there are certain key elements that must be included for a strong paid family and medical leave program. The federal program should learn from the experience of the states and craft a federal law along the same lines as these successful state programs.¹

I. State PFML programs have been extremely successful in supporting families.

Some statements at the hearing by those opposed to a strong PFML program sought to characterize state programs as having multiple problems. Those statements are unfounded. State programs have been successful with strong administration, strong uptake and strong positive impact on families. Specifically:

Those eligible have been able to access state PFML programs and it has made a difference in their lives. The newest state PFML laws are already showing significant success meeting the needs of workers who experience a serious illness (personal or family) or welcome a new child. State birthrate data shows that PFML laws are helping to reach those who need leave to bond with a new child, which is the second highest use of leave after a worker's own serious illness. A comparison of state birthrates to bonding claims shows that PFML laws have extremely strong utilization by new parents (with the number of annual applications to bond with a new child in WA, NY, and MA representing approximately 50–82% of the total number of annual births in the respective state). See attached analysis from A Better Balance.

In addition, through our national legal helpline, we have heard directly from callers who have used their state programs and for whom those programs have been a lifeline. One worker, **KeiLani, from Diamond, Washington** called in February 2023 when she fell ill with a condition her doctors could not diagnose, and found herself frequently in and out of the emergency room. KeiLani was able to take Washington PFML while she sought a diagnosis. She ultimately learned that she was pre-diabetic and had an auto-immune disorder. “Having Paid Family Leave allowed me

¹For more detailed information on state paid family and medical leave laws, please see our comparative chart at <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>.

to keep a roof over my head, bills in good standing and helped me pay for the medical attention and medications I was needing,” KeiLani told us.

“Paid Family Leave not only assisted me financially, but it granted me the time I needed to undergo the series of appointments, tests and even procedures I was required to complete. Without Paid Family Leave, I don’t know where I would have been, especially since I’ve spent over \$5,000 dollars in medical expenses this year alone and that does not include my medications. When you factor that unexpected expense in, no one is prepared to be able to cover that when they’re in my current situation. I hope that my testimony attests why Paid Family Leave is important for not only people like me, but for others who may face this situation in the future.”

Emilie, who works for a software company in Washington State, called us because she will be undergoing chemotherapy for 6+ months as part of her cancer treatment. She has been approved to use Washington PFML intermittently while she undergoes treatment. Emilie contacted ABB’s helpline for clarification about her rights and told us, “Washington PFML has been extremely important to me because I started treatment at 25, living with three roommates, with my fixed expenses like rent and car loan there to stay. I can only work part time with my chemo schedule, so having my income replaced even at a lower rate was life saving.” **Paige, from New York**, said, “After speaking with ABB, my nerves were put at ease for what I am entitled to while preparing to give birth. Having the short term disability and NY PFL benefits is the only way I was able to stay home with my newborn, bond and recuperate myself. It greatly lessened the financial stress of not working and having a newborn, but also let myself and my husband focus on what was important, our new member of our family.”

PFML state programs are benefiting low-wage workers and their families. In Washington State, 44% of approved PFML claims from July 1, 2021 to June 30, 2022, were by workers making \$26/hour or less.² In New York, the State Comptroller reported that “[e]mployees earning less than \$40,000 per year accounted for the largest number of claims, with the number decreasing as income rises, suggesting paid family leave is a particularly important benefit to low- to moderate-income employees.”³ For example, **Luisa, a low-wage farmworker in upstate New York**, had this to say about New York’s paid family leave program: “I was pregnant and wanted to take paid leave to spend time with my new baby. I wasn’t sure if I qualified for [NYPFL], and had heard from my coworkers that our employer wouldn’t provide it. I saw that ABB’s helpline provides information in Spanish, so I called to receive more information. They explained to me the eligibility requirements for NYPFL, and shared information that helped me speak with my employer about my leave options. I was able to take my full twelve weeks of NYPFL and successfully returned to work. I’m grateful to have been able to spend time bonding with my baby, and that I didn’t need to risk my paycheck to do so.”

State PFML programs address the maternal and infant mortality health crisis, address racial inequities, cement women’s attachment to the labor force and help workers navigate the COVID-19 crisis. PFML has been documented to provide a critically important safety net for workers welcoming a child and those who have a personal or family member serious illness. For example: A 2020 journal article showed that, “[i]mplementation of paid family leave policies in California was associated with a 12 percent reduction in postneonatal mortality after adjusting for maternal and neonatal factors.”⁴ This outcome is consistent with a study of 141 countries that—controlling for other factors—found that an increase of 10 full-time-equivalent weeks of paid maternal leave reduced neonatal and infant

²See, Washington Paid Family and Medical Leave, 2022 Annual Report to the Legislature, at p. 42, https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=paid-family-and-medical-leave-2022-annual-report-to-legislature_6a68f749-2d7d-4566-bc4f-6094bcca44d2.pdf; Washington Paid Family and Medical Leave, 2021 Annual Report to the Legislature (<https://media.esd.wa.gov/esdwa/Default/ESDWAGOV/newsroom/Legislative-resources/2021-paid-family-and-medical-leave-annual-report-to-legislature.pdf>); CDC, Vital Statistics Rapid Release, Births: Provisional Data for 2021, (<https://www.cdc.gov/nchs/data/vsrr/vsrr020.pdf>).

³Office of the New York State Comptroller, DiNapoli: State’s Paid Family Leave Program Helping Millions of New Yorkers: Employees Earning Under \$40k Had Largest Number of Claims, (April 28, 2023), <https://www.osc.state.ny.us/press/releases/2023/04/dinapoli-states-paid-family-leave-program-helping-millions-new-yorkers#:~:text=An%20analysis%20of%20claims%20data,%20to%20moderate%20income%20employees>. CDC, Vital Statistics Rapid Release, Births: Provisional Data for 2021, <https://www.cdc.gov/nchs/data/vsrr/vsrr020.pdf>.

⁴Diana Montoya-Williams et al., The Impact of paid family leave in the United States on birth outcomes and mortality in the first year of life, 55 Health Services Research 52, 807–814, at 812 (April 5, 2020), <https://onlinelibrary.wiley.com/doi/10.1111/1475-6773.13288>.

mortality rates by 10% and the mortality rate of children younger than 5 by 9%.⁵ Conversely, a 2021 journal article on paid parental leave access concluded that “[i]nequitable access to paid parental leave through both employers and government programs exacerbates racial inequities at birth. This form of structural racism could be addressed by policies expanding access to paid leave.”⁶ Moreover, a recent study found that state PFML programs have significantly increased women’s attachment to the workforce after giving birth: “The analysis of states that have implemented paid leave policies found a 20 percent reduction in the number of women leaving their jobs in the first year after welcoming a child, and up to a 50 percent reduction after five years.”⁷ AARP has detailed the common disruptions in employment for family caregivers, leading to short-term and long-term financial struggles, and called for PFML as one way to support family caregivers and their attachment to the workforce.⁸ PFML can also address unexpected crises. The Urban Institute showed that state PFML programs successfully absorbed and provided critical support to a surge of workers affected by COVID-19.⁹ Furthermore, paid leave programs are critical for young workers, especially temporary and seasonal workers, foster families, young parents, LGBTQ youth, and youth with disabilities.¹⁰ For more on the incredibly robust—and growing—body of research on the health benefits of paid family and medical leave to new parents, infants and children, family caregivers, and individuals with disabilities, see our fact sheet.¹¹

State PFML programs are good for business and are uniformly popular once enacted. In a study of California businesses after PFML was passed a vast majority reported a positive or neutral effect on their business.¹² Small business owners in New York and New Jersey report similar satisfaction with PFML in their states.¹³ The benefits to business are numerous, as PFML allows small businesses especially to attract and retain top talent. Small businesses have the most to gain from state programs, as they are able to offer benefits they would not be able to afford on their own, and these policies are shown to be incredibly important to workers when selecting employment, and when choosing to stay with an employer.¹⁴ PFML programs are empirically shown to reduce turnover and increase recruitment,¹⁵ which results in major savings for employers, who are spared the cost of replacing employees.¹⁶ Businesses also report increases in employee productivity and profitability, with one cross-industry analysis finding increases of more than

⁵Jody Heymann et al., Creating and Using New Data Sources to Analyze the Relationship Between Social Policy and Global Health: The Case of Maternal Leave, 126 Public Health Rep. Suppl. 3, 127–134 (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3150137/>.

⁶Julia M. Goodman et al., Racial/Ethnic Inequities in Paid Parental Leave Access, 5 Health Equity 1, 738–749 at 738, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8665807/pdf/heq.2021.0001.pdf>.

⁷March of Dimes Center for Social Science Research, New Study Reveals Paid Family Leave Policies Lead to 20% Fewer Women Leaving the Workforce, (Jan. 3, 2020), <https://www.marchofdimes.org/about/news/new-study-reveals-paid-family-leave-policies-lead-to-20-fewer-women-leaving-workforce>.

⁸Susan C. Reinhard et al., Valuing the Invaluable: 2023 Update, Strengthening Supports for Family Caregivers, AARP Public Policy Institute, (March 2023), <https://www.aarp.org/content/dam/aarp/ppi/2023/3/valuing-the-invaluable-2023-update.doi.10.26419-2Fppi.00082.006.pdf>.

⁹Chantel Boyens, State Paid Family and Medical Leave Programs Helped a Surge of Workers Affected by the COVID-19 Pandemic, The Urban Institute, (June 2020), <https://www.urban.org/sites/default/files/publication/102325/state-paid-family-and-medical-leave-programs-helped-a-surge-of-workers-affected-by-the-covid-19-pandemic.pdf>.

¹⁰For a series of fact sheets related to the need for paid family and medical leave for young workers, specifically, see List all the fact sheets in the series, e.g., <https://www.abetterbalance.org/resources/fact-sheet-importance-of-paid-family-and-medical-leave-for-young-breastfeeding-lactating-workers/>.

¹¹A Better Balance, The Health Case for Paid Family and Medical Leave (Nov. 30, 2021), <https://www.abetterbalance.org/resources/the-health-case-for-paid-family-and-medical-leave>.

¹²Small Business Majority, California Small Business Owners Support Expanding Paid Family Leave Protections, Increasing Paid Sick Days (July 12, 2023), <https://smallbusinessmajority.org/sites/default/files/research-reports/ca-small-business-support-paid-family-leave-and-paid-sick-days.pdf>.

¹³Ann P. Bartel et al., Support for Paid Family Leave among Small Employers Increases during the COVID-19 Pandemic (Dec. 2021), Socius: Sociological Research for a Dynamic World, <https://journals.sagepub.com/doi/full/10.1177/23780231211061959>.

¹⁴Joan Williams, Unbending Gender: Why Work and Family Conflict and What to Do About It (2001).

¹⁵Benjamin Bennett et al., Paid Leave Pays Off: The Effects of Paid Family Leave on Firm Performance (Nat’l Bureau of Econ. Rsch., Working Paper No. 27788, 2021), https://www.nber.org/system/files/working_papers/w27788/w27788.pdf.

¹⁶*Id.*

50% in productivity implementing PFML programs.¹⁷ Fortune 500 companies also report an increase in share prices after implementing PFML programs.¹⁸

II. Workers without paid family and medical leave are suffering, as are their families.

Access to paid family and medical leave should not depend on luck or location. While **KaiLani**, **Emilie**, and **Luisa** were able to get the pay and job protection they needed to care for their loved ones and maintain economic security, far too many workers we hear from on our helpline do not have that same right. Below are just a few of their stories:

- **Brenda Castillo, from Erie, Pennsylvania**, was diagnosed with cancer this year and has not received a paycheck since August 19th due to her undergoing needed treatment. As a result, she has been left with no income to pay for her rent, utilities, or other basic needs. When she contacted our helpline, we had to inform her that unfortunately her state does not guarantee the right to paid medical leave. Brenda told us it is “hard with no funds to live on” and that there is “no reason” why someone in her situation should be “on the verge of homelessness.”
- **Deanna is a 29-year-old counselor in Grand Rapids, Michigan**. Earlier this year, Deanna’s daughter was born two months prematurely and spent the first weeks of her life in the NICU. While Deanna qualified for 12 weeks of unpaid, job-protected time off to bond with her baby under the federal Family & Medical Leave Act (FMLA), she could not afford to actually take that time. Deanna told us, “Since my child spent the majority of my 6 week leave in the NICU, I was not able to fully bond with my child. When it was time for her to come home, it was not possible financially to stay at home without income due to additional hospital expenses.”
- **Alexandria, from Michigan**, worked as a studio manager at a massage studio in Michigan. After she announced her plans to start a family, her boss handed her an agreement to sign indicating that if she were ever to take leave for more than two days at a time, her salary would be suspended. Alexandria was very concerned about receiving income while recovering from childbirth, as she did not have access to short-term disability benefits through her company. She was also concerned that there was no guarantee her job would be held while she was on maternity leave. She ultimately made the difficult decision to resign and accept another job offer after her boss told her that maternity benefits “can’t be that important.”
- **Nathaniel Cunningham is a public utility worker in the Montrose, Colorado area**. He is a father of four daughters and recently needed to take time off work to care for his wife after a complicated delivery of their youngest daughter. Nathaniel exhausted his employer’s vacation policy to take care of his wife after her emergency c-section. His newborn child is currently in the NICU, and Nathaniel’s employer told him that if he did not return to work, he would be fired. Nathaniel was forced to choose between his job and taking care of his family. Nathaniel could not afford to lose his job, so he returned to work and was unable to take care of his wife. Colorado’s Family and Medical Leave Insurance program will allow Colorado workers to take paid leave to take care of themselves or their family members. Nathaniel would be eligible for this law; however, the act does not go into effect until January 2024.
- **Nicole, from Maryland**, was terminated from her retail job on December 26, 2021 when she needed to be absent for medical reasons due to severe premenopausal bleeding, despite informing her manager of the medical problems she was having, and indicating that the absence was for medical issues when she called out from work. She was denied FMLA leave since she had not yet been working there for a year.
- **Samuel¹⁹ from North Dakota**, called and shared his story with us: “I have almost 2 decades of experience working in the truck driving industry with a

¹⁷Panorama & Am. Sustainable Business Council, The Business Impacts of Paid Leave (2019), https://www.asbcouncil.org/sites/main/files/file-attachments/panorama_report_-_business_impacts_of_paid_leave.pdf.

¹⁸Michelle M. Arthur & Alison Cook, Taking Stock of Work-Family Initiatives: How Announcements of “Family-Friendly” Human Resource Decisions Affect Shareholder Value, 57 Industrial & Labor Relations Review, 608–10 (2004).

¹⁹Name changed to protect the worker’s anonymity.

pristine driving record and multiple driving safety awards to my name. Last year, I started a new job as a driver for a trucking company in North Dakota. With this job, I felt like I'd finally found my niche. I loved getting to travel to dairy farms across the region where I would often be welcomed with home-cooked meals by the farmers and their families after delivering my load. This was truly an awesome job, yet I lost it because I chose to be there for my elderly father when he was ill and needed me. My father, a Korean War veteran, suffered a stroke last summer. At first, I tried to manage visiting him in the hospital while continuing to perform my job, but his condition was deteriorating, and it eventually got to a point where I had to make a decision. I told my employer that I needed to go home to say goodbye to my dad. I knew that if he passed away while I was on the road, and not there with him, I would regret it for the rest of my life. My company informed me that if I left my job to care for my father, I would be terminated, but I could 'reapply' when I was ready to come back. Now that I am able to return to work, my employer is not willing to even consider bringing me back because they are so angry with me for leaving. I believe everyone should have the right to take time off work to be with their loved ones in critical moments, and no one should be made out to be a 'bad' employee for doing so."

- **Caryn²⁰ works in the healthcare industry in Idaho.** She underwent an invasive major surgery mere months after having a growth removed. Initially, Caryn anticipated having only one procedure. She and her husband—who care for their five minor children currently living at home—made financial plans for it. When it became apparent that Caryn needed a second surgery as soon as possible, she felt she had no choice but to delay it due to financial reasons, even though she was in extreme pain. "This surgery should've been done 6 months ago when I had the original surgery," Caryn said, "but I had to wait to accrue more sick leave and PTO to cover this [recovery period]." Still, Caryn will only be paid for the first 2 weeks of what will be a 5–8 week recovery period. "This has definitely impacted us financially," Caryn said, "I'm going to have medical bills rolling in, student loan repayments, mortgage payments, our farm. We will just have to make it work, whether that means tightening our budget when it comes to groceries, animal care, livestock feed. We're going to have to pinch pennies in order to accommodate for it. People shouldn't have to choose between their health and well-being or necessary medical procedures, and their income. People should never be in that position to where they are waiting [to have necessary medical treatment] for fear of financial repercussions."
- **Arthur,²¹ from Wisconsin, shared with us:** "I live and work in the state of Wisconsin. I have a family of four, and taking care of my family is my priority. I have been a dedicated employee at my company, where I work as a mechanic, for 13 years. This year, I started feeling more ill than I ever had before, and eventually I learned that I had an infection which developed into sepsis, and I needed to stay in the hospital for nearly a week, plus 2 weeks of recovery time. When I was well enough to return to work, my employer informed me that my pay was going to be reduced by \$100 per week for numerous weeks, as punishment for 'missing too many hours' . . . This very unfortunate reduction in pay came at a time when my family was already struggling financially and going through some other very serious hardships."
- **Kathryn Vaughn, from Tennessee, told us:** "I have been blessed to serve as a Tennessee elementary teacher for the last seventeen years and in the Fall of 2021 my husband, a proud Air Force combat veteran, and I welcomed our first child, a son we named Wyn. He was our greatest win after a decade of failed infertility treatments and a beautiful surprise after relinquishing our dreams of ever becoming parents. What should have been the happiest time was soon disrupted because after teaching through a pandemic and years using my sick and personal days, I was left with just 3 weeks of paid sick leave to spend with my son once he was born. . . . I returned to work before my body even had time to heal. I dove head first into teaching and working the after-school program, only seeing my newborn in the daylight on the weekends. It was a struggle, trying to recover, adjust to being a working mother, and find breaks to pump and send home breast milk to feed my child. I carry a lot of guilt about that time. I was unable to be there for feedings, naptimes, doctors' appointments, and tragically missed so many of our child's development mile-

²⁰ Name changed to protect the worker's anonymity.

²¹ Name changed to protect the worker's anonymity.

stones. . . . Every day we are losing highly qualified Tennessee teachers to other states and other professions that offer paid parental leave.”

These stories typify the struggle millions of workers are facing in this country. They also underscore the need for a comprehensive PFML program, one that allows workers to address personal medical needs, care for an ill loved one, and bond with a new child. Outlined below are the components of what comprises a successful and meaningful right to PFML.

III. State programs include key policies that any Federal paid leave program should also include. See our fact sheet: <https://www.abetterbalance.org/resources/key-components-the-essential-elements-of-strong-paid-family-and-medical-leave-law/>.

All workers should be covered, with achievable and equitable eligibility standards. First and foremost, universal coverage is a key principle for a national paid leave system. All American workers deserve access to the paid family and medical leave they need. Requirements of attachment to the workforce should mirror state programs for PFML, which generally require a minimum amount of total earnings across a base period.²² These state requirements allow workers to combine income from multiple employers. Any worker meeting those requirements should be eligible to receive benefits. Carveouts based on employer size or type make no sense in a program like this, which should be a basic benefit for all workers.

Workers need a decent wage replacement in order to be able to take time off, especially workers at the bottom of the economic spectrum. The wage replacement rate (the percentage of their own income workers receive while on leave) is an important element of a PFML law: if the rate is too low, workers will not be able to afford to take the leave they need. This problem is especially acute for low-income workers living paycheck to paycheck, who need every dollar of their income to pay their bills. Though low-income workers are the most vulnerable, workers of any income level can find themselves unable to afford to take leave if the wage replacement rate is too low. In a major California study, workers across income levels reported that the 55% wage replacement level made it difficult to afford to use the program, potentially contributing to low rates of use.²³ For this reason, California amended their statute to raise the wage replacement rate, especially for low-wage workers. Congress can learn from the experience of existing programs and create a benefit level that works for workers. Most state PFML laws provide a progressive wage replacement rate.²⁴ Typically, this means that the program replaces a higher percentage of income up to a threshold amount, then replaces a lower percentage of income above that amount. This creates a sliding scale of income replacement. For example, the PFML program in Washington State provides 90% of workers’ wages up to 50% of the state average weekly wage (currently, approximately \$627.50) and provides 50% of workers’ wages above that amount,²⁵ with benefits capped at \$1,000 per week, to be adjusted in subsequent years.²⁶ Washington, D.C.; Massachusetts; Connecticut; and Oregon will all use progressive wage replacement systems following this model, though their exact bend points and rates

²² 28 R.I. Gen. Laws Ann. § 28–41–11(b) (West 2019); Cal. Unemp. Ins. Code §§ 3302(n), 2652 (West 2019); N.J. Stat. Ann. § 43:21–27(i)(4), –41(d) (West 2019); Mass. Gen. Laws Ann. ch. 175M, § 1 (West 2019); *id.* at ch. 151 A, § 24; S.B. 1, 2019 Gen. Assemb., Reg. Sess. § 1(4) (Conn. 2019); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 2(11) (Or. 2019). In some states, these earnings must be spread out over a certain period of time within the four-quarter base period. 28 R.I. Gen. Laws Ann. § 28–41–11(b)(1) (West 2019); N.J. Stat. Ann. § 43:21–27(i)(4), –41(d) (West 2019); Mass. Gen. Laws Ann. ch. 175M, § 1 (West 2019); *id.* at ch. 151 A, § 24. Washington, uniquely, uses a minimum number of hours worked (from any combination of employers) over a similar four-quarter base period, reflecting the state’s distinctive unemployment insurance eligibility standard. Wash. Rev. Code Ann. § 50A.30.020(1) (West 2020). New York uses a non-earnings based system. See N.Y. Workers’ Comp. Law § 203 (McKinney 2019). Washington, DC has no minimum workforce attachment standard for paid leave benefits, but those who have been employed in the District for less than a year receive a pro-rated benefit. D.C. Code Ann. § 32–541.01(3)–(6) (West 2020).

²³ Andrew Chang & Co, *supra* note 40, at 70.

²⁴ Cal. Unemp. Ins. Code §§ 3301(b), 2655(e) (West 2019); D.C. Code Ann. § 32–541.04(g)(1)–(2) (West 2020); Wash. Rev. Code Ann. § 50A.15.020(4) (West 2020); Mass. Gen. Laws Ann. ch. 175M, § 3(b) (West 2019); S.B. 1, 2019 Gen. Assemb., Reg. Sess. § 3(c)(2) (Conn. 2019); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 7 (Or. 2019).

²⁵ Wash. Rev. Code Ann. § 50A.15.020(4) (West 2020).

²⁶ Wash. Rev. Code Ann. § 50A.15.020(5)(a) (West 2020).

of replacement vary.²⁷ California already provides progressive wage replacement benefits.²⁸

Job protection is critical to the ability of a worker to take this benefit. A strong PFML law protects the jobs of workers taking leave by ensuring they have the right to return to work following their leave. Job protection for all employees covered by the program is an essential element—without it, although it is a money benefit, it's not leave. This is especially important for low-income workers, who will often have less job security than other workers, because they change jobs more often than other workers²⁹ and are more likely to be working part time³⁰ (including many part-time workers who would prefer to be working full time).³¹ States are leading the way in providing paid leave with job protection. Massachusetts provides job protection to all employees covered by its paid family and medical leave law.³² Connecticut and Oregon provide job protection to workers who have been employed for approximately three months.³³ New York and Rhode Island provide job protection to all employees covered by their paid family leave laws.³⁴ Colorado, Minnesota and Maine will also provide job protection when their programs go into effect.³⁵ The need for job protection for workers in a PFML program cannot be overstated. The need for such leave occurs at some of the most stressful times in a person's life: the arrival of a new child, a health crisis in the family, or a looming deployment. At these times, workers shouldn't have to worry whether they will have a job to return to after their leave. Without a legal right to get their job back, many workers will be unwilling to risk their livelihood by taking the leave they need, as the risk to their long-term economic security will be too great. In one California study, fear of being fired was a commonly cited reason workers who were eligible for paid family leave under that state's program did not take it.³⁶ In Rhode Island, 45% of workers who took leave under their state's paid family leave law (which provides job protection) said that without the law they would not have taken leave for fear of losing

²⁷ D.C. Code Ann. § 32–541.04(g)(1)–(2) (West 2020) (provides 90% of a worker's average weekly wage up to an amount equal to 40 times 150% of the D.C. minimum wage and 50% of a worker's average weekly wage above an amount equal to 40 times 150% of the D.C. minimum wage); Mass. Gen. Laws Ann. ch. 175M, § 3(b) (West 2019) (provides 80% of a worker's average weekly wage up to an amount equal to 50% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage); S.B. 1, 2019 Gen. Assemb., Reg. Sess. § 3(c)(2) (Conn. 2019) (provides 95% of a worker's average weekly wage up to an amount equal to 40 times the state minimum wage and 60% of a worker's average weekly wage above an amount equal to 40 times the state minimum wage); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 7 (Or. 2019) (provides 100% of a worker's average weekly wage up to an amount equal to 65% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 65% of the statewide average weekly wage).

²⁸ California uses a system that creates three tiers of wage replacement. The first tier applies to workers who earn less than a fixed amount set in statute (approximately \$71.46 per week); workers in this tier receive \$50 per week. The second tier applies to workers who earn at least as much as a fixed amount set in statute (approximately \$71.46 per week) but less than approximately 33% of the state average weekly wage (for 2019, this works out to approximately \$414.26 per week); workers in this tier receive 70% of their *total* average weekly wage. The third tier applies to workers who earn at least approximately 33% of the state average weekly wage (for 2019, this works out to approximately \$414.26 per week); workers in this tier receive either approximately 60% of the worker's *total* average weekly wage or an amount equal to 23.3% of the state average weekly wage (for 2019, this works out to approximately \$289.57), whichever is greater. See Cal. Unemp. Ins. Code §§ 3301(b), 2655(e) (West 2019).

²⁹ Jacquelyn Anderson et al., *A New Approach to Low-Wage Workers and Employers*, MDRC 5 (Mar. 2006), https://www.mdrc.org/sites/default/files/full_9.pdf.

³⁰ Pamela Loprest et al., *Who Are Low-Wage Workers?*, U.S. Dep't Health & Hum. Servs. (Feb. 2009), <https://aspe.hhs.gov/system/files/pdf/180021/rb.pdf>.

³¹ Lonnie Golden, *Still Falling Short on Hours and Pay: Part-time Work Becoming New Normal*, Econ. Policy Inst. (Dec. 5, 2016), <http://www.epi.org/publication/still-falling-short-on-hours-and-pay-part-time-work-becoming-new-normal/>.

³² Mass. Gen. Laws Ann. ch. 175M, § 2(e) (West 2019).

³³ Oregon will provide job protection to all covered workers who have been employed with their current employer for at least 90 days. H.B. 2005, 80th Leg. Assemb., Reg. Sess. § 10(1), (7) (Or. 2019). Connecticut made substantial amendments to its existing state unpaid leave law as part of the same bill that created its paid leave program. The amended unpaid leave law provides job protection to nearly all private sector employees in the state who have been employed with their employer for at least three months. Workers receiving benefits for domestic violence-related purposes do not have job protection under that law, although they may have employment protection under Connecticut's family violence leave law. Conn. Gen. Stat. Ann. § 31–51nn(a) (West 2019).

³⁴ N.Y. Workers' Comp. Law § 203–b (McKinney 2019); 28 R.I. Gen. Laws Ann. § 28–41–35(f) (West 2019).

³⁵ Colo. Rev. Stat. § 8–13.3–509; Minn. Stat. 268B.09 (2023); 1 M.R.S. § 850–J (2023).

³⁶ Appelbaum & Milkman, *supra* note 33.

their job.³⁷ Job protection keeps workers attached to the workforce. When workers are unable to take short-term leave and then return to their job, they are often pushed out of the workforce altogether. One study estimated that men who leave the labor force early due to caring for an aging parent lose almost \$90,000 in wages, while women who do so lose over \$140,000 in wages.³⁸ Women who take paid leave after having a baby are more likely to be working 9 to 12 months after the birth than women who take no leave.³⁹ And keeping workers on the job saves taxpayers money. Both men and women who return to work after taking paid leave are much less likely to be receiving public assistance or food stamps in the year following their child's birth than those who return to work without taking family leave.⁴⁰ A strong PFML law would also ensure that all workers are protected against retaliation for using their rights under the law. This protection is especially important in light of the rise of punitive absence control policies, where workers are assigned points for each absence and subject to punishment when they receive too many points.⁴¹ States are also leading the way in prohibiting retaliation. For example, Massachusetts's paid family and medical leave law offers particularly robust protections against retaliation. The law includes a rebuttable presumption that any adverse action taken within six months of the exercise of a protected right was retaliatory.⁴² Similarly, as part of a set of recent amendments to expand and improve their paid family and medical leave law, New Jersey added new strong anti-retaliation protections.⁴³ In addition, a strong PFML program also should ensure that workers won't lose their health insurance coverage while they are on leave. Massachusetts and Oregon guarantee continuation of health insurance coverage as long as they have been employed by their employer for at least 90 days prior to taking leave.⁴⁴ New York and Rhode Island guarantee continuation of coverage to all workers taking paid family leave.⁴⁵

A strong paid family and medical leave bill reflects and protects the diversity of today's American families. Families today take many forms: they are multi-generational, blended,⁴⁶ LGBTQ,⁴⁷ and increasingly include close loved ones who aren't biologically or legally related.⁴⁸ To work for all American families, a

³⁷ Barb Silver, Helen Mederer, & Emilija Djurdjevic, *Rhode Island's Temporary Caregiver Insurance Program: Findings from the First Year* (2015).

³⁸ MetLife Mature Mkt. Inst., *The MetLife Study of Caregiving Costs to Working Caregivers* (2011), <https://www.caregiving.org/wp-content/uploads/2011/06/mmi-caregiving-costs-working-caregivers.pdf>.

³⁹ Houser & Vartanian, *supra* note 8.

⁴⁰ Cal. Senate Office of Research, *California's Paid Family Leave Program: Ten Years After the Program's Implementation, Who Has Benefited and What Has Been Learned?* 6 (July 1, 2014), http://sor.senate.ca.gov/sites/sor.senate.ca.gov/files/Paid_Family_Leave_FINAL_A1b.pdf; Andrew Chang & Co., *Paid Family Leave Market Research*, Cal. Emp. Dev. Dep't 86 (July 13, 2015), https://www.edd.ca.gov/Disability/pdf/Paid_Family_Leave_Market_Research_Report_2015.pdf.

⁴¹ See A Better Balance, *Pointing Out: How Walmart Unlawfully Punishes Workers for Medical Absences* (June 2017), <https://www.abetterbalance.org/wp-content/uploads/2017/05/Pointing-Out-Walmart-Report-FINAL.pdf> (explaining that Walmart, the world's largest private employer, has used point-based absence control policies).

⁴² Mass. Gen. Laws Ann. ch. 175M, § 9(c) (West 2019).

⁴³ N.J. Stat. Ann. § 43:21–55.2 (West 2019).

⁴⁴ Mass. Gen. Laws Ann. ch. 175M, § 2(f) (West 2019); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 10(2), (7) (Or. 2019).

⁴⁵ N.Y. Workers' Comp. Law § 203–c (McKinney 2019); 28 R.I. Gen. Laws Ann. § 28–41–35(g) (West 2019).

⁴⁶ According to the U.S. Census Bureau, 16% of children live in “blended families,” or households with a stepparent, stepsibling, or half-sibling. *Parenting in America: Outlook, Worries, Aspiration Are Strongly Linked to Financial Situation*, Pew Research Center 19 (2015), https://www.pewresearch.org/wp-content/uploads/sites/3/2015/12/2015-12-17_parenting-in-america_FINAL.pdf.

⁴⁷ It is estimated that 4.5% of Americans, or over 11 million people, self-identify as lesbian, gay, bisexual, or transgender. Frank Newport, *In U.S., Estimate of LGBT Population Rises to 4.5%*, Gallup (May 22, 2018), <https://news.gallup.com/poll/234863/estimate-lgbt-population-rises.aspx>. Additionally, estimates show that between 2 million and 2.7 million minor children have an LGBTQ parent. Gary J. Gates, *Marriage and Family: LGBT Individuals and Same-Sex Couples*, *Future Child*, Fall 2015, at 67, 72.

⁴⁸ Nearly 33 million households in the United States, or 28% of all households, consist of an individual who lives alone, and in an emergency or during an illness, many of these individuals rely on care from close loved ones. See *Selected Social Characteristics in the United States, 2013–2017 American Community Survey 5-Year Estimates*, U.S. Census Bureau, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_14_5YR_DP02&prodType=table%20c%20last%20accessed%20September%202018 (last visited Jan. 30, 2020). Additionally, in a 2016 national survey, 32% of people in the U.S. reported that they took time off work to provide care for a chosen family member. Katherine Gallagher Robbins et al., *People Need Paid*

strong paid leave law would include a broad family definition that specifically covers spouses, domestic partners, children (regardless of age), parents, parents of a spouse or domestic partner, grandchildren, grandparents, siblings, nieces and nephews, aunts and uncles, and any other individual related by blood or affinity whose close association with the worker is the equivalent of a family relationship. Nationwide trends regarding family structures show that broad family coverage is imperative for strong paid leave laws. Today, adults ages 18 to 44 are more likely to have lived with an unmarried significant other than to have ever been married,⁴⁹ and as of 2016, the rising number of cohabiting adults in the U.S. reached about 18 million.⁵⁰ Thus, coverage of domestic partners and significant others is critical to many workers in long-term, committed relationships. In addition to caring for spouses, children, and parents, workers often provide care to—or rely on care from—other biological, legal, and extended relatives with whom they share a close relationship. Since 1980, for example, the number of Americans living in multi-generational households has doubled to 57 million.⁵¹ Given the prevalence of multi-generational households across the country, it is extremely important that any paid family and medical leave program cover grandparents and grandchildren. Furthermore, children of all ages should be covered because adult children with a serious illness are no less in need of care from their parents than any other adult to whom the worker is related; and older children, especially those who have not formed a family, will still rely on their parents for care in the face of a serious illness. Nationwide, 82% of children under the age of 18 live with at least one sibling, and as a long-lasting family relationship, many siblings look to their sisters or brothers as the first person to whom they would turn for care in the event of a serious illness.⁵² This is often true for people with disabilities; as more people with disabilities outlive their parents, an increasing number of individuals are receiving primary care from siblings and extended family.⁵³ When an individual is sick or has a medical emergency, they often rely on individuals they live with—even absent a blood or legal relationship—for help and caregiving. While relationships with such close loved ones are important to many workers, a 2016 national survey showed that they are even more significant for LGBTQ people and people with disabilities.⁵⁴ An inclusive family definition is also important to members of the armed forces because many of those injured or ill as a result of their military service rely on friends or neighbors for care, particularly true for those who were ill or injured as a result of their service after

Leave Policies That Cover Chosen Family, Center for American Progress 2 (2017), <https://cdn.americanprogress.org/content/uploads/2017/10/26135206/UnmetCaregivingNeed-brief.pdf>.

⁴⁹ “[T]he share of adults ages 18 to 44 who have ever lived with an unmarried partner (59%) has surpassed the share who has ever been married (50%). . . .” Juliana Menasce Horowitz et al., *Marriage and Cohabitation in the U.S.*, Pew Research Center (Nov. 6, 2019), <https://www.pewsocialtrends.org/2019/11/06/marriage-and-cohabitation-in-the-u-s/>.

⁵⁰ Renee Stepler, *Number of U.S. Adults Cohabiting with a Partner Continues to Rise, Especially Among Those 50 and Older*, Pew Research Center (Apr. 6, 2017), <https://www.pewresearch.org/fact-tank/2017/04/06/number-of-u-s-adults-cohabiting-with-a-partner-continues-to-rise-especially-among-those-50-and-older/>.

⁵¹ Richard Fry & Jeffrey S. Passel, *In Post-Recession Era, Young Adults Drive Continuing Rise in Multi-generational Living*, Pew Research Center (July 17, 2014), <https://www.pewsocialtrends.org/2014/07/17/in-post-recession-era-young-adults-drive-continuing-rise-in-multi-generational-living/#fn-19695-1>. Multi-generational households are particularly prevalent in communities of color; approximately 25% of Latinx and Black Americans, and 27% of Asian Americans live in a multi-generational household. *Id.*

⁵² Rachel Dunifon et al., *Siblings and Children’s Time Use in the United States*, 37 *Demographic Res.* 1611, 1612 (2017).

⁵³ As more people with disabilities outlive their parents, an increasing number of adult siblings have taken on primary caregiving responsibilities. Rajan A. Sonik et al., *Sibling Caregivers of People With Intellectual and Developmental Disabilities: Sociodemographic Characteristics and Material Hardship Prevalence*, 54 *Intell. & Developmental Disabilities* 332 (2016). Over 50% of sibling caregivers report having an annual income of less than \$25,000, making paid leave crucial. John Reagan et al., *Research Brief: Sibling Caregivers Experience Less Choice and Control*, Family Support Research and Training Center at the University of Illinois at Chicago (2016), https://fsrtc.ahslabs.uic.edu/wp-content/uploads/sites/9/2016/11/FSRTC-Data-Brief_1-2016-3-3.pdf.

⁵⁴ 42% of LGBT individuals and people with disabilities reported “taking time off to care for chosen family,” compared with 31% of non-LGBT people and 30% of people without disabilities. Gallagher Robbins et al., *supra* note 3, at 3. Family networks are particularly important to older LGBTQ adults who are especially likely to rely on those loved ones. MetLife Mature Mkt. Inst. & Am. Soc’y of Aging, *Still Out, Still Aging: The MetLife Study of Lesbian, Gay, Bisexual, and Transgender Baby Boomers* 15–17 (Mar. 2010), <https://www.asaging.org/sites/default/files/files/mmi-still-out-still-aging.pdf>.

September 11, 2001, as those service members are nearly twice as likely as their civilian counterparts to rely on care from friends and neighbors.⁵⁵

States with paid family and medical leave laws understand the demographics of working families and have led the way with inclusive family definitions. All paid family leave jurisdictions cover at least workers' parents, spouses, children, grandparents, and parents-in-law.⁵⁶ Additionally, in all jurisdictions the definition of "child" includes adult children,⁵⁷ and in eight of nine states with paid family and medical leave, domestic partners are explicitly covered.⁵⁸ California, Massachusetts, New Jersey, Washington, D.C., Washington State, Connecticut, and Oregon also cover workers' siblings.⁵⁹ California, Massachusetts, New Jersey, New York, Washington State, Connecticut, and Oregon also cover workers' grandchildren.⁶⁰ In New Jersey, Connecticut, and Oregon workers can also take leave to care for other loved ones—whether biologically or legally related or not—to whom the worker has a close association that is the equivalent of a family relationship, though their exact definitions slightly differ. This definition includes close relationships with biological or legally related family members (such as aunts, uncles, nieces, and nephews), as well as close loved ones with whom the worker lacks a biological or legal relationship (such as a significant other or a best friend who is like a sibling).⁶¹ When they take effect, the new programs enacted in Colorado, Minnesota, and Maine will also all have inclusive definitions of family that will protect most members of workers' extended and chosen families.⁶² The federal government also has a successful track record of providing essential protections for the varied forms of working families—the expanded definitions of family used in PFML laws around the country borrow from a federal definition of family that includes workers' spouses, domestic partners, adult and minor children, parents, grandparents, grandchildren, siblings, and those

⁵⁵ Rajeev Ramchand et al., *Hidden Heroes: America's Military Caregivers*, RAND Corp. 34 (2014), https://www.rand.org/pubs/research_reports/RR499.html (explaining that nearly a quarter of caregivers for post-9/11 military care recipients are friends or neighbors, while nearly 13% of caregivers for civilian care recipients are friends or neighbors).

⁵⁶ Nine states have passed paid family and medical leave laws with inclusive family definitions that can be found at: Rhode Island (28 R.I. Gen. Laws Ann. § 28-41-34 (West 2019)); California (Cal. Unemp. Ins. Code § 3302(f) (West 2019)); New Jersey (N.J. Stat. Ann. § 43:21-27(n) (West 2019)); New York (N.Y. Workers' Comp. Law § 201(20) (McKinney 2019)); Washington, D.C. (D.C. Code Ann. § 32-541.01(7) (West 2020)); Washington State (Wash. Rev. Code Ann. § 50A.05.010(10) (West 2020)); Massachusetts (Mass. Gen. Laws Ann. ch. 175M, § 1 (West 2019)); Connecticut (S.B. 1, 2019 Gen. Assemb. (Conn. 2019). The law is only partially codified. The full text of the law can be found at <https://www.cga.ct.gov/2019/lcoamd/pdf/2019LCO09302-R00-AMD.pdf>); Oregon (H.B. 2005, 80th Legis. Assemb., Reg. Sess. (Or. 2019). The full text of the law can be found at <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2005/Enrolled>).

⁵⁷ 28 R.I. Gen. Laws Ann. § 28-41-34(1) (West 2019); Cal. Unemp. Ins. Code § 3302(c); N.J. Stat. Ann. § 43:21-27(k) (West 2019); N.Y. Workers' Comp. Law § 201(16) (McKinney 2019); D.C. Code Ann. § 32-541.01(7)(A) (West 2020); Wash. Rev. Code Ann. § 50A.05.010(1) (West 2020); Mass. Gen. Laws Ann. ch. 175M, § 1 (West 2019); 458 Mass. Code Regs. 2.02 (2019); S.B. 1, 2019 Gen. Assemb. § 17(6), (15) (Conn. 2019); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 2(18)(b), (6) (Or. 2019).

⁵⁸ While Rhode Island, California, New Jersey, Washington, D.C., Washington State, and Oregon require that domestic partners be registered, New York and Massachusetts both have flexible domestic partner definitions that do not require legal registration. 28 R.I. Gen. Laws Ann. § 28-41-34(6) (West 2019); Cal. Unemp. Ins. Code § 3302(d) (West 2019); N.J. Stat. Ann. § 43:21-27(l) (West 2019); D.C. Code Ann. § 32-541.01(7)(C) (West 2020); Wash. Rev. Code Ann. § 50A.05.010(22) (West 2020); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 2(18)(g), (9) (Or. 2019); N.Y. Workers' Comp. Law § 201(17) (McKinney 2019); Mass. Gen. Laws Ann. ch. 175M, § 1 (West 2019); 458 Mass. Code Regs. 2.02 (2019).

⁵⁹ Cal. Unemp. Ins. Code § 3302(f) (West 2019); Mass. Gen. Laws Ann. ch. 175M, § 1 (West 2019); N.J. Stat. Ann. § 43:21-27(n) (West 2019); D.C. Code Ann. § 32-541.01(7)(E) (West 2020); Wash. Rev. Code Ann. § 50A.05.010(10) (West 2020); S.B. 1, 2019 Gen. Assemb. § 17(6) (Conn. 2019); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 2(18)(d) (Or. 2019).

⁶⁰ Cal. Unemp. Ins. Code § 3302(f) (West 2019); Mass. Gen. Laws Ann. ch. 175M, § 1 (West 2019); N.J. Stat. Ann. § 43:21-27(n) (West 2019); N.Y. Workers' Comp. Law § 201(20) (McKinney 2019); Wash. Rev. Code Ann. § 50A.05.010(10) (West 2020); S.B. 1, 2019 Gen. Assemb. § 17(6) (Conn. 2019); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 2(18)(f) (Or. 2019).

⁶¹ N.J. Stat. Ann. § 43:21-27(n) (West 2019) ("Family member" means . . . any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship."); S.B. 1, 2019 Gen. Assemb. § 17(6) (Conn. 2019) ("Family member" means . . . an individual related to the employee by blood or affinity whose close association the employee shows to be the equivalent of those family relationships."); H.B. 2005, 80th Legis. Assemb., Reg. Sess. § 2(18)(h) (Or. 2019) ("Family member" means . . . [a]ny individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship").

⁶² Colo. Rev. Stat. § 8-13.3-503(11); Minn. Stat. 268B.01(23) (2023); 1 M.R.S. § 850-A(19) (2023).

whose close association with the employee is the equivalent of a family relationship and those definitions have been used since 1969.⁶³

Thank you for your consideration and your attention to this important issue. We welcome the opportunity to continue working with you to pass the strong, comprehensive paid family and medical leave law America's working families need.

A BETTER BALANCE ET AL.
815 16th St., NW, Suite 4162
Washington, DC 20005

Submitted by:

Alliance for Safety and Justice
1624 Franklin Street, 11th Floor, Oakland, CA 94612
Clayton Early Learning
3801 M.L.K. Jr. Blvd, Denver, CO 80205
Crime Survivors for Safety and Justice
1624 Franklin Street, 11th Floor, Oakland, CA 94612
Family Values @ Work
207 E Buffalo Street, Suite 501, Milwaukee, WI 53202
Futures Without Violence
1101 Connecticut Ave., NW, Suite 1050, Washington, DC 20036
Legal Aid at Work
180 Montgomery St., Ste. 600, San Francisco, CA 94104
Legal Momentum, The Women's Legal Defense and Education Fund
32 Broadway, Suite 1801, New York, NY 10004
The National Domestic Violence Hotline
PO Box 90249, Austin, TX 78709
National Network to End Domestic Violence
1325 Massachusetts Ave., NW, 7th floor, Washington, DC 20005

The signed organizations commend the Senate Committee on Finance for holding the hearing titled, *Exploring Paid Leave: Policy, Practice, and Impact on the Workforce*. Paid leave is necessary for survivors of violence, just as it is for all workers. However, survivors of violence have additional, critical needs. As the Committee explores paid leave, we urge you to include paid safe leave to take time away from work to seek services or safety for workers who are, or whose family members are, victims of domestic violence, dating violence, sexual assault, stalking, trafficking, or other forms of gender-based violence and/or harassment.

Millions of workers experience domestic violence, sexual assault, trafficking, stalking, sexual harassment, and other forms of violence every day.¹ Millions more are supporting family members, grieving the loss of a loved one, or seeking healing and safety due to violence.² In 2016, nearly half of all women, and four out of ten men reported experiencing domestic violence in their lifetime.³ Across the country, Amer-

⁶³ The relevant language covers "any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship." Absence and Leave: Funeral Leave, 34 Fed. Reg. 13,655 (Aug. 26, 1969) (codified at 5 C.F.R. pt. 630) (first implemented during the Vietnam War, allowing federal workers to take funeral leave for the combat-related deaths of loved ones); Absence and Leave; Voluntary Leave Transfer Program, 54 Fed. Reg. 4749 (Jan. 31, 1989) (codified at 5 C.F.R. pt. 630); Absence and Leave; Sick Leave, 59 Fed. Reg. 62,266 (Dec. 2, 1994) (codified at 5 C.F.R. pt. 630).

¹ Logan, T.K., Lisa Shannon, Jennifer Cole, and Jennifer Swanberg. "Partner Stalking and Implications for Women's Employment." *Journal of Interpersonal Violence* 22, no. 3 (March 1, 2007): 268–91. <https://doi.org/10.1177/0886260506295380>.

² See Schumacher, Shannon, Marley Presiado, Isabelle Valdes, and 2023. "Americans' Experiences With Gun-Related Violence, Injuries, and Deaths." *KFF* (blog). Accessed September 14, 2023. <https://www.kff.org/other/poll-finding/americans-experiences-with-gun-related-violence-injuries-and-deaths/>.

³ Kathleen C. Basile, Ashley S. D'Inverno, and Jing Wang, "National Prevalence of Sexual Violence by a Workplace-Related Perpetrator," *American Journal of Preventive Medicine* 58, no. 2 (February 2020): 216–23, <https://doi.org/10.1016/j.amepre.2019.09.011>; K.C. Basile et al., "The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence," Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 2022.

icans experience rape, trafficking, gun violence or other forms of violent victimization, at a rate of 23.5 victimizations per 1,000 persons age 12 or older.⁴ This violence impacts every workplace, every industry and nearly every American family.

Definition of Safe Leave

“Safe leave” generally refers to paid time away from work that a worker may use to address impacts of abuse and the needs that a worker may need to address because of domestic violence, dating violence, sexual assault, stalking, trafficking, other forms of gender-based violence or harassment, or other forms of violent victimization. As survivors of violence navigate their lives, they sometimes need time off of work to keep themselves and their families safe and secure.

Survivors might need to take time away from work for a wide variety of reasons connected to the violence they have experienced.⁵ For example, survivors may need time for legal proceedings to seek safety for themselves and their families, such as to get a restraining order, file for separation/divorce and child custody, or participate in criminal proceedings. They may also need to seek supportive services, enroll their children in a new school, find child care, or move to a new home for safety reasons. Survivors may have needs related to their physical or mental health which are not fully addressed by other kinds of leave. In many cases, these needs may be extremely urgent or only possible to address during working hours. Violence often co-occurs alongside other needs, such as medical conditions, meaning that existing laws do not offer survivors sufficient time to heal.⁶

In addition, people close to survivors may need to leave to support their loved ones, providing critically needed, and often unscheduled, assistance. A close friend might accompany a sexual assault survivor to obtain emergency health care⁷ or assist with moving to a safer home. A family member may be called to provide a victim impact statement in a legal proceeding or to care for a survivor’s children while the survivor is getting needed assistance. In tragic cases where a victim is killed in a violent act, a loved one reeling from unexpected violent loss may need time to make funeral arrangements and grieve, and take other safety-related measures where there is an ongoing threat.

Current Access to Safe Leave

Unfortunately, many Americans do not have access to any paid time off from work, let alone paid safe time or paid sick time, even to recover from violence. As of March 2023, 78 percent of all private sector workers had access to paid sick leave—in other words, more than one in five workers are excluded.⁸ Among part-time workers, half had no paid sick leave. Among the lowest-paid ten percent of private sector workers, more than 60 percent had no access to paid sick leave.⁹ Low-income and part-time workers are also disproportionately likely to lack access to paid vacation time or other sources of paid time off, meaning that many vulnerable workers may have no paid time off at all. Moreover, even where workers have access to paid sick leave or other forms of paid time off, they may not be able to use it to address all their needs in relation to violence, particularly for non-medical needs.

A growing number of workers have access to job-guaranteed safe time, but most do not have the full range of protections they need. At the federal level, Executive Order 1370634, issued by President Obama, ensures the right to paid sick and safe

⁴ See Thompson, Alexandra. “Criminal Victimization, 2022.” NCJ 307089. Washington (DC): Bureau of Justice Statistics, 2022. <https://bjs.ojp.gov/document/cv22.pdf>.

⁵ See Swanberg, Jennifer E., Mamta U. Ojha, and Caroline Macke. “State Employment Protection Statutes for Victims of Domestic Violence: Public Policy’s Response to Domestic Violence as an Employment Matter.” *Journal of Interpersonal Violence* 27, no. 3 (February 1, 2012): 587–619. <https://doi.org/10.1177/0886260511421668>.

⁶ See William, Jananie, Bronwyn Loong, Dana Hanna, Bonny Parkinson, and Deborah Loxton. “Lifetime Health Costs of Intimate Partner Violence: A Prospective Longitudinal Cohort Study with Linked Data for out-of-Hospital and Pharmaceutical Costs.” *Economic Modeling* 116 (November 1, 2022): 106013. <https://doi.org/10.1016/j.econmod.2022.106013>.

⁷ See Alliance for Safety and Justice. “Crime Survivors Speak: National Survey of Victims’ Views on Safety and Justice.” Crime Survivors Speak. Alliance for Safety and Justice, September 2022. <https://allianceforsafetyandjustice.org/wp-content/uploads/2022/09/Alliance-for-Safety-and-Justice-Crime-Survivors-Speak-September-2022.pdf>.

⁸ Bureau of Labor Statistics. “Table 6. Selected Paid Leave Benefits: Access—2023 A01 Results.” Accessed September 26, 2023. <https://www.bls.gov/news.release/ebs2.t06.htm>.

⁹ Bureau of Labor Statistics. “Table 6. Selected Paid Leave Benefits: Access—2023 A01 Results.” Accessed September 26, 2023. <https://www.bls.gov/news.release/ebs2.t06.htm>.

leave for many employees of federal contractors.¹⁰ **However, no federal law guarantees the right to paid safe leave for any other employees.**

Eighteen states and the District of Columbia guarantee a right to *paid* time away from work that can be used for safe leave purposes. Fifteen states and the District of Columbia provide explicit paid safe leave protections under their state paid sick time laws, though exact coverage varies by state.¹¹ These laws guarantee covered employees the right to earn and use paid time off based on how much they work, typically up to around 40 hours per year.¹² In addition, Maine, Nevada, and most recently Illinois have passed laws allowing covered employees to earn and use a limited amount of paid time off for any purpose, which can include safe leave needs.¹³ For more extended needs, five states provide or will provide paid safe leave protections for some survivors through their state paid family and medical leave laws, which provide benefits for up to several weeks through social insurance systems.¹⁴ One state, Maine, will provide safe leave for survivors of a broader range of violence through their new paid family and medical leave law.¹⁵ Note that all six of these states also have paid sick time or paid time off laws, such that workers in those states have additional important protections. **These states provide an example of how to include survivors of violence in a broader ecosystem of workplace protections.**

Beyond these laws, some states have laws that guarantee the right to *unpaid* leave in connection with various forms of violence. These protections are critical but are all too often out of reach for those who cannot afford to go without a paycheck, especially at particularly difficult or vulnerable moments.¹⁶ Some states only offer unpaid safe leave for survivors of specific crimes, usually domestic violence and sexual assault. And, many of these laws narrowly define violence or require specific “certifications” or proof of violence from law enforcement agencies.¹⁷ The requirement to report to law enforcement to qualify creates barriers, as many survivors of crime do not report to police.¹⁸ Nearly 6 in 10 violent victimizations are never reported to law enforcement.¹⁹ Reporting rates are especially stark when it comes to sexual

¹⁰ See U.S. Department of Labor. “Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors.” Accessed January 24, 2023. <https://www.dol.gov/agencies/whd/government-contracts/sick-leave>.

¹¹ Those states are Arizona, California, Colorado, Connecticut, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington State. Minnesota’s paid sick time law will go into effect on January 1, 2024; all other laws are fully in effect. For more detail, please see A Better Balance. “Overview of Paid Sick Time Laws in the United States.” A Better Balance, 2023. <https://www.abetterbalance.org/paid-sick-time-laws/?export>.

¹² A Better Balance. “Overview of Paid Sick Time Laws in the United States.” A Better Balance, 2023. <https://www.abetterbalance.org/paid-sick-time-laws/?export>.

¹³ A Better Balance. “Overview of Paid Sick Time Laws in the United States.” A Better Balance, 2023. <https://www.abetterbalance.org/paid-sick-time-laws/?export>.

¹⁴ New Jersey, Connecticut, and Oregon are already providing paid family and medical leave benefits, including for safe time. Benefits will begin in 2024 in Colorado and in 2026 in Minnesota. Please see pages 3 through 5 of National Partnership for Women and Families. “State Paid Family & Medical Leave Insurance Laws.” Chart. Washington D.C.: National Partnership, September 2023. <https://nationalpartnership.org/wp-content/uploads/2023/02/state-paid-family-leave-laws.pdf>.

¹⁵ 26 M.R.S. §850–A(26). Benefits will begin in 2026 in Maine.

¹⁶ See generally FreeFrom. “Support Every Survivor.” Los Angeles, CA: FreeFrom, 2023. <https://www.freefrom.org/wp-content/uploads/2022/10/Support-Every-Survivor-PDF.pdf>.

¹⁷ Legal Momentum, and Futures Without Violence. “State Guide on Employment Rights for Survivors of Domestic Violence, Sexual Assault, and Stalking.” Washington D.C.: Workplaces Respond National Resource Center, November 2022. <https://www.workplacesrespond.org/wp-content/uploads/2017/01/State-Employment-Guide.pdf>.

¹⁸ See Espinoza, Lucas Enrique, Luis Enrique Espinoza, Rosalva Resendiz, Noe Leal, Jennifer L. Talleff, Zoraya Berlanga Aguilar, Rebecca Rouse, and Kathleen Ayako Anangwe. “Intimate Partner Violence Incidents Reporting by Female Minorities in the United States.” *Journal of Ethnicity in Criminal Justice* 20, no. 3 (July 3, 2022): 209–26. <https://doi.org/10.1080/15377938.2022.2096735>; Lonsway, Kimberly A., and Joanne Archambault. “The ‘Justice Gap’ for Sexual Assault Cases: Future Directions for Research and Reform.” *Violence Against Women* 18, no. 2 (February 1, 2012): 145–68. <https://doi.org/10.1177/1077801212440017>; Lapsey, David S., Bradley A. Campbell, and Bryant T. Plummlee. “Focal Concerns and Police Decision Making in Sexual Assault Cases: A Systematic Review and Meta-Analysis.” *Trauma, Violence, & Abuse* 23, no. 4 (October 1, 2022): 1220–34. <https://doi.org/10.1177/1524838021991285>.

¹⁹ Thompson, A. and Tapp, S.N. (2023). “Criminal Victimization, 2022.” US Department of Justice, Bureau of Justice Statistics.

violence—nearly 8 in 10 sexual assaults are not reported to law enforcement.²⁰ Most states also have laws guaranteeing some form of unpaid leave or job protection for crime victims or witnesses, but these laws are often limited to very specific actions in relation to the criminal legal system, such as responding to a subpoena.²¹ And 15 states do not even guarantee unpaid leave for any crime victims.²²

The result is an incomplete and inadequate set of protections, despite important gains in recent years. Even where they have protections, many survivors are unaware of the availability of paid or unpaid safe leave until it is too late to meaningfully exercise that right.²³ Thus, the millions of workers whose lives are touched by violence each year in the U.S. are forced to make impossible choices between employment and safety and recovery from violence. **This is why all American families deserve access to safe leave.**

The Lack of Safe Leave Harms Families

Experiencing violence can mean missing work.²⁴ Without paid safe leave, it also means missing a paycheck or losing a job. Across the board, those who experience sexual and domestic violence, stalking, and other forms of harassment and violence miss work and lose their jobs as a consequence of their experiences. Many survivors report being demoted or even losing their jobs as a result of absences due to violence and harassment.²⁵ A 2020 survey found that 76 percent of survivors of domestic violence said that their partners made it hard to keep a job.²⁶ A 2022 survey of survivors of crime found that one-third reported difficulty with school or work as a direct result of their victimization.²⁷ One in six survivors of violence lost a job or were demoted due to needing time off work. Another study found that victims who were stalked lost an average of 10.1 days of paid work per year, those who were raped lost an average of 8.1 days per year, and those who experienced physical violence lost 7.2 days per year.²⁸ Some of those absences may be paid, but many are not, depriving workers of the income they need to support themselves and their families.

²⁰ See Thompson, A. and Tapp, S.N. (2023). “Criminal Victimization, 2022.” US Department of Justice, Bureau of Justice Statistics.

²¹ See Legal Momentum, and Futures Without Violence. “State Guide on Employment Rights for Survivors of Domestic Violence, Sexual Assault, and Stalking.” Washington D.C.: Workplaces Respond National Resource Center, November 2022. <https://www.workplacesrespond.org/wp-content/uploads/2017/01/State-Employment-Guide.pdf>.

²² As of November 2022, states with no guaranteed leave for crime victims include Idaho, Indiana, Iowa, Kentucky, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, West Virginia and the US Virgin Islands. Some of these states, such as North Carolina and North Dakota, do have limited GBV Safe Leave, but this leave does not cover all crime victims. The states that have no GBV Safe Leave to address domestic violence, sexual assault or stalking include; Alabama, Alaska, Arkansas, Delaware, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Nebraska, New Hampshire, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, Wyoming and the US Virgin Islands. Survivors in some of those states may be able to use crime victim leave but this access often requires legal documentation. For detailed information on state specific statutes please see; Legal Momentum, and Futures Without Violence “State Guide on Employment Rights for Survivors of Domestic Violence, Sexual Assault, and Stalking.” Washington D.C.: Workplaces Respond National Resource Center, November 2022. <https://www.workplacesrespond.org/wp-content/uploads/2017/01/State-Employment-Guide.pdf>.

²³ See generally; Swanberg, Jennifer E., Mamta U. Ojha, and Caroline Macke. “State Employment Protection Statutes for Victims of Domestic Violence: Public Policy’s Response to Domestic Violence as an Employment Matter.” *Journal of Interpersonal Violence* 27, no. 3 (2012):587–619. <https://doi.org/10.1177/0886260511421668>.

²⁴ According to a forthcoming analysis by the Alliance for Safety and Justice of data from the National Crime Victimization Survey, 190,000 people report missing work each year after experiencing a direct physical attack. These include survivors of domestic violence, sexual assault, gun violence, robbery, and other assaults. This figure does not capture the many thousands more who miss work when a loved one is victimized or killed, and does not fully capture the impact of harm such as stalking or intimate partner violence.

²⁵ Showalter, K., & McCloskey, R.J. (2021). A Qualitative Study of Intimate Partner Violence and Employment Instability. *Journal of Interpersonal Violence*, 36(23–24), NP12730–NP12755.

²⁶ CSAJ, Adrienne E. Adams, and Sara Wee. “Domestic Violence and Economic Well-being Study.” SERVICE PROVIDER REPORT. Center for Survivor Agency and Justice, n.d. https://csaj.org/wp-content/uploads/2022/05/DV_EWB_Study-Service_Provider_Report_FINAL.pdf.

²⁷ See Alliance for Safety and Justice. “Crime Survivors Speak: National Survey of Victims’ Views on Safety and Justice.” Crime Survivors Speak. Alliance for Safety and Justice, September 2022. <https://allianceforsafetyandjustice.org/wp-content/uploads/2022/09/Alliance-for-Safety-and-Justice-Crime-Survivors-Speak-September-2022.pdf>.

²⁸ See Gladys McLean and Sarah Gonzalez Bocinski, “The Economic Cost of Intimate Partner Violence, Sexual and Stalking,” IWPR 2020 (blog), August 14, 2017, <https://iwpr.org/iwpr-general/the-economic-cost-of-intimate-partner-violence-sexual-assault-and-stalking>.

Paid safe leave will keep survivors in the workforce while limiting the economic harms of abuse.²⁹

Economic Insecurity Endangers Survivors and Community Safety

A primary reason domestic violence survivors are unable to leave an abusive relationship is a lack of economic security to support themselves.³⁰ Compounding this, deepening economic insecurity increases vulnerability to violence and makes it more difficult to leave a violent relationship.³¹ Survivors of violence are often caught between two barriers; they need work to be able to leave a violent situation but the violence they're subjected to severely impacts their ability to work. The consequences of violence compromise economic security—and with it, safety.

Life stressors like job insecurity are among the factors that can increase a survivor's risk of developing PTSD, and can have lasting impacts on employment and housing stability for people who have experienced violent victimization.³² According to a 2022 survey, more than 9 in 10 people with an arrest or conviction record have been a victim or a crime, compared to less than half of people (44%) who do not have a record.³³ Eighty-six percent of incarcerated women were victims of violence prior to incarceration.³⁴ Experiencing violence is also a central risk factor for chronic homelessness and substance-use disorder.³⁵ These effects are not limited to the survivor but also impact community safety. One study found that more than half (59%) of mass shootings between 2014 and 2019 were related to domestic violence, where at least one of the victims was a partner or family member of the shooter.³⁶ **Thus, providing survivors of violence with adequate time to heal and get to safety is violence prevention and a way to make us all safer.**³⁷

Paid Safe Leave Can Make Justice a Meaningful Choice

The economic impacts of violence also affect a survivor's ability to meaningfully pursue their versions of justice and accountability. Researchers have found that job loss and economic pressure are the primary reasons survivors of violence decline to pursue protection orders and other safety measures.³⁸ Safe leave promotes consistency

²⁹ Moe, Angela M., and Myrtle P. Bell. "Abject Economics: The Effects of Battering and Violence on Women's Work and Employability." *Violence Against Women* 10, no. 1 (January 1, 2004): 29–55. <https://doi.org/10.1177/1077801203256016>.

³⁰ See Cynthia Hess and Alona Del Rosario, "Dreams Deferred: A Survey Impact of Intimate Partner Violence on Survivors' Education, Careers, and Economic Security" (Washington, D.C.: Institute for Women's Policy Research, 2018), <https://iwpr.org/wp-content/uploads/2018/10/C475-IWPR-Report-Dreams-Deferred.pdf>.

³¹ See Heron, Rebecca L., Maarten Eisma, and Kevin Browne. "Why Do Female Domestic Violence Victims Remain in or Leave Abusive Relationships? A Qualitative Study." *Journal of Aggression, Maltreatment & Trauma* 31, no. 5 (May 28, 2022): 677–94. <https://doi.org/10.1080/10926771.2021.2019154>.

³² See Kelly, Vanessa G., Gregory S. Merrill, Martha Shumway, Jennifer Alvidrez, and Alicia Boccellari. "Outreach, Engagement, and Practical Assistance: Essential Aspects of PTSD Care for Urban Victims of Violent Crime." *Trauma, Violence & Abuse* 11, no. 3 (July 2010): 144–56. <https://doi.org/10.1177/1524838010374481>.

³³ See Alliance for Safety and Justice (2022). "Voices of Redemption: A Survey of People with Records." <https://asj.allianceforsafetyandjustice.org/wp-content/uploads/2023/05/2023-05-15-2023-TimeDoneSurvey-Full.pdf>.

³⁴ See Vera Institute of Justice. "Overlooked: Women and Jails in an Era of Reform," July 7, 2018. <https://www.vera.org/publications/overlooked-women-and-jails-report>.

³⁵ See Baker, Charlene K., Kris A. Billhardt, Joseph Warren, Chiquita Rollins, and Nancy E. Glass. "Domestic Violence, Housing Instability, and Homelessness: A Review of Housing Policies and Program Practices for Meeting the Needs of Survivors." *Aggression and Violent Behavior* 15, no. 6 (November 1, 2010): 430–39. <https://doi.org/10.1016/j.avb.2010.07.005>; Pallatino, Chelsea, Judy C. Chang, and Elizabeth E. Krans. "The Intersection of Intimate Partner Violence and Substance Use among Women with Opioid Use Disorder." *Substance Abuse* 42, no. 2 (April 1, 2021): 197–204. <https://doi.org/10.1080/08897077.2019.1671296>.

³⁶ See Geller, Lisa B., Marisa Booty, and Cassandra K. Crifasi. "The Role of Domestic Violence in Fatal Mass Shootings in the United States, 2014–2019." *Injury Epidemiology* 8, no. 1 (May 31, 2021): 38. <https://doi.org/10.1186/s40621-021-00330-0>.

³⁷ See Rowhani-Rahbar, Ali, Julia P. Schleimer, Caitlin A. Moe, Frederick P. Rivara, and Heather D. Hill. "Income Support Policies and Firearm Violence Prevention: A Scoping Review." *Preventive Medicine, Epidemiology and Prevention of Gun Violence*, 165 (December 1, 2022): 107133. <https://doi.org/10.1016/j.ypmed.2022.107133>; Tankard, Margaret E., and Radha Iyengar. "Economic Policies and Intimate Partner Violence Prevention: Emerging Complexities in the Literature." *Journal of Interpersonal Violence* 33, no. 21 (November 1, 2018): 3367–87. <https://doi.org/10.1177/0886260518798354>.

³⁸ Ann Malecha et al., "Applying for and Dropping a Protection Order: A Study with 150 Women," *Criminal Justice Policy Review* 14, no. 4 (December 1, 2003): 486–504, <https://doi.org/10.1177/0887403403255496>.

and participation in the legal system, giving survivors further options for justice.³⁹ As 15 states do not guarantee unpaid leave for any crime victims, many survivors are forced to choose between working and participating in the justice process.⁴⁰ Ensuring the survivors of crime can actually attend court will save the courts and criminal legal system resources lost due to rescheduled hearings and dismissed cases. Furthermore, by facilitating the logistics of participating in the justice system, paid safe leave gives survivors a meaningful choice.

Paid Leave Advances Equity in the Workforce

Some communities, such as American Indian or Alaska Native women, people with disabilities, and LGBTQ+ people, experience disproportionate rates of violence, which can make it harder for these populations to obtain and maintain employment or education.⁴¹

Experiencing violence often forces survivors into part-time or low-wage work.⁴² Workers in low-wage jobs, including undocumented immigrants, women, and people of color—some the same workers who face higher risks of experiencing violence and greatest barriers to accessing help⁴³—are less likely to have access to paid time away from work.⁴⁴ Paid safe leave will support our economies' most vulnerable workers, advancing economic equity and decreasing future risk of violence.

Paid Safe Leave Is Good for Business and the Economy

Ensuring that survivors of violence have access to safety and healing also has widespread benefits for the entire economy. Paid leave will support businesses and the economy by reducing lost productivity and the costs of increased turnover.⁴⁵ Violence creates various barriers to successfully applying for work, keeping a job, or completing an education or training program.⁴⁶ This leaves many qualified and hardworking survivors out of the workforce entirely.

³⁹ De La Rue, Lisa, Lilyana Ortega, and Gena Castro Rodriguez. "System-Based Victim Advocates Identify Resources and Barriers to Supporting Crime Victims." *International Review of Victimology* 29, no. 1 (January 1, 2023): 16–26. <https://doi.org/10.1177/02697580221088340>; Heffernan, Liz. "The Participation of Victims in the Trial Process." *Northern Ireland Legal Quarterly* 68 (2017): 491.

⁴⁰ As of November 2022, states with no guaranteed leave for crime victims include Idaho, Indiana, Iowa, Kentucky, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, West Virginia and the US Virgin Islands. Some of these states, such as North Carolina and North Dakota, do have limited GBV Safe Leave, but this leave does not cover all crime victims. The states that have no GBV Safe Leave to address domestic violence, sexual assault or stalking include; Alabama, Alaska, Arkansas, Delaware, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Nebraska, New Hampshire, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, Wyoming and the US Virgin Islands. Survivors in some of those states may be able to use crime victim leave but this access often requires legal documentation. For detailed information on state specific statutes please see: Legal Momentum, and Futures Without Violence "State Guide on Employment Rights for Survivors of Domestic Violence, Sexual Assault, and Stalking." Washington D.C.: Workplaces Respond National Resource Center, November 2022. <https://www.workplacesrespond.org/wp-content/uploads/2017/01/State-Employment-Guide.pdf>.

⁴¹ See "Intimate Partner Violence and Sexual Abuse Among LGBT People." Williams Institute. Accessed February 10, 2023. <https://williamsinstitute.law.ucla.edu/publications/ipv-sex-abuse-lgbt-people/>; Fedina, Lisa, Yuliya Shyrokoni, Bethany Backes, Katie Schultz, Louise Ashwell, Steven Hafner, and Andre Rosay. "Intimate Partner Violence, Economic Insecurity, and Health Outcomes Among American Indian and Alaska Native Men and Women: Findings From a National Sample." *Violence Against Women* 29, no. 11 (September 1, 2023): 2060–79. <https://doi.org/10.1177/10778012221127725>.

⁴² See Tolman, Richard M., and Hui-Chen Wang. "Domestic Violence and Women's Employment: Fixed Effects Models of Three Waves of Women's Employment Study Data." *American Journal of Community Psychology* 36, no. ½ (2005): 147–58. <https://doi.org/10.1007/s10464-005-6239-0>.

⁴³ See Smith, N. and Hope, C. (2020). "Helping Those Who Help Others: Key Findings From a Comprehensive Needs Assessment of the Crime Victims Field." The National Resource Center for Reaching Victims.

⁴⁴ See Boyens, Chantel, Michael Karpman, and Jack Smalligan. "Access to Paid Leave Is Low-est among Workers with the Greatest Needs," July 2022, 17.

⁴⁵ See Swanberg, Jennifer E., T.K. Logan, and Caroline Macke. "Intimate Partner Violence, Employment, and the Workforce: Consequences and Future Decisions." *Trauma, Violence, & Abuse* 4, no. 10 (2005): 1–26; Kathryn Showalter, "Women's Employment and Domestic Violence: A Review of the Literature," *Aggression and Violent Behavior* 31 (November 2016): 37–47, <https://doi.org/10.1016/j.avb.2016.06.017>.

⁴⁶ See generally Andrea Borchers et al., "Employment Maintenance and Intimate Partner Violence," *Workplace Health & Safety*, May 18, 2016, 2165079916644008, <https://doi.org/10.1177/2165079916644008>.

Furthermore, every year an estimated eight million days of paid work are lost by survivors of intimate partner violence, approximately 32,114 full-time jobs.⁴⁷ This has consequences not only for survivors and their families but for our economy as a whole. A 2017 study estimated that rape alone cost the U.S. economy more than \$1.6 trillion in lost productivity.⁴⁸ By creating pathways to remain in the workforce and adequately support survivors of violence, the American economy will reduce lost productivity and retain talented and innovative workers.

Paid Leave Will Support Child Well-Being

Paid safe leave addresses two critical factors in child health and well-being; exposure to violence and economic insecurity.^{49, 50} Research indicates that parents experiencing intimate partner violence (IPV) often recognize and are concerned about the potentially harmful effects of the violence on their children, and consider their children in making decisions about help-seeking.⁵¹ However, economic insecurity is a central challenge for survivors of violence, particularly those with children.⁵² Paid safe leave will increase the economic security of survivors of violence, allowing them to heal from violence, alongside their children.⁵³

Conclusion

Paid safe leave gives survivors of violence options; ways to navigate safety, time to maintain their economic security, and the chance to find healing. One of the measures American families across the country need to manage their safety, care for their families, and remain in the workforce is paid safe leave. Survivors, who have already faced immense trauma, should not be forced to make a choice between personal and family well-being or financial stability.

As the Committee explores policies, practices, and the impact of paid leave on the workforce, we urge its members to include paid safe leave for survivors of violence. We urge the explicit and specific inclusion of survivors of violence in current or future proposed legislation of paid leave. Survivors of violence can be included in broader legislation on paid leave for all workers or standalone legislation specifically for survivors of violence. Safe leave should cover leave to address the impacts of domestic violence, dating violence, sexual assault, stalking, family violence, sexual harassment, trafficking, other forms of gender-based violence or harassment, or another qualifying act of violence if the time is for the individual or individual's family member as described above. Future paid leave legislation should include as permissible reasons for taking the leave the various reasons survivors of violence need safe leave and integrate multiple methods of certification of qualifying needs. As survivors experience violence in addition to illness or other conditions, paid safe leave should be considered additive to family or medical leave and articulated within separate leave provisions. Furthermore, we ask the Committee to consult the experiences of survivors of violence and the advocates that serve them in crafting future legislation.

Upon consideration of legislation or hearings advancing paid safe leave, the signed organizations offer detailed recommendations and model legislative text.

⁴⁷ See generally Prevention, Centers for Disease Control and National Center for Injury Prevention and Control. *Costs of Intimate Partner Violence against Women in the United States*. Atlanta (GA): Centers for Disease Control and Prevention, 2003. <https://www.cdc.gov/violenceprevention/pdf/ipvbook-a.pdf>.

⁴⁸ See Peterson, Cora, Sarah DeGue, Curtis Florence, and Colby N. Lokey. "Lifetime Economic Burden of Rape Among U.S. Adults." *American Journal of Preventive Medicine* 52, no. 6 (June 2017): 691–701. <https://doi.org/10.1016/j.amepre.2016.11.014>.

⁴⁹ See Prickett, Kate C. "Mothers' Job Loss and Their Sensitivity to Young Children's Development." *Child Development* 91, no. 6 (November 2020): 1970–87. <https://doi.org/10.1111/cdev.13398>.

⁵⁰ See Waldfogel, Jane, Terry-Ann Craigie, and Jeanne Brooks-Gunn. "Fragile Families and Child Well-being." *The Future of Children/Center for the Future of Children, the David and Lucile Packard Foundation* 20, no. 2 (2010): 87–112.

⁵¹ See generally Rhodes, Karin Verlaine, Melissa E. Dichter, Catherine L. Kothari, Steven C. Marcus, and Catherine Cerulli. "The Impact of Children on Legal Actions Taken by Women Victims of Intimate Partner Violence." *Journal of Family Violence* 26, no. 5 (July 1, 2011): 355–64. <https://doi.org/10.1007/s10896-011-9370-8>.

⁵² See Conrad-Hiebner, Aislinn, and Elizabeth Byram. "The Temporal Impact of Economic Insecurity on Child Maltreatment: A Systematic Review." *Trauma, Violence, & Abuse* 21, no. 1 (January 1, 2020): 157–78. <https://doi.org/10.1177/1524838018756122>.

⁵³ See "Intimate Partner Violence and Women's Economic Security | Office of Justice Programs." Accessed September 18, 2023. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/intimate-partner-violence-and-womens-economic-security>.

Thank you for your continued commitment to highlighting the paid leave needs of American workers.

Best Regards,

A Better Balance
Clayton Early Learning
Family Values @ Work
Legal Aid at Work

The National Domestic Violence Hotline

Alliance for Safety and Justice
Crime Survivors for Safety and Justice
Futures Without Violence
Legal Momentum, The Women's Legal
Defense and Education Fund
National Network to End Domestic
Violence

AMERICAN BENEFITS COUNCIL

1501 M Street, NW, Suite 600
Washington, DC 20005
(202) 289-6700

<https://www.americanbenefitscouncil.org/>

**Statement of Ilyse Schuman,
Senior Vice President, Health Policy**

The American Benefits Council (“the Council”) commends the Senate Finance Committee for holding a hearing exploring the policy, practice and impact on the workforce of paid leave.

The Council is dedicated to strengthening employer-sponsored benefit plans. The Council represents more major employers—over 220 of the world’s largest corporations—than any other association that exclusively advocates on the full range of employee benefit issues. Members also include organizations supporting employers of all sizes. Collectively, Council members directly sponsor or serve benefit plans covering virtually all Americans participating in employer-sponsored programs.

The Council strongly supports federal paid leave legislation that builds on private-sector solutions and allows employers to treat workers equitably regardless of where they live or work. It is, therefore, important for the Senate Finance Committee to be aware of the significant challenges facing nationwide companies who support paid family leave but are required to navigate a maze of increasingly complex and inconsistent, state paid leave mandates. To support and leverage employer-provided paid leave benefits, it is critical that federal legislation promote the harmonization of state programs so that multistate employers can treat their workers equitably across the country.

Council Member Companies Recognize the Value of Paid Leave Benefits

The Council strongly supports universal paid leave, as reflected in our statement of principles.¹ Our member companies recognize the importance of helping employees care for a new child or tend to their own—or a family member’s—serious health issue. Financial pressure makes unpaid leave out of reach for many working families seeking to address the demands of parenting, health and family. As with all types of employee benefits, Council member companies are at the forefront of comprehensive and innovative programs to provide essential protections to employees and to help them balance personal and work responsibilities. This includes generous paid leave benefits. Our member companies understand that paid leave is also good business.² Such employer-provided paid leave programs, if effectively designed and administered, can foster greater productivity, serve as a valuable recruitment and retention tool, and contribute to the success of the business.

Employer-provided paid leave is valuable for employees. Employees can obtain and manage their valued leave seamlessly and promptly without requiring applying for, and waiting to receive, government benefits. Federal, state and local governments and taxpayers benefit from employer-sponsored plans that mitigate the cost and complexity of public programs. Efforts to expand access to paid leave for workers not currently offered paid leave benefits must also protect and promote existing employer-provided paid leave programs.

¹ See <https://www.americanbenefitscouncil.org/pub/?id=58B7B918-1866-DAAC-99FB-B472DD042A10>.

² See <https://www.fau.edu/newsdesk/articles/paid-sick-leave-business-study.php>.

The Patchwork of Inconsistent State and Local Paid Leave Requirements Has Created a Complex Administrative and Compliance Challenge for Employers, Forcing Them to Treat Employees Differently Based on Their Location

Council members typically have nationwide operations—often in all 50 states. Currently, 13 states, plus Washington, D.C., have enacted a patchwork of inconsistent mandatory paid family and paid family medical leave (PFML) programs. Accordingly, it has become increasingly difficult for multistate employers to consistently offer and administer paid leave to employees nationwide. Compliance, administrative simplicity and equity—cornerstones of nationwide benefit policies—are becoming ever more challenging to achieve.

Why is the existing patchwork of mandatory state PFML programs so challenging? The answer starts with how varied these laws are in terms of their substantive and procedural components. Mandatory state paid family and medical leave programs are comprised of more than 30 substantive, technical requirements, many of which have additional layers, such as definitions, formulas, and administrative standards. When examined, it is clear that many of these measures are mismatched and misaligned.

The attached document prepared by the Council and the law firm Seyfarth Shaw LLP³ describes these state law differences. Wide variation and nuance exists across four select key PFML substantive areas—(1) qualifying absences, (2) covered family members, (3) duration of leave benefits and (4) amount of pay. Furthermore, these topics account for only a small portion of state PFML law substantive criteria. For example, deviations with respect to coordination with employer policies and the private plan option approval standards and inconsistency with the federal Family and Medical Leave Act (FMLA) create challenges and complexities for employers and employees alike. The increasingly remote and mobile nature of the workforce in the wake of the COVID-19 pandemic makes this picture even more complex.

The burden of compliance and the range of different requirements mean that the resources designated for such programs are applied to navigating administrative complexities. This results in employers being compelled to treat workers inconsistently based upon where they work or live. It is vitally important for the Senate Finance Committee to be aware of the extraordinary challenges facing nationwide companies who support paid leave but are required to navigate this maze of increasingly complex, inconsistent, administratively burdensome and overlapping paid leave mandates across the country.

For multistate employers, the burden of administering the numerous state and local paid leave mandates is significant. In the Council's informal poll of large employers on state paid leave laws, 45 of 66 (68%) nationwide businesses characterized the administrative burden imposed by multiple state and local paid leave laws as "very significant," with an additional 18 (27%) calling it "somewhat significant." However, this is not just a matter of administrative cost and burden for employers. It is also a matter of fundamental fairness and equity for employees, particularly in light of the increasingly mobile and remote workforce.

The maze of applicable leave mandates and processes is also overwhelming and confusing for employees, who are not sure which laws apply to them and to which leaves they may be entitled. This patchwork is transforming the traditional role of employers as the single point of contact for employee benefit programs and can negatively impact the employee experience. For many employers that want to provide the best and most efficient experience for employees relative to the various benefits offered, a single point of administration is frequently essential for a highly desired simplified claim reporting experience for employees, including those filing for leave. Employees who previously received benefits at no additional cost from their employers in some cases must now pay an employee contribution, imposed by some state programs, for those same benefits. Employees who previously enjoyed a user-friendly experience in going directly to their employer to request benefits in some cases must now go to the state agency administering the applicable paid family and medical leave program *in addition* to their employer. That places a complicated and time-consuming burden on employees at the very time that what they need and are requesting is time off to deal with personal and family obligations.

³See <https://www.americanbenefitscouncil.org/pub/41FAE84F-C7CE-634B-4D96-D8C025A7183E>.

In the Council's informal poll, on the question of employers' chief concerns about the growing number of state and local laws (they were allowed to choose more than one option), 97% of the Council's survey respondents selected "administrative burden," 88% selected "employee confusion," and 74% selected "inequitable treatment of employees" all significantly greater than the 56% who cited cost as a concern. This point underscores the message that Council member companies are committed to providing paid leave. It is the administrative burden on employers and confusion and inequities for workers caused by state and local laws that are the principal concerns.

Federal Legislative Solutions That Work for Businesses and Workers

We recognize that not all workers have access to generous paid leave benefits, and gaps remain that need to be filled. The federal government plays an essential role in helping to fill the gaps in leave benefits nationwide and can do so while preserving employer plans at the same time. Indeed, a federal legislative solution to expand access to paid family and medical leave benefits cannot be realized without leveraging private-sector solutions. Nationwide harmonization of paid leave benefits for multistate employers is foundational to leveraging employer-provided paid leave benefits.

Nationwide harmonization is a bedrock principle of employer-provided benefits for multistate employers. As you consider the contours of potential federal paid leave proposals, future legislation should incentivize employers to provide innovative, generous paid leave plans by following a similar approach that allows employers to treat employees equitably regardless of where they live or work.

According to a statistically valid nationwide poll of 850 likely voters,⁴ conducted by ALG Research, working Americans prefer to have their paid leave benefits administered by their employer alone and support a more careful approach that emphasizes administrative simplicity and equity in the workplace. By a two-to-one margin (59% to 29%), a majority of voters would prefer to have their paid leave benefits administered by their employer alone, rather than a combination of their employer and their state government or the federal government. Workers should not have to cope with confusing administrative burdens especially during times when personal and family health should be their sole focus.

By a similar margin (53% to 23%), a majority of voters believe that "employees working the same job for the same company should receive the same amount of paid leave regardless of the state in which they work," as opposed to receiving "the amount of leave determined by their state government." Voters who already have employer-provided paid family and medical leave feel especially strongly about this, by a nearly three-to-one margin (68% to 23%). This speaks to the need for harmonization, so multistate employers are allowed to provide fair and equitable benefits across their nationwide workforce.

We urge Congress to craft federal paid leave legislation that addresses the challenge faced by working families and also the complexity of often conflicting state and local leave laws. Thank you for your consideration of our comments. Please let me know how the Council can further assist in your efforts.

American Benefits Council/Seyfarth Shaw LLP

Mandatory Paid Family Medical Leave Laws in the United States

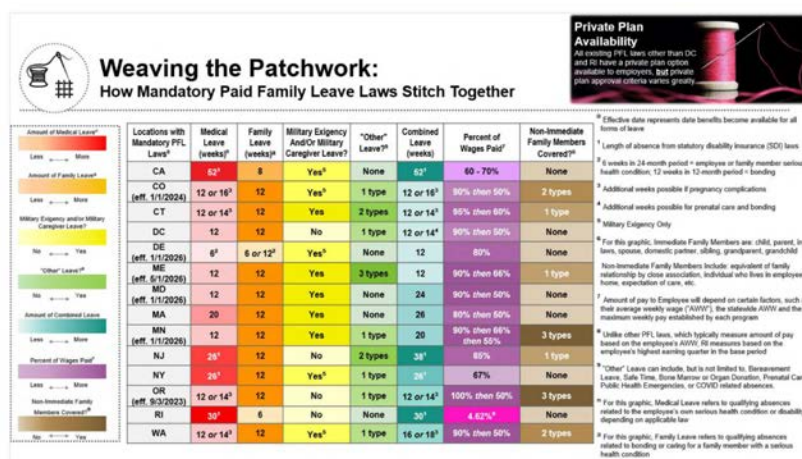
American companies provide generous paid leave benefits to millions of employees to help balance work and personal health, caregiving and parental responsibilities. Meanwhile, 13 states, plus Washington, D.C., have enacted a patchwork of inconsistent mandatory paid family and paid family medical leave (collectively, "PFML" or "PFL") programs, each with differing substantive and procedural requirements. Importantly, not only is there a current patchwork of inconsistent mandatory PFML programs around the country that are challenging to navigate given their many variations, but the patchwork continues to expand as these laws evolve and enter into new locations.

⁴See <https://www.americanbenefitscouncil.org/pub/30B714C6-1866-DAAC-99FB-E18AFA825CAE>.

For instance, since the start of 2022, four states have enacted new mandatory PFML programs—Maryland and Delaware in 2022, and Minnesota and Maine in 2023. Several other states—nonexclusively, Colorado, Connecticut, Massachusetts, Oregon, and Washington—plus Washington, D.C., have updated their respective PFML programs through formal amendments, additional rulemaking, or issuing administrative guidance. Further adding to the complexity is that other states are enacting voluntary PFML programs or adding paid family leave as a class of insurance. Navigating this patchwork has become a significant burden for multistate and nationwide employers, as well as led to hardships and inequities for their employees.

Why is the existing patchwork of mandatory state PFML programs so challenging? The answer starts with how varied these laws are in terms of their substantive and procedural components. Mandatory PFML programs are comprised of more than 30 substantive, technical requirements, many of which have additional layers, such as definitions, formulas, and administrative standards. When examined, it is clear that many of these measures are mismatched and misaligned.

Deviations across four select key PFML substantive areas—(1) qualifying absences, (2) covered family members, (3) length of benefits and duration of leave, (4) amount of pay—are reflected in the graphic below. As highlighted, wide variation and nuance exist across each topic. Further and notably, these topics account for only a small portion of PFML law substantive criteria. Examples of other mandatory PFML conditions include: (5) employee eligibility, (6) employer coverage, (7) treatment of remote, hybrid and mobile workers, (8) benefit year calculation, (9) key definitions, such as “parent,” “child,” “serious health condition,” etc., (10) job protection, (11) funding, (12) waiting periods, (13) intermittent leave, (14) employee notice and scheduling, (15) documentation, (16) medical recertification, (17) interplay with employer-provided leave and time off, (18) interplay with other laws, (19) notice to employees, including new hires, (20) posting, (21) claim filing processes, (22) benefits continuation, (23) employee disqualification, (24) confidentiality, (25) recordkeeping, (26) anti-retaliation, discrimination and interference, (27) reporting and remitting, (28) treatment of union workers, (29) treatment of self-employed workers, (30) written policy requirements, and (31) private plans.



Discrepancies and dissimilarities shown in the above graphic, as well as that exist in other areas of PFML laws, lead to complexities and challenges for employers and employees alike. Nonexclusive representative examples of these challenges include:

- **Treating Similarly Situated Workers Differently.** Because of deviations in the duration of leave, scope of qualifying absences, scope of covered family members, amount of pay, etc., multistate companies are forced to treat employees who are similarly situated (*i.e.*, doing the same job, with the same job responsibilities, etc.) differently based on their location, which leads to inequity among workers and administrative hardship for employers.

- **Percentage of Wage Replacement:** Variation in the percentage of wage replacement provided to employees under state PFML laws, which can range from 60 to 100% up to certain thresholds, is especially impactful on low wage earners. In addition, wage replacement variations can lead to payroll challenges, as well as wage and hour law compliance risks, for employers seeking to “top off” employees’ PFML benefits where wages provided by the PFML law are replaced at less than 100% of the employee’s normal pay.
- **Remote, Hybrid and Mobile Workers:** Remote, hybrid and mobile work arrangements where employees work in more than one jurisdiction with a mandatory PFML law exacerbate complications for employees. Not every mandatory PFML jurisdiction has a standard on determining whether a remote, hybrid or mobile employee is eligible for PFML benefits. In addition, even where multiple laws do contain such standards, they often are unclear as to how PFML eligibility and coverage operates for employees who split time between the jurisdictions. In the wake of the COVID-19 pandemic, the problem has become more complex as employees continue to work remotely from home, but increasingly have relocated their residence to different states.
- **Inconsistency with the FMLA:** Mandatory PFML laws are inconsistent with the federal FMLA on a number of topics, including having lower thresholds for employee eligibility, broader reasons for use and covered family members, and greater length of benefits. These differences lead to “stacking” of benefits whereby the leaves under two laws do not run concurrently, thus leading to increased absenteeism and costs to the business, and a greater burden on co-workers and managers.
- **Coordination with Employer Policies:** Several PFML laws do not clearly address how their benefits interact with employer provided leave and time off. Further, several PFML laws do not differentiate between coordination with employer-provided leave (*i.e.*, short-term disability, paid parental leave, etc.) and time off (*i.e.*, sick time, vacation, PTO, etc.). Adding to the complexity, certain PFML laws, such as Washington State, do not allow employers to run company-provided leave or time off benefits concurrently with statutory PFML. These differences, as well as an inability to run benefits concurrently, lead to “stacking” of benefits and corresponding absenteeism that far exceeds the length of leave contemplated by PFML laws.
- **Lack of Job Protection:** Only some state PFML laws provide employees with job protection, *i.e.*, a right to be reinstated to the same or an equivalent position following the receipt of PFML benefits. In addition, several state PFML laws that do contain a job protection provision attach certain criteria that employees must satisfy in order to receive the full scope of the job protection. Employees often assume that their job will be secure when taking statutory time off under a PFML law. However, because multiple PFML laws only offer wage replacement benefits, rather than job protection to employees, workers can take time off without fully understanding the scope of their rights and potential loss of employment that could follow the time off.
- **Understanding Overlapping Leave Laws and Policies:** Similarly, nationwide and multistate employers struggle to manage day-to-day employee leaves because determining how much leave an employee is entitled to in a given state varies based on applicable federal, state and local law, and company policies. Differences in whether the benefits run concurrently, which benefits provide pay (and up to what percentage), and which portions of the employee’s absence are “job protected” all vary based on the state and the nature of the employee’s absence. Company departments, such as Human Resources, Benefits, Legal, People Relations and Payroll, can struggle to understand this interplay, especially where the employer lacks robust teams in these departments. This has a trickle-down effect to workers and can lead to unnecessary confusion. The most complicated scenario is in the context of combined medical and family leave for the birth parent following the birth of a child.
- **Private Plans:** While 12 of the 14 jurisdictions with mandatory PFML laws have a private plan exemption available for employers to avoid the state public PFML program, private plan approval standards are burdensome and varied. Notably, employers generally must show that it meets or exceeds the jurisdiction’s substantive PFML criteria to obtain approval. Private plan approval also involves satisfying broad administrative standards, *i.e.*, application fees, regular reapproval, employee consent, reporting requirements, solvency standards, and so on. Due to the high bar for private plan approval, employers lack the ability

to offer a “one-size-fits-all” PFML policy to their employees. This deficiency negatively affects both employers and employees. Employers must incur heavy administrative burdens that vary by state to obtain PFML private plan approval, and after obtaining approval, the employer must manage different private plans. Meanwhile, employees lose out on having their employer design a uniquely tailored paid leave program for them based on the nature of their work, industry, and other company-provided leave and time off benefits due to PFML law red tape.

- **Intermittent Leave:** Existing state PFML laws lack a unified standard for handling intermittent absences, particularly when PFML benefits are used to bond with a new child. Unlike the FMLA, which only permits intermittent bonding absences with employer and employee consent, a vast majority of mandatory state PFML laws allow employees to receive benefits for qualifying bonding absences intermittently, often in increments as small as one day. Permitting employees to start and stop work on an intermittent basis, specifically in the context of bonding with a new child, can create major disruptions in the workplace that put unnecessary strain on the employee’s co-workers and managers, as well as the individuals responsible for administering the PFML absence.

Nationwide uniformity is a bedrock principle of employer-provided benefits for multistate employers. For nearly 50 years, Congress has embedded flexibility in the design and operation of health and retirement plans for different workforces, alongside federal uniformity for employers who operate in more than one state. As Congress assesses the contours of potential federal PFML proposals, future legislation should incentivize employers to provide innovative, generous paid leave plans by following a similar approach. Further, to support and leverage employer-provided paid leave benefits, it is critical that federal legislation promotes the harmonization of state PFML programs so that nationwide and multistate employers can treat their workers equitably regardless of where they work or live.

CARING ACROSS GENERATIONS
45 Broadway, Suite 320
New York, NY 10006

To Chairman Wyden and Ranking Member Crapo,

Caring Across Generations is a national organization of family caregivers, care workers, disabled people, and aging adults working to transform the way we care in this country so that care is accessible, affordable and equitable—and our systems of care enable everyone to live and age with dignity. We appreciate the opportunity to submit written comments for the record on the importance of paid family and medical leave.

Everyone will need to take time off work to care for themselves or loved ones at some point in their lives. Yet, most Americans do not have access to policies on the state or federal level that would protect their jobs and wages when it’s time to care. Only 23% of workers in the United States have access to paid family leave through their employers, and just 41% have access to personal medical leave through employer-provided short-term disability insurance.¹ And although the federal Family and Medical Leave Act (FMLA) provides important job protections, nearly half of workers are not eligible—and many can’t afford to take unpaid leave.²

The U.S. is one of few countries worldwide that does not provide some form of paid leave.³ While some states have led the way in establishing their own paid family medical leave programs and providing workers with paid time off to care, no one should be forced to make difficult choices between their health and financial well-being. A comprehensive, national paid family and medical leave program is a critical tool that will help to meet the needs of parents, older adults, disabled people and people with serious illnesses, underpaid and part-time workers, and the growing number of family caregivers who will need to take leave to help care for an aging adult.

Paid leave is good for workers, families, caregivers, and disabled people.

¹ <https://www.abetterbalance.org/resources/the-u-s-needs-paid-family-and-medical-leave/>.

² <https://nationalpartnership.org/report/fmla-key-facts/>.

³ <https://www.cepr.net/report/care-related-part-time-employment-the-case-for-federally-guaranteed-paid-family-and-medical-leave/>.

All workers are impacted by a lack of paid family leave on the national level, and especially the most underpaid workers. Access to paid leave is unequally distributed. Nationwide, only 23% private workers receive paid leave benefits through their employer.⁴ Part-time and low-wage jobs are even less likely to offer paid leave benefits, and research shows that workers of color and women are particularly impacted due to labor market discrimination.⁵ Women of color are more likely to be key and sole breadwinners for their families, and are also more likely to be primary caregivers for their loved ones, making opting out of the labor force or taking unpaid leave when care needs arise often impossible.⁶

It's important that new parents have access to paid family leave, and workers need access to leave throughout the entire life cycle. 70% of people turning 65 can expect to need some form of medium- to long-term care during their lives, often resulting in a family member needing to take leave from work beyond what would be covered by paid sick time off. A large majority of caregiving work is unpaid and performed by mostly women and women of color, and as the U.S. population ages, the need for care will only grow.⁷ Already, 1 in 5 adults in the U.S. are unpaid family caregivers.⁸ Paid family leave can allow workers who are unpaid family caregivers to remain in the labor force and take care of themselves while caring for aging loved ones.

Paid family leave is also a vital support for disabled people and their families. Workers with disabilities may be even less likely than other workers to have access to paid leave, because they are disproportionately employed in part-time and underpaid work, where less than 10% of the workforce has access to paid family leave.⁹ Additionally, disabled people are not just often recipients of care—they're often caregivers themselves. Analysis of the Department of Labor's 2018 FMLA Survey found that 29% of workers who may have a disability—because they took medical leave for an ongoing health condition in the past 12 months—were also caring for one or more children under the age of 18.^{10, 11}

Paid leave is good for business and the economy.

Employers recognize that their employees will need to take time off of work to care for themselves or their families, and states have demonstrated that employers stand to benefit from a publicly-administered paid family and medical leave program. For example, when employers have a public paid leave program to offer, they are able to retain employees, and consequently incur fewer turnover costs. In California, 83% of workers in “lower quality” jobs who used the state's paid leave program returned to their previous employer—a 9-point improvement over workers who did not use the program.¹² And research has shown that it improves employee morale and results in higher productivity, which can also add to improved recruitment and retention, and give employees the peace of mind needed to do their best work.¹³

Small businesses benefit from paid leave policies for all of the above reasons, and because it helps them compete with larger employers that would otherwise put them at a hiring disadvantage. The cost of the programs is shared, making it more affordable than private plans. And states with programs have adjusted well—in New Jersey, a survey conducted for the New Jersey Business and Industry Association found that, regardless of size, businesses say they have had little trouble adjusting to the state's law.¹⁴

A strong national paid leave policy can help families thrive.

Thanks to the states that have led the way in providing paid leave to families, it's clear what a strong paid family leave program looks like. A strong program would: be national and inclusive of all employers; be publicly administered; feature mean-

⁴ <https://www.abetterbalance.org/resources/the-u-s-needs-paid-family-and-medical-leave/>.

⁵ <https://nationalpartnership.org/wp-content/uploads/2023/04/paid-family-and-medical-leave-racial-justice-issue-and-opportunity.pdf>.

⁶ *Ibid.*

⁷ <https://www.americanprogress.org/article/importance-paid-leave-caregivers/>.

⁸ <https://www.aarp.org/ppi/info-2020/caregiving-in-the-united-states.html>.

⁹ <https://www.americanprogress.org/article/disability-community-needs-paid-family-medical-leave/>.

¹⁰ *Ibid.*

¹¹ <https://www.dol.gov/agencies/oasdp/evaluation/fmla2018>.

¹² <https://www.cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

¹³ <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>.

¹⁴ <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>.

ingful wage replacement, as close to 100% as possible; offer as many weeks of leave possible (12 weeks or more); cover a broad range of care needs; have a broad and inclusive family definition, including “chosen family”; protect jobs so workers can take leave without fear of being fired, laid off, or retaliated against; dedicate funding for outreach, education, and enforcement; and be portable, so that it’s attached to the worker, rather than the employer.

We thank you for your focus on paid family and medical leave, and we urge you to support a national paid family and medical leave policy. If you have any questions or would like to discuss further, please contact Kathy Mendes, Policy Associate with Caring Across Generations at kathy@caringacross.org.

Sincerely,
Kathy Mendes, Policy Associate

CENTER FOR AMERICAN PROGRESS
1333 H Street, NW
Washington, DC 20005
202-682-1611
<https://www.americanprogress.org/>

Statement of Molly Weston Williamson, Senior Fellow

Thank you to Chairman Wyden and the committee for holding this hearing on paid leave, the first ever such hearing before the full committee. As committee members highlighted at the historic hearing, the United States stands nearly alone among its economic peers in failing to guarantee paid leave for all workers. While thirteen states and the District of Columbia have enacted their own policies, most have not, leaving too many workers to fall through the cracks.¹ This critical gap has profound and harmful consequences for the health and economic security of working families as well as for the economy as a whole.

The Center for American Progress (CAP) is an independent, nonpartisan policy institute that is dedicated to improving the lives of all Americans through bold, progressive ideas, as well as strong leadership and concerted action. For nearly our entire history, CAP has fought for comprehensive, inclusive paid family and medical leave through research, advocacy, and outreach. As CAP research has shown again and again, paid leave is an all-around win: a win for workers and their families, a win for employers, and a win for the nation’s economy.

The following represent key findings from Center for American Progress research:

- **The United States loses over \$22.5 billion in wages each year due to lack of paid leave.**² The absence of a federal paid leave policy is a drag on the nation’s economy and on families’ economic security. As CAP has repeated this analysis over the years, the cost of inaction has only grown over time.³
- **Paid leave boosts labor force participation** by ensuring workers can take the time they need and return to work ready, rather than being pushed out entirely. For example, California’s paid leave program increased labor force participation by those caring for a loved one by 8% in the short run and 14% in the long run.⁴

¹Molly Weston Williamson, *The State of Paid Family and Medical Leave in the U.S. in 2023*, Center for American Progress (January 5, 2023), <https://www.americanprogress.org/article/the-state-of-paid-family-and-medical-leave-in-the-u-s-in-2023/>; Molly Weston Williamson, *Fast Facts About Minnesota’s New Paid Leave Law*, Center for American Progress (May 19, 2023), <https://www.americanprogress.org/article/fast-facts-about-minnesotas-new-paid-leave-law/>; Molly Weston Williamson, *Fast Facts about Paid Leave in Maine*, Center for American Progress (July 11, 2023), <https://www.americanprogress.org/article/fast-facts-about-paid-leave-in-maine/>.

²Sarah Jane Glynn, *The Rising Cost of Inaction on Work-Family Policies*, Center for American Progress (January 21, 2020), <https://www.americanprogress.org/article/rising-cost-inaction-work-family-policies/>.

³*Id.* See also Sarah Jane Glynn and Danielle Corley, *The Cost of Work-Family Policy Inaction: Quantifying the Costs Families Currently Face as a Result of Lacking U.S. Work-Family Policies*, Center for American Progress (September 22, 2016), <https://www.americanprogress.org/article/the-cost-of-inaction/>.

⁴Joelle Saad-Lesser and Kate Bahn, *The Importance of Paid Leave for Caregivers: Labor Force Participation Effects of California’s Comprehensive Paid Family and Medical Leave*, Center for

Continued

- **Guaranteeing paid leave bolsters retirement security, particularly for women.** By keeping Americans connected to the workforce, paid leave can mean higher Social Security benefits, greater opportunities for private retirement savings, and reduced need to divert retirement savings for other needs.⁵
- **In a changing economy, paid leave for the self-employed can expand access to entrepreneurship and transform the experience of self-employment.**⁶ Millions of Americans are self-employed, including disproportionately high numbers of immigrants, older adults, people with criminal records, and people with disabilities;⁷ self-employed individuals without employees are the overwhelming majority of small business owners.⁸ Ensuring access to paid leave for these workers, as state programs have already begun providing,⁹ would remake the reality of self-employment and open opportunities to new entrepreneurs.¹⁰
- **Paid leave policies must protect workers' ability to provide care for all those they consider family, including "chosen family"**—loved ones to whom workers may not have a legal or biological relationship. CAP research found that 58% of LGBTQI+ people, along with 46% of non-LGBTQI+ people, have been called on by chosen family for support with a health-related need.¹¹
- **Ensuring access to paid leave is a matter of racial and economic justice.**¹² Each year, of the 17 million leaves working women need, 3.8 million are taken unpaid and nearly 6 million are not taken at all.¹³ For Black women, these numbers are even more stark: more than 60% of needed leaves are either taken without pay or not taken at all.¹⁴
- **Workers with disabilities and their families need paid leave.**¹⁵ According to CAP research, workers who may have disabilities "are less likely to receive pay and more likely to experience financial difficulty while on leave than all workers who take leave."¹⁶
- **Veterans and military families need paid leave,** for deployment related needs, care for service-connected health conditions, and for the needs that affect all families.¹⁷ For example, over a quarter (28%) of former active duty service members have taken time off work to care for chosen family or friends with a health need.¹⁸

Thank you again for the opportunity to submit this statement and for lifting up this important conversation. As Chairman Wyden noted in his opening statement, "our

American Progress (September 27, 2017), <https://www.americanprogress.org/article/importance-paid-leave-caregivers/>.

⁵Molly Weston Williamson, *Paid Leave Is an Essential Investment in Retirement Security*, Center for American Progress (May 16, 2023), <https://www.americanprogress.org/article/paid-leave-is-an-essential-investment-in-retirement-security/>.

⁶Molly Weston Williamson, *Why Self-Employed Workers Need Paid Leave*, Center for American Progress (September 21, 2023), <https://www.americanprogress.org/article/why-self-employed-workers-need-paid-leave/>.

⁷Molly Weston Williamson, *Understanding the Self-employed in the United States*, Center for American Progress (September 21, 2023), <https://www.americanprogress.org/article/understanding-the-self-employed-in-the-united-states/>.

⁸*Id.*

⁹Molly Weston Williamson, *Self-Employed Workers' Access to State Paid Leave Programs in 2023*, Center for American Progress (August 10, 2023), <https://www.americanprogress.org/article/self-employed-workers-access-to-state-paid-leave-programs-in-2023/>.

¹⁰Molly Weston Williamson, *Why Self-Employed Workers Need Paid Leave*, Center for American Progress (September 21, 2023), <https://www.americanprogress.org/article/why-self-employed-workers-need-paid-leave/>.

¹¹Caroline Medina and Molly Weston Williamson, *Paid Leave Policies Must Include Chosen Family*, Center for American Progress (March 1, 2023), <https://www.americanprogress.org/article/paid-leave-policies-must-include-chosen-family/>.

¹²Jessica Milli, Jocelyn Frye, and Maggie Jo Buchanan, *Black Women Need Access to Paid Family and Medical Leave*, Center for American Progress (March 4, 2022), <https://www.americanprogress.org/article/black-women-need-access-to-paid-family-and-medical-leave/>.

¹³*Id.*

¹⁴*Id.*

¹⁵Diana Boesch and Rebecca Cokley, *The Disability Community Needs Paid Family and Medical Leave*, Center for American Progress (October 7, 2020), <https://www.americanprogress.org/article/disability-community-needs-paid-family-medical-leave/>.

¹⁶*Id.*

¹⁷Diana Boesch, *Veterans and Military Families Need Comprehensive Paid Leave Solutions*, Center for American Progress (November 9, 2018), <https://www.americanprogress.org/article/veterans-military-families-need-comprehensive-paid-leave-solutions/>.

¹⁸*Id.*

country is strong enough and good enough to make paid leave happen for all Americans.” At CAP, we strongly agree and are committed to continuing the push until each and every American has the paid leave they need when they need it the most.

CENTER FOR LAW AND SOCIAL POLICY
1200 18th Street, NW, Suite 200
Washington, DC 20036
(202) 906-8000
<https://www.clasp.org/>

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

Thank you for convening the first ever Senate Finance Committee hearing on paid family medical leave. The Center for Law and Social Policy (CLASP) is grateful for the opportunity to submit this statement for the record to the Senate Finance Committee on “Exploring Paid Leave: Policy, Practice, and Impact on the Workforce.”

CLASP is a national, nonpartisan, nonprofit advancing anti-poverty policy solutions that disrupt structural and systemic racism and sexism and remove barriers blocking people from economic security and opportunity. With deep expertise in a wide range of programs and policy ideas, longstanding relationships with anti-poverty, child and family, higher education, workforce development, and economic justice stakeholders, including labor unions and worker centers, and over 50 years of history, CLASP works to amplify the voices of directly-impacted workers and families and help public officials design and implement effective programs.

CLASP seeks to improve the quality of jobs for low-income workers, especially workers of color, women, immigrants and youth. Our work includes working with policymakers to raise wages, increase access to benefits, implement and enforce new and existing labor standards, and ensure workers can strengthen their voice through collective bargaining. Quality jobs enable workers to balance their work, school, family, religious, community, and other responsibilities—promoting economic well-being and strengthening our society.

Almost all working people will experience a caregiving need at some point in their lives, whether they are in need of care or need to care for a close family member. Despite this nearly universal need, the U.S. does not guarantee working people any paid time away from work, and many workers aren’t even entitled to unpaid leave. In the absence of a federal policy, 14 states, including Washington, DC, have established state family and medical leave programs. Under these state programs, working people can take time away from work to care for a new child, a seriously ill loved one, or recover from a medical illness or injury, and receive a portion of their income. State programs demonstrate the numerous employment, income and health impacts paid family and medical leave can have on families, and how it can help strengthen families and businesses. The state programs also provide tested models for how to create and administer a federal paid leave program.

The State of Paid Leave in the U.S.

The U.S. remains the only Organisation for Economic Co-operation and Development (OECD) member country without even a paid *parental* leave program.¹ According to the U.S. Bureau of Labor Statistics (BLS), only 27 percent of U.S. workers have access to paid family (including parental) leave through their employers, leaving 106 million workers without pay when caring for a new child, aging parent or sick family member.² The situation is more pronounced for workers paid low-wages. While 48 percent of the highest-paid workers have access to paid family leave, only 6 percent of the lowest paid workers have access.³ Similar inequities are generally true for access to paid medical leave, typically through employer-provided temporary disability insurance (TDI). Sixty-five percent of the highest paid workers have access to paid medical leave through an employer provided TDI plan, while only 10 percent of the lowest paid workers have access.⁴

While the data doesn’t break out access by gender or race and ethnicity, occupational segregation means women of color are disproportionately likely to work in

¹“PF2.1. Parental leave systems,” Organisation for Economic Co-operation and Development, last accessed Oct. 2023, https://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf.

²“Employee Benefits in the United States, March 2023,” U.S. Bureau of Labor Statistics, Sept. 2023, <https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm#Overview>.

³*Ibid.*

⁴*Ibid.*

low-paid jobs,⁵ so this data suggests gender and racial inequities in access to paid leave are likely. Additionally, due to gendered caregiving norms, women bear a disproportionate share of family caregiving responsibilities,⁶ compounding the impact that the lack of paid leave has on women and their families.

The Family and Medical Leave Act (FMLA) provides unpaid, job-protected leave to millions of working people for family caregiving or medical needs. While passage of the FMLA was a monumental achievement for its time, coverage and eligibility restrictions mean that over 40 percent of the workforce are excluded from its protections.⁷ Since the FMLA guarantees only *unpaid* leave, it's inaccessible to the millions of low-paid workers who can't afford to lose their paychecks for any period of time.

It's important to note that working people in the U.S. are not guaranteed paid sick leave either. According to the BLS, 78 percent of private sector workers have access to paid sick leave. Among the lowest paid workers, only 39 percent have access, compared to 96 percent of the highest paid workers.⁸

The Consequences a Lack of Paid Leave has on Women and Families

Without access to paid leave, workers are forced to return to work instead of taking care of their health or their loved ones, while others receive and provide care at the cost of their economic security. This impossible choice often leads to work and income instability, or worse. The scope of unmet leave extends beyond the workplace—not taking needed leave can lead to compounding health and financial costs.

Economic Insecurity

Research from the Urban Institute finds that access to paid leave is lowest among workers with the greatest needs, including workers of color, and part-time and hourly workers. While 72 percent of white workers surveyed have access to paid leave, only 58 percent of Latinx and 67 percent of Black workers have access.⁹

Some part-time workers work part-time involuntarily due to a lack of full-time jobs, earning less income than they would prefer. Part-time jobs offer relatively lower hourly wages and benefits and have more variable and unpredictable work schedules, resulting in incomes that can fluctuate weekly.¹⁰ Some employers—especially in the service sector—are reluctant to offer full-time positions. Instead, they hire multiple part-time staff so they can adjust staffing on short notice and reduce wage costs. As a result, many part-time workers are denied opportunities to advance into full-time jobs where access to paid leave may be greater.¹¹

The Center for American Progress estimates that the total cost to workers due to a lack of access to comprehensive paid family and medical leave and affordable child care is \$31.9 billion in annual lost wages: \$9.4 billion in lost wages due to child care challenges and \$22.5 billion in lost wages due to a lack of paid family and medical leave.¹²

While the need for paid leave stretches across race, ethnicity and gender, the impacts are not borne equally. Working mothers play a critical role in their families' economic security, and women of color are more likely to have an outsized role. The

⁵Jessica Mason and Katherine Gallagher Robbins, "Women's Work Is Undervalued, and It's Costing Us Billions" National Partnership for Women and Families, Sept. 2023, <https://nationalpartnership.org/wp-content/uploads/2023/04/womens-work-is-undervalued.pdf>.

⁶Sarah Jane Glynn, "An Unequal Division of Labor," Center for American Progress, May 2018, <https://www.americanprogress.org/article/unequal-division-labor/>.

⁷"Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys." Abt Associates, July 2020, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHDFMLA2018SurveyResults_FinalReport_Aug2020.pdf.

⁸"Employee Benefits in the United States," 2023.

⁹Chantel Boyens, Michael Karpman, and Jack Smalligan, "Access to Paid Leave Is Lowest among Workers with the Greatest Needs," Urban Institute, July 2022, <https://www.urban.org/research/publication/access-paid-leave-lowest-among-workers-greatest-needs>.

¹⁰Lonnie Golden and Jaeseung Kim, "Underemployment Just Isn't Working for U.S. Part-Time Workers," Center for Law and Social Policy, May 2020, <https://www.clasp.org/publications/report/brief/underemployment-just-isnt-working-us-part-time-workers/#:-:text=Thus%2C%20about%20one%20in%20every,harms%20of%20more%20widespread%20underemployment>.

¹¹Daniel Schneider and Kristen Harknett, "Working in the Service Sector in Connecticut," The Shift Project, March 2018, <https://shift.hks.harvard.edu/working-in-the-service-sector-in-connecticut>.

¹²Sarah Jane Glynn, "The Rising Cost of Inaction on Work-Family Policies," Center for American Progress, Jan. 2020, <https://www.americanprogress.org/article/rising-cost-inaction-work-family-policies/>.

vast majority of Black mothers—68 percent—are primary breadwinners¹³ and are also most likely to be pushed into industries that pay low wages.¹⁴ The compounding impacts of systemic racism and sexism means that women of color face the most dire consequences of unmet need for leave. Six out of ten Black women—who are disproportionately primary breadwinners—either don’t take leave or do so without pay, costing them an estimated \$3.9 billion in lost wages *each year*. Overall, 5.9 million leaves are needed but not taken by women each year.¹⁵

Maternal Health Crisis

The inability to take leave also results in serious health complications that jeopardize the lives of pregnant people. One in four U.S. employed mothers return to work within two weeks of giving birth,¹⁶ forcing back into the workplace mothers who are exhausted from a major medical event—and who may have trouble walking up stairs or standing for long periods of time—or who have wounds that are still stitched and healing. The U.S. has the highest maternal mortality rate of any OECD country, averaging over three times the rate of most other high-income countries.¹⁷ According to the Centers for Disease Control, 53.3 percent of pregnancy-related deaths occur between 7 days and one year postpartum, and over 80 percent of all pregnancy-related deaths are preventable.¹⁸ Moreover, the U.S. continues to face a harrowing Black maternal mortality crisis—Black women are three times more likely to experience fatal outcomes from pregnancy-related complications than white women.¹⁹ Reflecting the impact of racism in our health care system and beyond, maternal mortality rates for Black women increased 87 percent from 2018 to 2021.²⁰

Paid Leave Can Lead to Positive Health Outcomes

It’s critical we deploy all the tools necessary to protect maternal and infant health, including guaranteed paid leave to recover from childbirth and bond with a new child. Without a federal guarantee to paid family and medical leave, the vast majority of people giving birth lack the ability to take time off to heal after delivery and care for themselves and their newborn. The postpartum period brings with it emotional changes, recovery from birth, and the challenges of caring for an infant that can all feel overwhelming.²¹

Research suggests that paid parental leave improves maternal mental and physical health.²² Paid parental leave is associated with a decline in depressive symptoms, a reduced likelihood of severe depression, as well as improvement in overall mater-

¹³ Sarah Jane Glynn, “Breadwinning Mothers Are Critical to Families’ Economic Security,” Center for American Progress, Mar. 2021, <https://www.americanprogress.org/article/breadwinning-mothers-critical-families-economic-security/>.

¹⁴ Sarah Jane Glynn, “Breadwinning Mothers Continue to be the U.S. Norm,” Center for American Progress, May 2019, <https://www.americanprogress.org/article/breadwinning-mothers-continue-u-s-norm/>.

¹⁵ Jessica Milli, Jocelyn Frye, and Maggie Jo Buchanan, “Black Women Need Access to Paid Family and Medical Leave,” Center for American Progress, Mar. 2022, <https://www.americanprogress.org/article/black-women-need-access-to-paid-family-and-medical-leave/>.

¹⁶ Pronita Gupta, Statement of Pronita Gupta Testimony Before the U.S. House of Representatives Committee on Ways and Means “Paid Family and Medical Leave: Helping Workers and Employers Succeed,” Center for Law and Social Policy, May 2019, <https://www.clasp.org/wp-content/uploads/2022/04/20192005200820Pronita20Gupta20PFML20testimony20.pdf>.

¹⁷ Munira Z. Gunja, Evan D. Gumas, and Reginald D. Williams II, “U.S. Health Care from a Global Perspective, 2022: Accelerating Spending, Worsening Outcomes,” The Commonwealth Fund, Jan. 2023, <https://www.commonwealthfund.org/publications/issue-briefs/2023/jan/us-health-care-global-perspective-2022>.

¹⁸ Susanna Trost, Jennifer Beauregard, Gyan Chandra, et. al, “Pregnancy-Related Deaths: Data from Maternal Mortality Review Committees in 36 US States, 2017–2019,” Centers for Disease Control and Prevention, last reviewed Sep. 2022, <https://www.cdc.gov/reproductivehealth/maternal-mortality/erase-mm/data-mmrc.html>.

¹⁹ “Working Together to Reduce Black Maternal Mortality,” Centers for Disease Control and Prevention, last reviewed Apr. 2023, <https://www.cdc.gov/healthequity/features/maternal-mortality/index.html>.

²⁰ Donna L. Hoyert, “Maternal Mortality Rates in the United States,” 2021, Centers for Disease Control and Prevention, last reviewed Mar. 2023, https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2021/maternal-mortality-rates-2021.htm#anchor_1559670130302.

²¹ “A Mother’s Guide to the Fourth Trimester,” Columbia University Irving Medical Center, Nov. 2021, <https://www.cuimc.columbia.edu/news/mothers-guide-fourth-trimester#:~:text=The%20fourth%20trimester%E2%80%94the%2012,mothers%20need%20it%20the%20most>.

²² Sarah Coombs, “Paid Leave is Essential for Healthy Moms and Babies,” National Partnership for Women and Families, 2021, <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-is-essential-for-healthy-moms-and-babies.pdf>.

nal health,²³ and lowered rates of hospital admissions for mental health conditions.²⁴ Federal action to ensure all workers have access to paid family leave is critical to address the alarming rates of maternal health concerns, the related maternal mortality rates, and the disproportionate harm borne by Black women and families.

Improving parental outcomes can also lead to better health outcomes for infants. The early years of a child's life are shown to have significant future learning, behavior and health impacts. This time period is critical for a child's development, and research demonstrates that positive interactions with caregivers during these years can produce long-term benefits for children, families and society.²⁵

Paid Leave is Good for the Economy

Peer countries like Canada, Germany, and the United Kingdom, provide working people with paid family leave.²⁶ The National Partnership for Women and Families estimated that if labor force participation for American prime-age women—those aged 25 to 54—was at rates similar to those of women in those countries, there would have been up to 4.85 million more women in the workforce in 2021. That amounts to \$237 billion in lost wages per year for women and families, and \$650 billion per year to the economy overall—2.9 percent of total GDP.²⁷

Evidence from states with paid leave programs shows us that access to comprehensive paid leave is essential to maintaining economic stability for families in the midst of health crises and life changes. For example, in California, the paid family leave program has increased labor force attachment and long-term wages for households with lower incomes.²⁸ Access to paid leave in California has also lowered the risk of poverty among mothers of infants by 10.2 percent and increased household income for those mothers by 4.1 percent.²⁹

Paid Leave is Good for Business

Paid family and medical leave is good for businesses. Paid leave can help lower turnover costs through greater retention, and increase worker morale and business productivity. In California, 93 percent of employers reported that leave had a positive or neutral effect on employee turnover, while also seeing increased productivity (89 percent) and boosted employee morale (99 percent).³⁰ Additionally, firm-level analysis of employers in California before and after paid family leave was implemented confirmed that for the average firm, wage costs had not increased.³¹ In New Jersey, employers noted that the state paid leave program helped decrease stress and improve morale among employees who took leave and their co-workers.³² The Federal Employees Paid Leave Act, which provides up to 12 weeks of paid parental

²³ Pinka Chatterji and Sarah Markowitz, "Family leave after childbirth and the mental health of new mothers," *Journal of Mental Health Policy and Economics*, Jun 2012, 15(2):61–76, <https://pubmed.ncbi.nlm.nih.gov/22813939/>.

²⁴ "Parental Leave Brings Mental Health Benefits, Especially for Mothers," American Psychiatric Association, Jan. 2023, <https://www.psychiatry.org/News-room/APA-Blogs/Parental-Leave-Mental-Health-Benefits#:~:text=Benefits%20of%20Parent.al%20Leave&text=Longer%20parental%20leave%20was%20associated,longer%20leave%2C%20paid%20or%20unpaid>.

²⁵ "In Brief: The Science of Early Childhood Development," Center on the Developing Child, Harvard University, Mar. 2007, <https://developingchild.harvard.edu/resources/inbrief-science-of-ecd/>.

²⁶ PF2.1. Parental leave systems, 2023.

²⁷ Amanda Novello, "The Cost of Inaction: How a Lack of Family Care Policies Burdens the U.S. Economy and Families," National Partnership for Women and Families, Jul, 2021, <https://nationalpartnership.org/wp-content/uploads/2023/02/cost-of-inaction-lack-of-family-care-burdens-families.pdf>.

²⁸ Ann Bartel, Charles Baum, Maya Rossin-Slater, Christopher Ruhm, and Jane Waldfogel, "California's Paid Family Leave Law: Lessons from the First Decade," U.S. Department of Labor, Jun. 2014, https://www.dol.gov/sites/dolgov/files/OASP/PaidLeave-California_2014.pdf.

²⁹ Alexandra Boyle Stancyk, "Does Paid Family Leave Improve Household Economic Security Following a Birth? Evidence from California," *Social Service Review*, Vol. 93, No. 2, Jun. 2019, <https://www.journals.uchicago.edu/doi/abs/10.1086/703138?journalCode=ssr>.

³⁰ Eileen Appelbaum and Ruth Milkman, "Leaves That Pay: Employer and Worker Experience with Paid Family Leave in California," Center for Economic and Policy Research, 2011, <https://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

³¹ Kelly Bedard and Maya Rossin-Slater, "The Economic and Social Impacts of Paid Family Leave in California: Report for the California Employment Development Department," California Employment Development Department, Oct. 2016, https://edd.ca.gov/siteassets/files/disability/pdf/PFL_Economic_and_Social_Impact_Study.pdf.

³² Sharon Lerner and Eileen Appelbaum, "Business As Usual: New Jersey Employers' Experiences with Family Leave Insurance," Center for Economic and Policy Research, Jun. 2014, <http://www.cepr.net/documents/nj-flt-2014-06.pdf>.

leave to qualifying federal employees, is anticipated to save the federal government \$50 million annually in costs related to employee turnover.³³

Paid family and medical leave also helps level the playing field between small businesses and larger firms. Small businesses may have trouble matching more generous leave benefits offered by larger employers, potentially putting them at a hiring disadvantage. A federal paid leave program would help small businesses provide this critical benefit, without having to shoulder the entire cost.

In states with paid leave, small businesses have adapted well to new programs. The California Society for Human Resource Management, which initially opposed the law, stated that it is less onerous than expected, and few businesses reported challenges resulting from workers taking leave.³⁴ In New Jersey, a survey conducted for the New Jersey Business and Industry Association found that businesses of all sizes had little trouble adjusting to the paid leave law.³⁵ In New York, a survey among businesses with fewer than 100 employees, found that the majority were supportive of the paid family leave program. The program also led to an increase in employers' ease of handling long employee absences.³⁶

Why We Need a Federal Paid Leave Social Insurance Program

The state paid leave programs offer tested models on how to create a comprehensive, equitable federal paid family and medical leave program. A federal paid leave program should include the following components:

- **Provide twelve weeks of paid leave to address the full range of serious personal and family medical and caregiving needs people experience.** This includes being able to heal from a serious personal medical condition, and care for a seriously ill loved one or a new child. Treating all of the caregiving needs people have minimizes the risk of unintended consequences with respect to gender or age discrimination. This is particularly vital for women of color who are less likely to have meaningful paid leave provided by employers but are more likely to take on family caregiving responsibilities.
- **Cover all working people.** A federal program should cover all workers, whether full-time or part-time; in the private, non-profit, or public sector; traditional employees, self-employed and independent workers; younger workers; people with intermittent work histories; and people with limited earnings but recent attachment to the labor force.
- **Provide progressive wage replacement.** Replacing up to 100 percent of wages for low-paid workers and a high share of wages, for middle-wage workers, using a sliding scale for wage replacement, is critical to ensure the program is accessible. Workers in the lowest paid jobs are least likely to have access to any paid leave and most in need of a federal program, but the least likely to be able to afford to take leave if it requires taking a pay cut. Too-low wage replacement may also reinforce gender and racial disparities in leave-taking.
- **Include family caregiving rules that reflect the diversity of caregiving relationships people have.** Virtually all states with paid leave programs now provide paid leave for workers to care for loved ones beyond immediate family and several include family members related by affinity as well as blood.
- **Ensure that paid leave is job protected.** Working people must feel secure using the paid leave that is available without risking job loss. There must also be robust anti-retaliation protections in place. This is especially important in any system that is funded fully or partially through worker contributions to ensure workers can access benefits they've paid for in part or whole.

³³ Kevin Miller, Allison Suppan Helmuth, and Robin Farabee-Siers, "The Need for Paid Parental Leave for Federal Employees: Adapting to a Changing Workforce," Institute for Women's Policy Research, Nov. 2020, <https://iupr.org/wp-content/uploads/2020/11/FEPPLAExecSumm.pdf>.

³⁴ Jennifer Redmond and Evgenia Fkias, "California's Paid Family Leave Act Is Less Onerous Than Predicted," Society for Human Resources Management Publication, Jan. 2010, https://www.sheppardmullin.com/media/article/809_CA%20Paid%20Family%20Leave%20Act%20Is%20Less%20Onerous%20Than%20Predicted.pdf.

³⁵ Mirian Ramirez, "The Impact of Paid Family Leave on New Jersey Businesses," New Jersey Business and Industry Association and Bloustein School of Planning and Public Policy at Rutgers University, 2012, <http://bloustein.rutgers.edu/wp-content/uploads/2012/03/Ramirez.pdf>.

³⁶ "Paid Family Leave: 2018 Year in Review," Office of the Governor of New York, 2018, https://www.governor.ny.gov/sites/default/files/atoms/files/PFL_EOYReport_2018_FINAL.pdf.

- **Harmonize federal and state programs' administration.** Workers in states where paid leave is available and either equal to or more generous than a federal program can maintain the value of their state policies and state benefit administration. Federal legislation should provide states the time and financial resources they need to adapt their existing programs to a new federal landscape.
- **Include sufficient resources for implementation.** This includes funding for education and outreach about the program, research and evaluation, and enforcement so that the promise of the program can be realized. State paid leave experience underscores the importance of continued investments in ensuring people understand and can use the benefits available. It's also critical to measure and analyze the way benefits are administered and delivered to ensure equitable utilization.

The FAMILY Act

A state by state approach to providing paid family and medical leave means that millions of families remain without this critical protection. The majority of Black Americans live in Southern states, which—due to nearly universal Republican control of state legislatures—will not soon enough pass a statewide paid family and medical leave program.³⁷

It's critical that Congress pass a comprehensive paid family and medical leave plan. The Family and Medical Insurance Leave (FAMILY) Act, recently reintroduced by Senator Kirsten Gillibrand (D-NY) and Representative Rosa DeLauro (D-CT) builds off of the hard-won victories and lessons of the state programs. It provides the majority of workers in the U.S. access to up to 12 weeks of job-protected paid family and medical leave. Workers would be able to take paid leave to address their own serious health needs, which research shows is the most common reason workers use leave;³⁸ care for a seriously sick family member; bond with a new child; or address the impact of military deployment. It also provides "safe leave"—time to deal with the impact of sexual or domestic violence.³⁹

It's time for Congress to act and provide all workers in all states with 12 weeks of paid family and medical leave to care for a new child, a seriously ill loved one, or their own serious health condition. We thank you for holding a hearing on this important topic and for the opportunity to submit this written statement. If you have any questions regarding this topic, please contact Sapna Mehta, Senior Policy Analyst with the Education, Labor & Worker Justice Team at CLASP, at smehta@clasp.org.

Sincerely,

Sapna Mehta
Senior Policy Analyst

CENTER FOR PUBLIC JUSTICE, NATIONAL ASSOCIATION OF EVANGELICALS, AND
MORMON WOMEN FOR ETHICAL GOVERNMENT

October 23, 2023

The Honorable Ron Wyden
Chairman
United States Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510-6200

The Honorable Mike Crapo
Ranking Member
United States Senate

³⁷ Christine Tamir, "The Growing Diversity of Black America," Pew Research Center, Mar. 2021, <https://www.pewresearch.org/social-trends/2021/03/25/the-growing-diversity-of-black-america/>.

³⁸ Scott Brown, Jane Herr, Radha Roy, and Jacob Alex Klerman, "Employee and Worksite Perspectives of the FMLA Employee Leave-Taking Patterns," Abt Associates, Jul. 2021, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018PB2LeaveTaking_StudyBrief_Aug2020.pdf.

³⁹ "Americans Need Access to Paid Safe Leave," Futures Without Violence and National Partnership for Women and Families, May 2023, <https://policy.futureswithoutviolence.org/wp-content/uploads/2023/05/Futures.NPWF-Fact-Sheet-5.12.23.pdf>.

Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510–6200

Dear Chairperson Wyden, Ranking Member Crapo, and Members of the Committee:

The Center for Public Justice (CPJ) is a Christian policy research and civic education organization.¹ CPJ has been interested in upholding family well-being since its founding over forty years ago. CPJ, Mormon Women for Ethical Government (MWEG), and the National Association of Evangelicals (NAE) offer this testimony in relation to the October 25, 2023 hearing, “Exploring Paid Leave: Policy, Practice, and Impact on the Workforce.”

Out of faith conviction, we see both family life and work as God-given sources of blessing and responsibility. Families are the foundation of a healthy society. Yet, many families struggle to fulfill their caregiving responsibilities without financial strain or the fear of losing their job. We believe that all families should be able to attend to seasons of family caregiving—be it the birth of a child or being present with a loved one at the end of life. This is why we applaud the Committee on Finance’s attention to paid family leave.

Paid leave is a straightforwardly pro-family policy. Parents who have access to paid family leave are more likely to spend time with a new child. When families are able to take leave, children and mothers enjoy better physical and mental health and stronger long-term development.²

The bonds formed during key caregiving moments leave a lasting imprint on families. Research demonstrates, for example, that fathers who take at least two weeks of leave for a new child are more likely to be actively involved in their child’s life over time.³

Only 27% of the workforce currently has access to paid family leave.⁴ Younger and lower wage workers—the very Americans who face the greatest financial precarity before and after welcoming a new child—are those least likely to have paid family leave or other basic benefits that support family care.

The Center for Public Justice, in partnership with the Center for Integrity in Business, interviewed faith-based employers about their attitudes and practices relative to paid family leave. Family values were overwhelmingly important to these employers. At the same time, expanding paid family leave policies on an employer-by-employer basis posed real challenges.⁵ Well-crafted public policy could help employers better match their workplace practices with their core values by making paid family leave an accessible benefit for all.

In order for the government to uphold a just society, it must play a role in promoting a basic framework in which families can thrive. We encourage this Committee to continue to work toward paid family leave solutions that address the circumstances of small employers—including those in the nonprofit and religious sectors—while also protecting vital time for family caregiving.

Thank you for your leadership and support of our nation’s families.

Sincerely,

Stephanie Summers, CEO
Center for Public Justice (CPJ)

Walter Kim, President
National Association of Evangelicals (NAE)

¹ Center for Public Justice, 1305 Leslie Ave., Alexandria, Virginia, 22301.

² Maya Rossin, “The Effects of Maternity Leave on Children’s Birth and Infant Health Outcomes in the United States,” *Journal of Health Economics*, 2011. Jenna Stearns, “The Effects of Paid Family Leave: Evidence from Temporary Disability Insurance,” *Journal of Health Economics*, 2015. Pedro Carneiro, Katrine Loken, Kjell Salvanes, “A Flying Start? Maternity Leave Benefits and Long-Run Outcomes of Children,” *Journal of Political Economy*, Vol. 123, No. 2, April 2015.

³ Huerta, Maria, Willem Adema, and Jennifer Baxter. 2013. “Fathers’ Leave, Fathers’ Involvement and Child Development.” *OECD Social, Employment and Migration Working Papers*. doi: 10.1787/5k4dlw9w6czq-en.

⁴ Bureau of Labor Statistics, Family Leave Benefits, September 21, 2023, <https://www.bls.gov/ebs/factsheets/family-leave-benefits-fact-sheet.htm#:~:text=In%20March%202023%2C%2027%20percent,access%20to%20unpaid%20family%20leave>.

⁵ Denise Daniels, Vicki Eveland, Randal S. Franz, John Godek, Rachel Anderson, “Family-Supportive Practices in the Sacred Sector: Research Summary,” Center for Public Justice, 2019.

Emma Petty Addams & Jennifer Walker Thomas, Co-Executive Directors
Mormon Women for Ethical Government (MWEG)

COUNT ON MOTHERS
Mothers Count LLC
9854 National Blvd., #526
Los Angeles, CA 90034

Mothers' Views on the FAMILY ACT: Report of Findings

Introduction

In August 2023, Count on Mothers conducted research to find out mothers' views and experiences relating to the FAMILY Act. Actionable Insights are provided followed by the full research summaries. We conduct research because we believe that mothers' first-hand experiences and knowledge are critical sources of information in the federal policy making process, particularly on bills that affect kids or the conditions of raising a family in the U.S. We share this data with legislators and the public so that they may have a better understanding of how a bill could help or hurt a family. The full report is posted on <https://www.countonmothers.org/>.

Actionable Insights at a Glance from Quantitative Study

From Mothers We Surveyed

- This bill contains points of mostly alignment with some differences among Mothers.
- Overwhelmingly, Mothers were aligned across the political spectrum on the following:
 - Employees should have up to 12 weeks of partial income when they take time off from work for reasons relating to health, caregiving, and/or military deployment of a relative.
 - Employees who have worked for more than 90 days at the same job should be able to return to their jobs after paid leave and without retaliation from employers.
 - Mothers believe that full-time employees should earn up to ⅔ of their regular wages on this paid leave.
- The majority of mothers—regardless of political ideology—agreed on the importance of providing paid leave to employees regardless of company size, full-time/part-time status, and/or self-employment status. However, there was variation within each political ideology and particularly, a conservative split between conservative and very conservative members with conservative Mothers more likely than very conservative Mothers to support this provision.
- Aside from Mothers who identify as very conservative, Mothers believe that lowest-paid employees should earn up to 85% of their regular wages on this paid leave.
- Overall, Mothers across the political spectrum supported this item with very strong support from all but very conservative Mothers.

Actionable Insights at a Glance from Qualitative Study

From Mothers We Interviewed

- Similar themes arose among all five mothers regardless of political ideology, including the difficult balance of caregiving and employment, an array of stressors related to child bearing and child rearing, including health needs, all of which impacted their lives in stressful ways.
- They each identify that their privilege—or access to private resources—alleviated some of their own stress and they recognize that not all mothers have access to such resources.
- The five mothers provided assessment of the FAMILY Act that evidence their support of the FAMILY Act—they liked the broader inclusivity overall, believed the safety net provisions would be critical to families, and provided additional comments related to the bill to be written and to be implemented correctly.

- Finally, the five mothers believe the FAMILY Act would create a paradigm that would have a positive health impact on families and a positive shift in the domain of care giving, paid leave, and employment.

**Takeaway Theme from Qualitative Study:
Need for U.S. to Change Paradigm on Paid Leave**

Across political ideologies, participants shared that the United States needs to shift its paradigm on paid leave—although recognizing this will be a slow process.

[The FAMILY Act bill] kind of changes the mindset of people around you that this is just the way that it is. Sort of like FMLA, you know? It's federal, you know, it's something that's expected. It's an expected way we're supposed to treat each other with humanity rather than, oh, I have a good job with good benefits, but you don't. (Moderate Mother, age 51)

It's something that we should have had a long time ago, something the rest of the world has had. It's us and I think six countries with no form of paid leave. So this to me is one of the most important things Congress can do and I hope that they do very soon. (Liberal Mother, age 41)

I do think that, yes, if you have institutional change and it's kind of . . . I hate to use this word, but forced from the government onto companies and organizations to expect this, to know that this is happening, this is how things operate now. I do think that over time, it's not gonna be right away because people's minds don't change right away. But I do think that over years, the expectation that people have people to care for, whether it's an infant or parents or . . . sick kids or whatever, that there is more compassion, that taking time off to take care of people in your life is okay. And that's good and it's valuable and it's to be respected. (Conservative Mother, age 37)

So I want progress when it comes to paid parental leave. We are so far behind, as you know, the rest of the world regarding offering what I think is a human right, a right to bond postpartum with your baby, with your family, figure out how to do things like nursing if that's what you're doing or feeding in general and sleep, all this. And so I think that's a human right. I think right now what we're doing without having a federal paid leave is frankly inhumane. I think it's actually, it's barbaric right, what we put mothers and families through. So to me I think we have a long way to go. (Liberal Mother, age 40)

I do think we need to support parents in the workforce absolutely. I think we need to have policies in this country that support motherhood that support families but at the same time I have these principles of limited government, of wanting people to do things on their own, and like the two conflict with each other on this particular thing. And so I don't know what the right answer is. I don't know how best to do this. I do know that we need to do something as a country, because I know there's also women who are lower income and they're single moms. you know, a few part-time jobs, they're patching together and they don't get any benefits and they're going back to work two days after they have a baby and that is not right. (Conservative Mother, age 40)

Findings from Quantitative Study of Mothers Surveyed

9 in 10 Mothers Surveyed Believed:

- Employees should have up to 12 weeks of partial income when they take time off from work for reasons relating to health, caregiving, and/or military deployment of a relative.
 - Overwhelmingly, Mothers were aligned across the political spectrum on this issue. 96% of Mothers who identified as conservative and 79% who identified as very conservative agreed with this statement. 4% of conservative and 21% of very conservative Mothers expressed uncertainty or disagreement.
 - 95% of Mothers who identified as moderate agreed with this statement. 5% of moderate Mother expressed uncertainty or disagreement.
 - 100% of Mothers who identified as liberal and 98% of Mothers who identified as very liberal agreed with this statement. 2% of very liberal mothers voiced uncertainty.

- Employees who have worked for more than 90 days at the same job should be able to return to their jobs after paid leave and without retaliation from employers.
 - The trend showed that overwhelmingly, Mothers largely agreed—regardless of their political ideologies.
 - For example, 100% of Mothers who identified as conservative and 86% who identified as very conservative agreed with this issue. 14% of very conservative mothers disagreed with this statement.
 - 99% of Mothers who identified as moderate agreed with this statement. 1% of moderate Mothers expressed uncertainty.
 - 96% of Mothers who identified as liberal and 96% of Mothers who identified as very liberal agreed with this statement. 4% of liberal and 5% of very liberal Mothers expressed uncertainty or disagreement.
 - Full-time employees should earn up to ⅓ of their regular wages on this paid leave.
 - 88% of Mothers who identified as conservative and 64% who identified as very conservative agreed with this issue. 12% of conservative Mothers and 36% of very conservative mothers were uncertain or disagreed with this statement.
 - 94% of Mothers who identified as moderate agreed with this statement. 6% of moderate Mothers expressed uncertainty or disagreement.
 - 97% of Mothers who identified as liberal and 98% of Mothers who identified as very liberal agreed with this statement. 2% of liberal and 2% of very liberal Mothers were uncertain.
 - Lowest-paid employees should earn up to 85% of their regular wages on this paid leave.
 - Conservative mothers varied on this issue. 76% of Mothers who identified as conservative agreed with this issue while 57% who identified as very conservative were uncertain or disagreed with this issue. 24% of conservative Mothers joined very conservative Mothers in being uncertain or disagreeing with this statement. In contrast, 43% of Mothers who were very conservative supported this issue.
 - 92% of Mothers who identified as moderate agreed with this statement. 8% of moderate Mothers expressed uncertainty or disagreement.
 - 97% of Mothers who identified as liberal and 98% of Mothers who identified as very liberal agreed with this statement. 3% of liberal Mothers and 2% of very liberal Mothers voiced uncertainty.
- 8 in 10 Mothers surveyed believed:
- The “FAMILY Act” will (or would have had) a positive impact on their families.
 - Mothers across the political spectrum supported this item with very strong support from all but very conservative Mothers.
 - 88% of Mothers who identified as conservative and 57% of very conservative supported the Family Act. 12% of conservative Mothers and 43% of very conservative mothers were uncertain or disagreed with supporting the FAMILY Act.
 - 90% of Mothers who identified as moderate agreed with this statement. 10% of moderate Mothers expressed uncertainty or disagreement with the FAMILY Act.
 - 93% of Mothers who identified as liberal and 95% of Mothers who identified as very liberal agreed with this statement. 7% of liberal Mothers and 5% of very liberal Mothers expressed uncertainty or disagreement with the FAMILY Act.
 - Paid leave should apply to employees regardless of company size, full-time/part-time status, and/or self-employment status.
 - 80% of Mothers who identified as conservative agreed with this issue and 57% of conservative Mothers supported this issue.
 - 87% of Mothers who identified as moderate agreed with this statement. 13% of moderate Mothers expressed uncertainty or disagreement.
 - 93% of Mothers who identified as liberal and 91% of Mothers who identified as very liberal agreed with this statement.

Political Ideology

In the overall sample, 37% of Mothers identify as Liberal while 29% of Mothers identify as Moderate and 8% of Mothers identify as Conservative. On either of the political ideology spectrum, Mothers who were Very Liberal accounted for 19% of the sample while Mothers who were Very Conservative represented 4% of the sample.

	# of Mothers Responding	Percent of Sample
Very Liberal	57	18.6%
Liberal	114	37.1%
Moderate	90	29.3%
Conservative	23	7.5%
Very Conservative	13	4.2%
Other	10	3.3%
	307	100.0%

State of Residence

Mothers reside in 41 states. The states that have the most representation are California (48), Florida (39), New York (21), Virginia (17), North Carolina (15), Illinois (12), Texas (11), and Wisconsin (11).

DEMOCRATS FOR LIFE OF AMERICA
10521 Judicial Drive, Unit 200
Fairfax, Virginia 22030
(703) 424-6663
info@democratsforlife.org

The Honorable Ron Wyden
Chairperson
United States Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510-6200

The Honorable Mike Crapo
Ranking Member
United States Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510-6200

Dear Chairperson Wyden, Ranking Member Crapo, and Members of the Committee:

Thank you for convening and participating in your committee's important hearing on paid leave. We share your confidence that federal action in this arena can redound to the benefit of American businesses, workers, and families, and find it imperative that Congress act to make these potential gains a reality for all Americans.

As proud pro-life Democrats, we advocate for the protection of vulnerable people in every circumstance. Paid leave not only supports workers who face significant health challenges, it also empowers workers to care for loved ones precisely during moments of greatest need. Increased investment in paid leave by the federal government and businesses will strengthen American families; in turn, families with higher well-being will invigorate businesses, both as productive workers and as stable customers.

We would specifically like to highlight the importance of parental leave. We are convinced that expanded access to parental leave will benefit mothers, fathers, children, families, and our society as a whole. Notably, parental leave has the potential to serve as a consensus-winning policy that will decrease demand for abortion and thus reduce some of the bitter, partisan, polarizing fighting over abortion's legal status.

We look forward to the hearing, to continued discussion, and to federal action in support of paid leave.

Sincerely,

Democrats for Life of America

THE ERISA INDUSTRY COMMITTEE
701 8th Street, NW, Suite 610
Washington, DC 20001
Main 202.789.1400
<https://www.eric.org/>

Chairman Wyden, Ranking Member Crapo, and Members of the Committee, thank you for the opportunity to submit a statement for the record on behalf of The ERISA Industry Committee (ERIC) for the hearing entitled “Exploring Paid Leave: Policy, Practice, and the Impact on the Workforce.” This hearing addresses a valuable benefit that millions of Americans receive today voluntarily through large employers.

ERIC is a national advocacy organization exclusively representing the largest employers in the United States in their capacity as sponsors of employee benefit plans for their nationwide workforces. With member companies that are leaders in every economic sector, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans. ERIC member companies offer benefits to tens of millions of employees, located in every state, city, and Congressional district. Your constituents engage with ERIC member companies many times a day, such as when they drive a car or fill it with gas, use a cell phone or a computer, watch TV, dine out or at home, enjoy a beverage or snack, use cosmetics, fly on an airplane, visit a bank or hotel, benefit from our national defense, receive or send a package, or go shopping.

For decades, employers like ERIC member companies have designed and administered gold-standard paid leave benefits to support and empower their nationwide workforces when time away from work is needed. Unfortunately, a growing patchwork of inconsistent state and local paid leave laws imposing a broad range of complex and incompatible compliance standards threatens to make offering these benefits untenable for employers.

Large Employers Offer Paid Leave to their Nationwide Workforces

Congress passed the *Family and Medical Leave Act* (FMLA) in 1993 with bipartisan support, securing access to unpaid leave and job protection for millions of Americans to bond with a newly born or adopted child, care for an ill family member, or tend to a serious medical issue of their own. Over the thirty years since this landmark law was enacted, a lack of wage replacement for employees on leave has generated increased interest in *paid* leave benefits.

Large, multistate employers have responded for decades by designing and administering effective paid leave benefits programs now enjoyed by millions of Americans and their families across the country. These proven voluntary benefits programs have long granted workers the critical financial support and flexibility that they want and need when away from work. ERIC member companies take pride in the paid leave benefits they provide, and the benefits aid in recruiting and retaining excellent employees. Ultimately, providing *uniform* benefits nationwide allows companies to efficiently design and administer their programs, resulting in high quality benefits for a greater number of workers.

State Paid Leave Laws Create an Unworkable Patchwork that Makes

Uniformity Impossible

Beginning with California in 2002, and most recently including Minnesota and Maine in 2023, 13 states and Washington, D.C. have now enacted mandatory, government-administered paid family and medical leave insurance programs. Unfortunately, these state programs operate altogether independently from one another, each collecting income-based contributions to fund benefits for qualifying workers while adopting entirely unique combinations of compliance requirements for employers and employees. Too often, they do not recognize the value of existing employer-provided benefits.

This piecemeal approach has forced employers and employees to try to navigate a complex and ever-changing amalgam of state and local standards. Even more con-

cerning, state politicians do not seem to be slowing down anytime soon; more than 300 paid family leave bills have been introduced and considered across nearly every state in recent years. Even some localities have gotten into the act, further complicating the situation.

The variance between these state and local laws does not amount to a simple difference in leave duration or level of wage replacement; rather, it includes an array of legal definitions and administrative processes that make it impossible for multi-state employers to comply while operating a uniform benefits program across the country. In fact, there are more than 50 different variable policy “levers” that state laws consider and establish, all of which introduce administrative burdens and necessitate costly system changes. Some categories of these variables include:

- **Duration of Leave**—The amount of paid leave time available to an employee is not as simple as setting a total number of weeks available for all covered circumstances, but must also establish guidelines for the amount of leave that can be used for individual types of leave (such as parental, family, and medical), permissible use of incremental leave, minimum increments of leave, and the limitation of parental leave when both parents are with the same employer.
- **Reasons for Leave**—Similarly, the core concepts and legal definitions of what paid family and medical leave includes must be established by state lawmakers, including definitions for family, parental, medical, “safe leave,” “qualifying exigency,” public health emergency, maternity, pregnancy complication, and other types of covered leave. Not only do different state policies include or exclude different types of leave, but they regularly categorize or define them differently as well.
- **Family Member Definitions**—State lawmakers often adopt unique definitions for which family members an employee may take paid leave. While nearly every state law now goes beyond the coverage established by the FMLA (parents, spouses, and children) and includes grandparents, grandchildren, and siblings, an increasing number of states have also each adopted their own versions of “catch-all” family member definitions that present serious compliance and abuse concerns for employers and state administrators alike. For example, some of these definitions include other individuals “related by blood or affinity that is akin to a family relationship” without providing much-needed guidance as to what relationships qualify or what plausible limitations remain.
- **Employee Eligibility**—Parallel to the benefits available to employees, lawmakers must establish which employees are covered by state paid leave and what milestones must be reached in order for an employee to qualify for benefits. These standards include, but are not limited to, the time worked for an employer, the total wages earned in a base period or calendar year, total contributions paid into the state program, coverage of independent contractors or seasonal workers, and which state’s paid leave law ultimately applies to an individual worker. These standards are not only tracked and met by state administrators, but by employers as well, adding additional indirect compliance costs.
- **Employer Coverage**—Similarly, state lawmakers must decide which employers are covered by a state paid leave program. These determinations are usually made based on the number of employees an employer has within the state and also involve the portion of payroll contributions that the employer must cover.
- **Notice to Employees**—Each state policy introduces a range of notice and reporting requirements by which employers must educate their employees on the availability of state paid leave benefits or continuing to provide private benefits. Because states often expand the information that must be contained in these disclosures, and the time, manner, and regularity of notices vary, these processes can quickly develop into a costly burden for employers.
- **Wage Replacement**—State programs differ widely on the level of wage replacement that employees receive when receiving state paid leave benefits. Again, this is not as simple as setting a replacement rate, but instead involves a series of calculations including percentage of ordinary employee wages, percentage of state average weekly wages, and total caps on weekly wage replacement benefits that employees can receive. The result is an overly complicated process that leaves a vast number of employees with levels of paid leave benefit wage replacement that is far lower than they would have otherwise received from their employer.

- **Contribution Rate**—The payments that employees and employers must make into state programs to fund benefits vary, creating another level of administrative complexity for multistate employers. These policy standards cover the capped percentage of an employee's wages that must be contributed, the authority of state administrators to change contribution rates in the future, and the contribution breakdown between employers and employees.
- **Job Protection While on Leave**—While job protection is a cornerstone of both unpaid and paid leave, state lawmakers have broadly defined these protections with variations establishing the rights an employee has when returning to work, requiring benefits and seniority to continue accruing while away from work, broadening definitions of "equivalent position", and even applying legal presumptions of discrimination by employers.
- **Coordination of Benefits**—A critical area of policy design revolves around how new state paid leave benefits are to interact with other sources of paid leave as well as related employee benefits that involve time away from work. As they formulate state programs, lawmakers must consider how to coordinate these benefits with the FMLA, state unpaid leave, state long-term disability laws, state paid sick leave or paid time off laws, existing employer-provided leave benefits, and collective bargaining agreements, to prevent overlap or conflict. Furthermore, lawmakers must consider how the benefits and legal definitions that they create relate to or can be better harmonized with other state paid leave laws.
- **Substitution of Equivalent Employer Benefits Plans**—Perhaps the most consequential area of state paid leave policies for large, multistate employers is the ability to provide private paid leave benefits that meet or exceed those offered by the state program and therefore be granted an exemption from mandated participation in the state program. While this is a valuable option that allows many employees to continue enjoying the benefits they already have, it is far from straightforward. In fact, state lawmakers must establish a range of standards and processes to secure this path, including minimum benefits standards, enumerated rights of employees under an equivalent plan, required surety bond with the state, application process to state administrators, state oversight of applications and appeals for substitution, regular employer recordkeeping, and reporting requirements.
- **State Preemption of Local/Municipal Laws**—Just as national paid leave uniformity is critical to design and provides reliable benefits across multiple states, paid leave uniformity within a state must be maintained for employers and employees to follow. As state lawmakers develop paid leave policies, they must consider the impact that conflicting local or municipal paid leave policies have on uniformity and benefits administration. To prevent this patchwork within a patchwork, a statewide preemption clause should be included in state legislation.
- **Administrative Processes**—Finally, state paid leave policies introduce a long list of administrative processes that, if handled poorly, can create counterproductive cost burdens and compliance challenges for employers and employees. These processes include employee applications for state program benefits, timelines for approval or denial of benefits, timelines for payment of benefits, waiting periods for employees before using certain types of leave, employee appeals for denied applications, complaints to a state regarding employer administration, investigation and enforcement processes, recordkeeping and reporting requirements, and data sharing between employers and state administrators to facilitate supplemental private benefits.

The Patchwork Creates a Catch-22 For Employers and Worse Benefits for Employees

A fragmented state-by-state approach has created a catch-22 in which even multistate employers that want to adopt and provide a generous paid leave benefit for all nationwide employees based on the common denominators among state programs would currently be unable to do so. Ultimately, complex state program standards and costly compliance processes discourage many employers from exploring new and innovative approaches to paid leave. Instead, they are all-too-often forced to enroll in state programs that cannot match the quality of benefits or ease of access their employees previously received.

Furthermore, the quality and value of benefits provided by state paid family leave programs regularly pale in comparison to their more robust employer-provided equivalents, which often grant full wage replacement and a far easier administrative process for employees most in need of leave without the hassle of wage-based contributions.

At the same time, because large, multistate employers are forced to adapt to a constantly shifting paid leave landscape on a jurisdictional basis, they need to spend significantly more to track and comply with new or updated state laws—ironically, money that then cannot be spent on more generous paid leave benefits for their employees. It becomes increasingly clear, then, that many of the workers covered by these state programs would be far better served by a uniform national framework of paid leave standards that recognize the value and support that voluntary, employer-provided benefits are uniquely able to provide.

Congress Should Act to Ensure that Employers Can Offer Uniform Benefits Nationwide

Federal relief is desperately needed to address this reality, and finding the right approach to both national uniformity and improved access is key. ERIC continues to support a federal “safe harbor” that would establish core federal paid leave standards and allow employers that design and provide benefits on a national basis that meet these federal standards to maintain immunity from contradictory or counterproductive state laws or programs. This approach would provide employees across the country with a tide that lifts all boats—creating a foundation for what paid leave benefits encompass, encouraging multistate employers to provide innovative and generous benefits, and building a nationwide legislative infrastructure to discourage states from “starting from scratch.”

Short of a safe harbor for multistate employers already offering these valuable benefits, a parallel effort could be undertaken to harmonize the range of existing state and local paid leave standards that continue to proliferate and diverge from one another. Because existing programs currently do not interact with one another or the federal government in any way, both employers and employees lack the central framework of understanding they need to navigate the growing list of compliance requirements. Congress could help establish such a framework and incentivize states to participate in a shared approach. Such an effort would have many benefits: it would encourage the creation of uniform paid leave definitions, formulate equivalency standards, and encourage the adoption of more interchangeable paid leave requirements through grants or other federal incentives. Fostering coordination between disparate state policies would go a long way to reducing the challenges that employers, employees, and state administrators continue to face.

Conclusion

ERIC understands the importance of exploring expanding paid leave coverage to those that do not already have access to the benefit. However, many multistate employers already offer generous benefits and need federal help to be able to continue to provide uniform programs nationwide. A viable federal paid leave policy must provide relief from the counterproductive consequences that the state and local patchwork imposes on employers, workers, and their families.

ETSY, INC.
117 Adams Street
Brooklyn, NY 11201

Statement of Jeffrey Zubricki, Global Head of Public Policy and Advocacy

Etsy respectfully submits the following statement for the record in response to the U.S. Senate Finance Committee Hearing held on October 25th, 2023 on *Exploring Paid Leave: Policy, Practice, and Impact on the Workforce*.

At Etsy, we’ve been encouraged by the bipartisan and bicameral efforts to find solutions at the federal level for paid family medical leave that is accessible, flexible and that meets the needs of employers of all sizes. Late last year, House members launched a Bipartisan Paid Leave Working Group, which is identifying and exploring paid leave policy solutions that assist businesses and families. In the Senate, we’ve seen several hearings that explore paid leave solutions, as well as legislative efforts from Senators on both sides of the aisle.

Etsy has long functioned as a pathway to entrepreneurship by creating opportunities for people who might not have started a business otherwise. The majority of our 6 million sellers made their first ever sale of handmade or vintage goods on Etsy. 81% of our sellers are women and the vast majority are businesses of one working out of their homes, one in four of which are in rural communities. One of the main barriers we hear from our sellers when trying to grow their businesses is a lack of access to paid leave benefits. If they have a child or get sick, there is no one to fill in for that time. It almost always means lost revenue, and for sellers who are full time artisans or creators running their own micro businesses, that could mean losing income that supports their families or pay their bills.

We strongly believe that offering comprehensive paid leave benefits to our employees is not only the right thing to do, but it's good for business. Etsy designed our own paid leave policies to support employees at all life stages. This is why our employee leave policies—including 26 weeks of fully paid parental leave and 12 weeks of paid family leave—are designed to be flexible, gender-neutral and to provide our employees with the comfort of knowing that they do not have to choose between their families and their jobs. We're proud that men and women take parental leave in roughly equal numbers at Etsy.

We agree that there is no “one size fits all” solution to paid leave. Small and micro businesses don't have the same kinds of resources as large companies to support or administer paid leave benefits, potentially resulting in a hiring and retention disadvantage. At the same time, as of 2022, over half (60%)¹ of America's largest public companies are offering paid leave benefits to employees. We believe that any paid leave policy should be flexible to meet the needs of businesses of all sizes, but especially small and self-employed business owners.

We also believe that paid leave policies must be inclusive of, and accessible to the self-employed. Several existing state paid leave programs do not allow the self-employed to opt in. Other states, like New York and California, impose long waiting periods before the self-employed can access benefits. Cost is often another barrier. Premiums for the self-employed can vary widely depending on the state. Self-employed individuals may often pay higher contribution rates or overall annual premium amounts than employees depending on the formula the state uses. For example, in California, the current premium rate for self-employed individuals is generally 6.93% of the first \$153,164 of net income² while the employee contribution rate is 0.9% of up to \$153,164 in annual wages.³ We believe in supporting accessible and affordable national policies that enable parents and families, regardless of gender, to play equal roles in building successful companies and nurturing their families.

Thank you for your consideration of these issues. Etsy looks forward to working with Congress to ensure that the interests of America's self-employed and small businesses are represented as Congress moves forward with these important measures to address paid leave. We are eager to work together to help America make this needed investment in our children, for our families and for our economy.

Thank you.

FAMILY VALUES @ WORK ET AL.

207 E Buffalo Street, Suite 501
Milwaukee, Wisconsin 53202
(414) 436-9536

<https://familyvaluesatwork.org/>

October 25, 2023

Chairman Ron Wyden
United States Senate
Washington, DC 20510

Ranking Member Mike Crapo
United States Senate
Washington, DC 20510

CC: Senate Finance Committee Members

¹ <https://justcapital.com/reports/only-9-percent-of-largest-us-companies-offer-at-least-12-weeks-of-paid-parental-leave-parity/#:~:text=Disclosure%20of%20a%20paid%20parental,to%2047%25%20the%20year%20before.>

² California Employment Development Department Self-Employed Benefit Amounts 2023, https://edd.ca.gov/en/disability/Self-Employed_Benefit_Amounts/.

³ California Employment Development Department Employee Contribution Rates 2023, https://edd.ca.gov/en/disability/Contribution_Rates_and_Benefit_Amounts/.

Dear Chairman Wyden and Ranking Member Crapo:

Family Values @ Work (FV@W) and our movement network grew from the reality that valuing caregiving and enabling people to be good providers and family members are essential to achieving racial, gender, disability, immigrant, and economic justice. For twenty years, our movement has shaped the debates around Paid Sick and Safe Days (PSSD) and Paid Family and Medical Leave (PFML), engaged a wide range of partners, and guided the development of the most inclusive policies to date, and with our Network Members, have passed paid leave in 14 states including Washington, DC, and paid sick and safe days in more than 50 jurisdictions.

As you all know well, thirty years ago, President Clinton signed the Family and Medical Leave Act (FMLA), which established that (many but not all) workers could take unpaid, job-protected leave to care for themselves or (some of their) families. It was the first, and so far only, national law protecting workers needing time to care.

It was a critical victory as the first federal law established that having a family shouldn't cost you your job or health insurance. Yet the FMLA excludes 40 percent of the workforce, and many who are eligible cannot take the time they need because they can't afford to be without pay. The law's narrow definition of family leaves out many who need time to care for a loved one.

Tomorrow's hearing represents an important step toward prioritizing the passage of job-protected Paid Family and Medical Leave during the 118th Congress.

Our movement has brought together more than 2,000 diverse partner organizations and engaged thousands affected by the lack of paid family and medical leave. We fight for these issues because we know the building blocks of upward economic mobility—job retention, raises, promotions, and asset development—depend on access to paid family and medical leave, paid sick and safe days, and affordable child care. When taking time for caregiving leads to job or pay loss, economic opportunity dries up.

We know from experience that without prioritizing accessibility, affordability, and adequate duration of leave, a paid leave program will not meet the needs of millions of Americans. The following principles should guide the creation of policy moving forward. Federal PFML policy must:

- **Be equitable in its impact**, especially considering the needs of low-wage, BIPOC, female, LGBTQIA, disabled, immigrant, part-time, and non-traditional workers;
- **Support healthier outcomes** across the age span for all workers and families;
- **Ensure that every worker keeps their health insurance during leave and has a job to come back to after taking leave;**
- **Protect the gains of states** that paved the way for our proposed federal advances.

At a *minimum*, paid leave must include the following policies to promote equitable access and healthier outcomes:

- **Ensure a universal, publicly administered, and permanent paid leave program.** State experiences show that it takes many years to implement a program that voters have time to access and take advantage of. Permanence will ensure that all who need paid leave can access it.
- **Include all four FMLA-covered conditions in a permanent program including** care to welcome a new child, care for yourself, care for a loved one, family military leave, and, additionally, safe time for self-care and family caregiving purposes. This must include intermittent leave.
- **Make benefit amounts progressive and affordable.** Benefits should aim to provide the full wage replacement but start at **no less than 90% replacement of usual wages for the lowest earners.**
 - Low-wage workers are among the least protected due to the current paid leave provisions. With new findings showing that full-time minimum wage

workers can't afford rent anywhere in the US anymore,¹ it is unacceptable for legislators to offer wage replacement that is too low a portion of that income.

- **Maintain a minimum of 12 weeks of leave.**

- 12 weeks is often not enough to care for a dying parent, welcome a new child, or receive treatment and recover from serious health conditions such as cancer. Workers in physically demanding jobs, disproportionately BIPOC workers, would be especially harmed by reducing weeks of leave.

- Many common surgeries require at least 6 to 8 weeks of recovery (assuming no complications), including C-sections (which account for 32% of births).² Therefore, 8 weeks would still force some to return to work before medically ready.

- **Keep eligibility requirements simple, understandable, and based on currently collected data.** State programs typically look at data from 4 of the last 5 completed quarters. The most recently adopted standards in Oregon and Colorado set a threshold of \$1,000 in earnings in the lookback period and provide a good model for equitable access.

- **Require employers seeking reimbursement to meet every federal standard, including equitable oversight of denials and appeals and data collection of applicants.** Employers should not be able to seek federal reimbursement unless they meet all programmatic standards at a minimum of either the federal or state program.

- **Allow state programs to continue operating.** States will need at least a three-year window to comply with all federal standards, including federal reimbursement for federal base benefits, administrative costs, and technology upgrades to interface with the federal program.

- **Develop program materials, applications, and outreach strategies that reach communities whose first language isn't English or who have limited English proficiency.**

- **Establish worker and small business advisory boards that help to guide equitable implementation of a paid family and medical leave program.** Workers, families, business owners, and administering agencies in already-existing programs have reported this need to our Network Members repeatedly.

- **Honor the inherent Tribal Sovereignty of the over 570 federally recognized Tribal Nations by going through consultation reconciliation processes with bodies such as the Tribal and Indigenous Advisory Council** to create the best solutions for how Tribal Government employees and Tribally-enrolled individuals can access paid family and medical leave.

We look forward to working with this Congress to champion guaranteed paid family and medical leave, paid sick and safe days, and all of the policies we know create shared prosperity for working people including affordable child care, living wages, supporting workers' involvement in unions, access to healthcare, and fair and accessible elections that ensure every voter's ballot matters. The families we represent literally cannot afford anything less than a comprehensive paid leave program. Together, we can transform the nation's care economy.

Sincerely,

National Partners

Equal Rights Advocates
Family Values @ Work
Main Street Alliance
9 to 5, National Association of Working Women

Arizona

Corazón Arizona
Poder Latinx—Arizona

California

California Federation Business and Professional Women

¹<https://www.cnn.com/2021/07/14/full-time-minimum-wage-workers-cant-afford-rent-anywhere-in-the-us.html>

²<https://www.cdc.gov/nchs/fastats/delivery.htm>.

California WIC Association
 California Work & Family Coalition
 Center for Community Action and Environmental Justice
 Evolve California
 Family Caregiver Alliance
 First 5 California
 Friends Committee on Legislation of California
 Human Impact Partners
 LA Best Babies Network
 Legal Aid at Work
 National Council of Jewish Women—Los Angeles
 Public Counsel
 Santa Clara County Wage Theft Coalition

Colorado

9 to 5—Colorado

Connecticut

She Leads Justice

District of Columbia

Many Languages One Voice (MLOV)

Florida

Poder Latinx—Florida

Georgia

Poder Latinx—Georgia

9 to 5—Georgia

Hawaii

Hawai'i Children's Action Network Speaks!

Illinois

Women Employed

Maryland

United Workers

Massachusetts

Coalition for Social Justice

Michigan

Mothering Justice

Minnesota

TakeAction Minnesota

Nevada

Make It Work Nevada

Nevada County Citizen for Choice

New Jersey

New Jersey Citizen Action

New Jersey Time to Care Coalition

New York

Citizen Action New York

North Carolina

LGBT Center of Raleigh

North Carolina Council of Churches

North Carolina Families Care Coalition

North Carolina Justice Center

United Steel Workers

Women AdvaNCE

Oregon

Family Forward Oregon

Pennsylvania

Black Women's Policy Center

Rhode Island

Economic Progress Institute
 Rhode Island Black Business Association
 Rhode Island Coalition Against Domestic Violence
 Rhode Island KIDS COUNT
 Rhode Island Parent Information Network
 Right from the Start Campaign
 Senior Agenda Coalition of Rhode Island

Texas

Workers Defense Project

Washington

Economic Opportunity Institute

Wisconsin

9 to 5—Wisconsin

HR POLICY ASSOCIATION
 4201 Wilson Blvd., Suite 110-368
 Arlington, VA 22203
 202-375-5011
<https://www.chro.org/>

October 24, 2023

Dear Senate Finance Committee Colleagues,

In anticipation of tomorrow's Senate Finance Committee hearing entitled "Exploring Paid Leave: Policy, Practice, and Impact on the Workforce" and as lawmakers pursue legislative proposals I am writing to offer HR Policy Association staff and members as a resource to aid in your efforts. HR Policy member companies understand the importance of paid family and medical leave and already provide generous benefits that generally extend beyond what is currently required under federal, state, and local law. Our members have expertise in implementing paid leave benefits across the nation.

HR Policy Association¹ is the lead organization representing the Chief Human Resource Officers of major employers. The Association consists of more than 390 of the largest corporations doing business in the United States and globally, and these employers are represented in the organization by their most senior human resource executive. Collectively, their companies employ more than ten million employees in the United States—nearly nine percent of the private sector workforce—and 20 million employees worldwide. The Association brings these executives together not simply to discuss how human resource practices and policies should be improved, but also to create a vision for successful HR strategies and pursue initiatives that promote job growth, employment security and competitiveness.

According to an HR Policy Association survey of its membership, 83% of respondents said they offer their own short-term disability plan that employees can use for Family and Medical Leave Act (FMLA) purposes, a separate paid family leave program, or both. Since our initial survey of membership, the world of work has been altered dramatically and we expect that the number of employers voluntarily offering paid leave benefits has increased to meet the evolving needs of the workforce.

As the Committee considers a Federal paid leave insurance program, consider the questions below. The questions were informed by HR Policy's Employment and Labor Group,² members of the Association who are directly responsible for employment and labor relations matters in their respective companies. The Employment and Labor Group's mission is to guide the Association's advocacy on workplace policies of concern to HR Policy Association members.

Q: How would a federal paid family and medical leave insurance program coordinate and interact with existing employer programs?

It is critical that a federal program be tailored to allow flexibility to employers that choose to continue their existing leave programs without imposing additional, substantial compliance burdens associated with a federal program. In addition, will there be a mechanism in place for employers to know, in real time, the benefits cur-

¹ <http://www.hrpolicy.org/>.

² <https://www.hrpolicy.org/initiatives/employment-and-labor-group/about-elg/>.

rent employees are receiving under the federal program? Transparent and timely information will be paramount to the success of any federal paid FMLA program. If employees become eligible to receive federal paid leave benefits, are there ways the program should be structured to remove any disincentives for employers to provide their own benefits, such as those that may have already been subject to collective bargaining with unions?

Q: How will a federal program coordinate and interact with existing state and local programs?

Most large employers already offer competitive paid family and medical leave benefits, often exceeding what is required under state and local laws and what would likely be required under a potential federal program. The central issue for multi-jurisdictional employers is not the level of benefits required under applicable laws, but the compliance burden (including the coordination and administration of benefits) associated with the increasing patchwork of conflicting state and local leave laws. Differing state and local requirements make it difficult for employers with operations in several jurisdictions to offer uniform benefit plans for all or most of their employees. For example, the only way to offer concurrent paid leave programs is for the state to be primary and the employer plan to be secondary. In doing so, the employee must apply and receive pay from the state (which is generally not timely) and supplement from the employer instead of receiving full pay from the employer for a company benefit they are already entitled to and employees from other states automatically receive. In recognition of this, a federal program should operate as a national standard, under which an employer would be exempted from state and local requirements if it was in compliance with such a standard. The *Workflex in the 21st Century Act* (H.R. 4248) addresses this issue.

Q: How will a federal program be funded?

Existing state and local paid family and medical leave programs are funded through some form of a payroll tax—either on the employer, the employee, or both. Many employers are therefore already familiar with a leave program being funded through a payroll tax. Historically, legislative proposals have proposed to fund the program through general revenues. There are pros and cons with both approaches.

Placing the tax on both the employer and the employee could ensure that both parties have an appropriate stake in the benefit program, which could disincentivize abuses. Additionally, a payroll tax affords a level of stability in ensuring that a federal program would remain adequately funded without further financial burdens placed on employers or employees. If a payroll tax is used under a federal program, employers who already provide paid leave benefits comparable to what would be required under the program should be entitled to opt out of the program and/or receive an offset based on what they are already providing. Without such an opt-out or offset mechanism, employers would be disincentivized from continuing to offer their own generous leave benefits exceeding what is required under a federal standard, resulting in benefit reductions for employees.

With regard to funding a federal program through general revenues only, the obvious advantage to this approach is that, in theory, there would not be any new financial burdens placed on employers or employees directly associated with the federal paid leave program. Nevertheless, to ensure the program remains adequately funded, funding through general revenue would likely require increased corporate tax rates and/or increased taxes on high-income earners, either in conjunction with the rollout of a federal program and/or in future years.

Q. Under a federal program, who would make eligibility determinations?

Currently, employers make decisions regarding who is eligible for leave under the FMLA. If an employee disagrees with an employer's decision, their remedy is to sue or bring an administrative charge. Under a federal paid family and medical leave program, would eligibility determinations be made by specialized federal claim adjudicators? Such an approach would inappropriately leave employers out of a process that they are best equipped to manage. Alternatively, would employers continue to make eligibility determinations for unpaid leave under FMLA, while federal claim adjudicators make decisions for paid leave benefits? This could result in divergent conclusions for similar or identical requests for leave, creating numerous complications for both employers and their employees.

Q. Under a federal program, which party/parties will police potential abuse of benefits?

A federal program should include a transparent process for policing potential abuse of benefits. Unchecked leave abuse can leave employers strained for sufficient workers, threatening the viability of their operations. Although employers may be best placed to police potential leave abuse, this approach may place an unsustainable administrative burden on employers. If the federal government is responsible for policing potential leave abuse, employers should be given an administrative process to submit claims of potential leave abuse that are resolved in a timely and transparent manner.

For questions, additional information, a Hill briefing, or general inquiries about workplace matters including paid leave benefits, feel free to contact me at Cbirbal@HRPolicy.org.

Chatrane Birbal
Vice President
Public Policy and Government Relations

IBM CORPORATION
600 14th St., NW, Suite 300
Washington, DC 20005

International Business Machines Corporation (IBM) appreciates the opportunity to submit a statement for the record regarding the U.S. Senate Finance Committee's hearing on paid leave.¹

1. IBM Recognizes That Paid Leave is Critical.

For more than 100 years, IBM has been committed to a “people-first” workplace culture. We strive to create and foster a supportive, flexible work environment that supports IBMers and their families with critical benefits like paid time off to welcome a new child or manage their own or a loved one's serious health condition.

Our paid leave benefit programs are generous and expansive.² Our regular full time and part time U.S. employees receive:

- Up to 26 weeks of short-term disability benefits, *i.e.*, own-medical leave (13 weeks at full pay and another 13 weeks at a minimum of two-thirds of their pay);
- Up to 12 weeks of parental bonding leave for new, eligible parents at full pay (whether newborn, adoption, or foster placement);
- Paid care leave at full pay for family care, marriage, or bereavement—ranging from three days to four weeks, depending on the use; and
- A minimum of 56 hours of paid sick leave annually.

2. Employer-Based Paid Leave Is Part of the Solution.

As a large business with employees in all 50 states, IBM understands the importance of providing equitable and user-friendly benefits to our workers regardless of geography. IBM also believes that all workers in the United States deserve access to paid leave benefits, and small employers may find it particularly difficult to fund these benefits and manage work during employee leaves.

While government can play an essential role in filling the gaps in paid leave benefit offerings, employers can—and many do already—provide access to robust, efficient, and effective leave benefits.

3. Multiple, Individual Paid Leave Programs Present Complex Challenges Across States.

In the absence of federal action, 13 states and DC have now enacted state paid family and medical leave programs (bulleted below).³ This includes four more states

¹ Paid leave programs typically provide wage replacement to eligible workers for specific and significant purposes: i) family caregiving needs (*i.e.*, to care for a family member with a serious health condition or to care for a newborn or newly adopted/fostered child); or ii) an employee's own medical needs (*i.e.*, to recover from a serious health condition).

² IBM also provides regular full-time employees with a maximum of 12 paid holidays and a minimum of 120 hours of paid vacation. Long-term disability benefits are available to eligible employees.

³ The early state adopters of paid leave built paid family caregiving leave as a complement to existing decades-old temporary disability insurance (TDI) programs that date back to the 1940s. The states that followed built new combined paid family and medical leave programs.

since negotiations stalled on the larger House-passed budget reconciliation bill in 2021.⁴

— ***Thirteen states and DC have enacted state paid family and medical leave programs:*** California (2002), New Jersey (2008), Rhode Island (2013), New York (2016), Washington (2017), District of Columbia (2017), Massachusetts (2018), Connecticut (2019), Oregon (2019), Colorado (2020), Delaware (2022), Maryland (2022), Minnesota (May 2023), and Maine (July 2023).⁵

4. Congress Has an Opportunity to Build a Bridge to National Paid Leave.

We believe that paid leave is a bipartisan issue, but a national approach to paid leave has eluded Congress for more than a decade now despite its growing popularity and recognition of its importance.

The lack of uniformity and connective tissue across existing state paid leave programs has hindered the goal of advancing a national solution for paid leave.

While the 13 states and DC with paid leave programs share a common purpose—to provide workers with access to paid leave benefits—the structural variations in how they were built and designed result in fundamental differences in standards, definitions, requirements, and processes. These programs were not designed to function in tandem with the program of another state, let alone with unique programs implemented in ten or more states, undermining the important goal of portability of benefits.

Impact on employers: Many states with paid leave programs allow for employer-based, private paid leave plans when plan benefits meet or exceed the state program benefits.⁶ However, there is no way for companies to thread the needle across existing paid leave states and offer a uniform, equitable set of benefits to all workers regardless of work location in the face of a growing number of programs with varied and sometimes inconsistent requirements.

Employers also have significant administrative burdens in complying with state paid leave programs and determining where workers are covered if they work in multiple states for the purpose of collecting contributions and paying benefits, costing money that could be better spent funding employee benefits or other productive investments.

Impact on workers: This patchwork has led to inequity, unpredictability, and confusion for employees as they must navigate multiple sources of paid leave depending on their work location(s) and employer, particularly with the increase in hybrid work and employees who work in multiple states.

Impact on states: There is no system currently in place for state paid leave programs to exchange paid leave data, information, and best practices to improve the effectiveness of their programs, boost education and outreach, and enhance program integrity.

5. Call for Congressional Action.

Congressional legislation is needed to help drive improvements in coordination and harmonization of these benefits across the growing number of states with their own paid leave programs.

This can be done in a way that works for states, employers, and employees. Doing so would simplify the process for workers accessing these benefits, help employers offer a standardized paid leave benefit to their employees, and support greater fairness and portability for an increasingly mobile workforce.

We are committed to working closely with Congress to make progress on this effort.

Thank you for the opportunity to submit a statement for the record.

⁴In Nov. 2021, the U.S. House passed legislation to establish a national paid leave program; see H.R. 5376, engrossed in the House (Title XIII, Subtitle A); <https://www.congress.gov/bills/117th-congress/house-bill/5376/text/eh>.

⁵Several of the most recently created programs are not yet paying benefits: Colorado (Jan. 2024); Delaware, Maryland, and Minnesota (all Jan. 2026); and Maine (May 2026).

⁶Many states allow private employer paid leave plans when their benefits meet or exceed the state program benefits. However, Rhode Island and Washington, DC, currently prohibit employer-provided plans. California allows for employer plans provided they are self-insured plans.

LETTER SUBMITTED BY JACKIE MARTINEZ

Exploring Paid Leave: Policy, Practice, and Impact on the Workforce

Hearing Date: October 25th, 2023

To Whom it May Concern,

I want to say that I know I am privileged to have gotten a 12 week, fully paid maternity leave without having to use any of my personal time off. That should be the bare minimum, and it isn't. I know people who, depending on how long they've worked or how small their company is, don't even qualify for FMLA, the only nationwide law providing family leave—a law that only mandates that employers hold your job for 12 weeks, not that they pay you while you're out. Parental leave in the United States needs a total overhaul. We have some of the worst—that is to say, none—parental leave laws in the developed world. Having paid maternity leave had a direct impact on my physical health, mental well-being, and stability of my entire family. I had reduced financial stress that allowed me time to focus on bonding with my premature twin boys. This privilege is not extended to our most vulnerable underprivileged families, who are likely to face higher stressors due to education levels, socioeconomic status, and racial discrimination. The research is endless on the positive impact that paid maternity leave has on not only the mother and baby but on the entire family and furthermore on our society's health.

Sincerely,

Jackie Martinez

 MOMSRISING

October 24, 2023

The Honorable Ron Wyden
 Chairman
 U.S. Senate
 Committee on Finance

Dear Chair Wyden,

MomsRising submits the following statement for the record as part of the Senate Committee on Finance hearing on “Exploring Paid Leave: Policy, Practice, and Impact on the Workforce” on October 25, 2023.

MomsRising is a grassroots organization with over one million members, including members in every state in our nation. Established in 2006, MomsRising and its members advocate for public policies that are critical for women and families, including maternal health, paid family medical leave, affordable childcare, universal pre-k, and more.

Paid family and medical leave is good for businesses, for our economy, for taxpayers, for public health, and for our families. Yet, our nation's current laws are failing parents and caregivers across the country, who are too often forced to neglect the needs of critically ill loved ones or must return to work shortly after welcoming a newborn or child. We are the only industrialized nation, and one of only six countries in the world, without a national paid family and medical leave policy. In fact, while a small percentage of people have access to paid family and medical leave through their work or through state law, our nation guarantees *zero* weeks of paid family or medical leave. At the same time, of the 186 countries that offer paid leave for new mothers, only one offers fewer than four weeks.¹

A national paid family and medical leave policy would help businesses by carrying some of the cost when an employee must go on leave, while reducing recruitment and retraining costs, and raising employee productivity.² Taxpayers benefit too: one study showed that paid family and medical leave reduced the need for food stamps

¹Miller, Claire Cain. “The World ‘Has Found a Way to Do This’: The U.S. Lags on Paid Leave.” *The New York Times*, 25 Oct. 2021, www.nytimes.com/2021/10/25/upshot/paid-leave-democrats.html; Deahl, Jessica. “Countries around the World Beat the U.S. on Paid Parental Leave.” NPR, 6 Oct. 2016, <https://www.npr.org/2016/10/06/495839588/countries-around-the-world-beat-the-u-s-on-paid-parental-leave>.

²“Paid Leave Works: Evidence from State Programs.” National Partnership for Women and Families, <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-works-evidence-from-state-programs.pdf>. Accessed 19 Oct. 2023.

by 40 percent.³ Studies also show that infant and maternal health are improved when people have access to paid family and medical leave. This policy is cost-saving, life-saving, and business-lifting. Policies like paid family and medical leave would go a long way towards ensuring justice and equity in our systems of care.

Despite the proven benefits for workers, families, and the economy, just 20 percent of private sector workers in our nation, including only eight percent of the lowest wage earners, have access to some form of paid family or medical leave.⁴ *As a result, one in four women are pushed back to work within just two weeks of giving birth or welcoming a new child.*⁵

Moms like Nancy are directly affected by the lack of federal paid family and medical leave policies. Nancy has two kids, a 3.5-year-old son and a 1-year-old daughter, in Pennsylvania. She went into labor with her son prematurely and had an emergency c-section. Nancy was working-part-time as a teacher and had zero paid leave. Her husband only had 2 weeks of paid leave. She had a difficult recovery from birth—she had limited mobility, couldn't pick up her 6 pound son, and at 5 weeks postpartum, her incision opened up and she got an infection. She also struggled with breastfeeding and battled postpartum anxiety. During this time, her husband had to work full-time while also caring for their son, repacking Nancy's wound each day, and driving them to doctor's appointments. Their insurance wouldn't cover a home nurse. "It was awful. If we'd had true paid parental leave, it would have taken that stress away. We could have focused on being new parents and working through my health situation. It would have made it so much easier."

Working families and business leaders across the country agree that passing strong paid family and medical leave policy would boost businesses, our economy, and the health and well-being of families across the country. *In fact, polling shows that four in five Americans support paid family and medical leave.*⁶

We thank you for the committee's attention to this crucial issue. MomsRising is happy to serve as a resource as the committee continues to consider paid family and medical leave policies.

Sincerely,

Kristin Rowe-Finkbeiner
Executive Director/CEO & Co-Founder
MomsRising Together & MomsRising Education Fund

Namatie Mansaray
Senior Director: Workplace Justice
MomsRising Together & MomsRising Education Fund

Ruth Martin
Senior Vice President & Chief Workplace Justice Officer
MomsRising Together & MomsRising Education Fund

NATIONAL COUNCIL OF JEWISH WOMEN

2055 L St., NW, Suite 650
Washington, DC 20036
T: 202-296-2588
<https://www.ncjw.org/>

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Senate Committee on Finance, since our founding in 1893, National Council of Jewish Women (NCJW) has worked toward a world where women, children, and families are fully valued and supported. Inspired by Jewish values, NCJW advocates strive to turn progressive ideals into action by safeguarding individual rights and freedoms.

³"Paid Family Care Leave: A Missing Piece in the U.S. Social Insurance System." Washington Center for Equitable Growth, 10 Jun. 2019, <https://equitablegrowth.org/research-paper/paid-family-care-leave/?longform=true>. Accessed 19 Oct. 2023.

⁴"Quick Facts on Paid Family and Medical Leave." Center for American Progress, 5 Feb. 2021, <https://www.americanprogress.org/article/quick-facts-paid-family-medical-leave/>. Accessed 19 Oct. 2023.

⁵Bryant, Miranda. "'I Was Risking My Life': Why One in Four US Women Return to Work Two Weeks After Childbirth." *The Guardian*, 27 Jan. 2020, <https://www.theguardian.com/us-news/2020/jan/27/maternity-paid-leave-women-work-childbirth-us>.

⁶Bennett, Bryan. "Americans Overwhelmingly Support Paid Family And Medical Leave." *Navigators*, 23 Sept. 2022, <https://navigatortresearch.org/americans-overwhelmingly-support-paid-family-and-medical-leave/>. Accessed 19 Oct. 2023.

Through education, advocacy, and community service, our network of 210,000 advocates has worked to make this vision a reality at all levels of government and in communities across the United States.

We appreciate today's hearing, "Exploring Paid Leave: Policy, Practice, and Impact on the Workforce," and the opportunity to submit a statement for the record in support of paid leave. A key area of focus for the organization is our pursuit of economic justice, work that is true to that of our ancestors. As the Torah commands the newly liberated Israelites in the Book of Exodus and beyond to set up a new society, it is notably designed around a myriad of systems to ensure economic justice. Later Rabbinic teachings, too, center the urgent, lived experiences of those who are less financially secure and create additional legal structures to protect them. NCJW believes that the moral test of a nation is how it treats people who face the steepest barriers to success due to structural inequities. We champion policies to end poverty in America and, until that is achieved, to improve the lives of those who experience it—disproportionately women and children, people who are transgender, Black, Indigenous, and other people of color, and individuals with disabilities. Each of us has the right to thrive. No matter who we are, where we are from, our ability, or income, we all have the right to live with dignity, in health, and with financial stability, and to provide for our families. Ensuring families have what they need is essential to creating a vibrant economy and shared prosperity.

As part of this work, NCJW endeavors to guarantee nationwide, comprehensive paid family and medical leave and paid sick days. Our efforts over the past 130 years have taught us that the success of our economy depends on the success of our families. Each of us should be able to achieve economic stability while caring for our health and family. Paid leave is a critical part of making that goal a reality. Stronger paid leave programs will help us build a stronger economy.

Paid leave reduces employee turnover,¹ which allows employers to save on hiring costs. For example, under California's family leave insurance program, workers in high-turnover industries are much more likely to return to their jobs² after using the program. Paid leave also allows parents and family caregivers to remain in the workforce, preventing income loss and contributing to economic productivity and growth.

However, recent data show that most workers cannot access paid leave benefits. Over thirty million workers³ across the United States lack access to paid sick leave. And, the Bureau of Labor Statistics⁴ shows that 76% of private sector employees do not have access to paid family leave.

Without access to paid leave, workers who face serious medical or caregiving needs are unable to afford the most basic necessities. Missing even one paycheck can affect a person's ability to afford groceries, rent, and other daily necessities. These families face devastating consequences when the women who lead them are forced to choose between their jobs and caring for their families.

This policy gap most harms women, especially women of color, single mothers, and women struggling to make ends meet. Women are more likely than men to be caregivers to children and elderly parents, which makes them more vulnerable to the absence of paid family leave. The situation is even worse for women of color. Studies have shown that women of color play an outsized role in supporting their families. While over 80 percent of Black mothers are primary, sole, or co-breadwinners for their households,⁵ more than six in ten Black women either do not take paid leave or do so without pay. As a result, Black women lose about \$3.9 billion each year due to lost wages while on leave (according to a 2022 Center for American Progress report).⁶ Additionally, the inaccessibility of paid leave for Black women is exacerbated by existing health disparities in the US; this includes high rates of chronic illness as well as unacceptably high maternal and infant mortality rates. With ac-

¹ <http://www.americanprogress.org/wpcontent/uploads/2012/11/CostofTurnover.pdf>.

² https://fhop.ucsf.edu/sites/fhop.ucsf.edu/files/custom_download/Unfinished%20Business%20-%20Paid%20Family%20leave%20in%20CA%20and%20the%20future%20of%20US%20Work-Family%20Policy.pdf.

³ <https://www.sanders.senate.gov/wp-content/uploads/HFA-Fact-Sheet-118th.pdf>.

⁴ <https://www.bls.gov/ncs/ebs/benefits/2022/home.htm>.

⁵ <https://www.americanprogress.org/article/breadwinning-mothers-critical-familys-economic-security/>.

⁶ <https://www.americanprogress.org/article/black-women-need-access-to-paid-family-and-medical-leave/>.

cess to paid leave, Black women who are ill or caring for a sick person would have both the time and economic resources to seek treatment in a timely manner.

A basic workplace paid sick and safe days standard, and assured paid time off for family needs, would ensure that all workers receive this necessary benefit no matter where they work, without having to sacrifice their financial stability. A national paid leave program would also allow parents and family caregivers to remain in the workforce, preventing income loss and contributing to economic productivity and growth.

Congress has the opportunity to improve the paid leave landscape in this country through legislative avenues. First, through the Family and Medical Insurance Leave (FAMILY) Act, Congress can provide twelve weeks of job-protected paid time off for employees of any company to take care of their children, spouses, parents, and themselves. Second, through the Healthy Families Act, Congress can establish a national paid sick and safe days standard, allowing workers to earn up to seven paid sick days each year to be used to recover from illness; take care of family members; seek assistance after incidents of domestic violence, stalking, and sexual assault; and more.

Our country is only able to live up to its ideals of justice and equity when our workers and families are supported. Therefore, Congress has a responsibility to support and enact legislation that guarantees the right to earn paid sick and family leave to ensure that all families do not have to choose between providing and caring for their loved ones. **NCJW urges lawmakers to pass legislation including the FAMILY Act and the Healthy Families Act that would expand access to paid family and sick leave and help keep families financially secure, workplaces and communities healthy, and the economy strong.**

NATIONAL ORGANIZATION FOR WOMEN
1100 H Street, NW, #300
Washington, DC 20005
(202) 628-8669

Statement of Christian F. Nunes, President

Mr. Chairman Wyden, Ranking Member Crapo, and Committee Members:

Thank you for convening this critically important hearing that we hope will take us many steps closer to having a national policy for *paid* family and medical leave that is affordable and universal.

In 1967, attendees to a national conference held by the National Organization for Women adopted an historic Bill of Rights for Women. High on that list was *Maternity Leave Rights in Employment*. Conference attendees affirmed, “That women be protected by law to ensure their rights to return to their jobs within a reasonable time after childbirth without loss of seniority or other accrued benefits and be paid maternity leave as a form of social security and/or employee benefits.”

Our grassroots activists worked diligently on their members of Congress for years to get the Family and Medical Leave Act passed. After President George H.W. Bush twice vetoed the FMLA, we didn’t give up and were overjoyed to see President Bill Clinton sign the legislation into law in 1993. But our hopes for leave with pay were not realized. Thirty years of experience with the FMLA shows how important this guarantee would be for workers and their families.

The National Organization for Women, our thousands of members and supporters in every state, and the District of Columbia, strongly urges the Senate to pass legislation that would provide paid family and medical leave for every worker. A national approach that covers all workers will strengthen our workforce and provide better protection for working women who need extended maternity leave and must take time off for caregiving responsibilities as well tend to the health needs of family members.

The United States is the *only* nation in the developed world, according to the U.S. Department of Labor, that does not have a national paid leave policy for all workers. Surely, in a country with an enviably strong economy and a large and diverse—but vulnerable—workforce, there should be wide recognition that a national program of paid leave is essential. The fact that the FMLA has been used more than 463 million times, according to the National Partnership for Women and Families, since its

adoption demonstrates that the need to have access to leave without risking one's employment is fundamental. It should be a standard feature of the workplace, enabling all workers who must eventually take time off and to do so without fear of losing their jobs.

Public support for paid family and medical leave is strong. A September 2022 national survey by Navigator and reported by the Common Dreams organization found that more than eight in ten voters, including 79 percent of white voters, 88 percent of Black and 89 percent of Latino voters want to see a national paid family and medical leave policy adopted. A National Partnership for Women and Families poll (2020) found that 75 percent of respondents would support a paid family and medical leave policy that would cover all workers.

Because of the current restrictive provision applying the FMLA to companies with 50 plus employees only about 56 percent of U.S. workers can access the federal FMLA leave, according to the Department of Labor. Portions of the remaining 44 percent of workers may obtain leave through their company's disability insurance plans or may be covered in the 16 states that offer (or will soon) state-based family and medical leave programs. These states include California, Colorado, Connecticut, Illinois, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Vermont, Washington, plus the District of Columbia.

Legislation that expands the thirty-year old Family and Medical Leave Act to better address the needs of the nation's workforce should be a priority for the 118th Congress. The FAMILY Act, which is an expansion of the FMLA that addresses many of the problems identified in this testimony, would be a positive step. NOW urges the Senate to move this legislation to a floor vote soon. We look forward to working with senators to gain passage of this legislation that would greatly strengthen the U.S. workforce.

MAJOR CONCERNS

Women Workers Remain Vulnerable

Large segments of the workforce are without any leave protections. At the top of the list are women who historically have provided uncompensated caregiving and have often worked in low-paid jobs, facing barriers to better compensated employment. The stubborn gender wage gap—hovering around 78–84 cents for many years testifies to that point, according to analyses by the Institute for Women's Policy Research. The long-standing segregation of work according to racial and ethnic identities, has channeled women workers of color to the most poorly compensated jobs in domestic, service, seasonal and laborer jobs. Workers in these groups also provide a substantial share of unpaid caregiving. Research by the National Partnership for Women and Families found that unpaid caregiving—the majority of which is provided by women—is likely worth hundreds of millions of dollars annually. These same workers also face precarious situations when illness strikes, and a job is lost. The lack of accessible and affordable childcare is a further complication,

Women Head Half of All Households

In addition, single parent-headed households—a growing segment of the population—would value the availability of paid family and medical leave. The number of women-headed households (including those who are married but are the primary breadwinner) has grown steadily so that by 2019 they constituted half of all households, according to the Urban Institute. This is true for all racial and ethnic groups, with Black households headed by women at 60 percent, according to the Pew Research Center. Also, single parent heads of household, including caregivers tending an ill or elderly person, are themselves vulnerable without a paid leave assurance.

Abortion Access Barriers Impact Workers

The loss of access to reproductive healthcare experienced by persons in states that have banned abortion adds uncertainty for millions of childbearing age. An unplanned pregnancy or a pregnancy complication necessitating medical attention when workers are not covered by the Family and Medical Leave Act can be a serious hardship. Planning and traveling to another state means taking days off work along with a need for further time off for health reasons. Lack of paid leave would help. The 14 states with abortion bans are causing tens of thousands of pregnant women to travel to another state for abortion care, according to the Guttmacher Institute.

Maternal Health Complications a Serious Problem

A factor that heightens the need by Black women as well as indigenous women is their dramatically higher risk of complications to pregnancy, delivery and postpartum health. The mortality rate of Black women in the U.S. is between two and three times higher than that for white women, according to the Centers for Disease Prevention and Control (CDC). Tragically, hundreds of women die from pregnancy related illnesses or complications each year. Considering a significant level of complications of pregnancy and childbirth, paid family and medical leave would offer crucial support. Many women experience life-threatening complications during childbirth, often causing lifelong health challenges. Since the usual causes of maternal mortality are conditions that occur or are exacerbated during pregnancy, the vast majority of these deaths are preventable, according to CDC research. Twelve weeks of paid medical leave could play an important role in reducing complications in pregnancy, childbirth and postpartum health—and even save lives.

Violence Survivors Need Paid Leave Protections

A further importance of paid family and medical leave is the need for persons—mostly women—who are survivors of Intimate Partner Violence (IPV) who may require time off for medical care, and court appearances. Counseling and other safety measures to be taken are an additional need. A significant portion of the population—about 41% of women and 26% of men experienced contact sexual violence, physical violence and/or stalking by an intimate partner during their lifetime, according to the Centers for Disease Control and Prevention, and miss at least one day of work. Counselors who work with domestic and sexual violence survivors also report that further time off from work involves medical attention and possible court appearances.

Workers at the Poverty Line

Another segment of the workforce that would benefit from paid leave are workers who live close to the federal poverty line. Census data from 2022 found that 12.4 percent of Americans were subsisting at that low-income level. That figure was up from 7.8 percent in 2021. The poverty rate for children in 2022 more than doubled from the year before, according to Census data. This was due to the discontinuation of the expanded Child Tax Credit which was in place for a year during the COVID-19 pandemic. The expiration of other pandemic relief measures has led to an increase in poverty rates. Such figures represent roughly 40 million Americans living without the minimum level of resources to meet their needs. Many may be part-time or seasonal workers who would likely not qualify for paid FMLA that required higher minimum hours worked each year, but nonetheless should become part of an FMLA-covered workforce.

No doubt the lack of a guaranteed paid family and medical leave program has exacerbated economic and health challenges for the millions of Americans living near the federal poverty line, despite the fact that many are employed. Inclusion under a FMLA would contribute to a more stable economic situation for families who are impacted by poverty. No doubt many of these workers and their families are persons of color who have experienced this country's history of structural and discriminatory barriers that have contributed to serious economic, health and wealth disparities. A family and medical leave policy that meets the needs of these workers must be adopted. We believe that full coverage under a paid family and medical leave program will advance racial equity in the workforce and help build economic security for these workers and their families.

Lack of Paid Leave Deepens Wealth Divide

A failure to provide coverage for low-income workers under a national family and medical leave policy will continue to contribute to the deepening wealth divide that afflicts this country. In the first quarter of 2023, the top ten percent of households held about 67 percent of total household wealth. By contrast, the bottom 90 percent of households by wealth held around 31 percent, according to the Federal Reserve. Inflation-adjusted figures for various demographic groups also show that Black families owned about 24 cents for every \$1 of white family wealth, on average and Hispanic families owned about the same.

THE FAMILY ACT WOULD ADDRESS CONCERNS

The updated and expanded FAMILY Act, introduced by Sen. Kirsten Gillibrand (S. 1714) and Rep. Rosa DeLauro (H.R. 481) would address many of the concerns raised in this testimony. According to a summary from the National Partnership for Women and Families, this legislation would authorize paid leave, bringing the United States up to a level with other developed nations. In addition, paid leave

would strengthen a workforce that will need leave at some point in their lives but would hesitate taking leave because there would be no paycheck during that period. History shows that many workers over the past thirty years of FMLA have forgone leave out of that concern.

The FAMILY Act would allow for up to 12 weeks of paid family and medical leave for a majority of workers to care for a new child, a family member or loved one with a serious health condition, or to allow a worker to address their own serious health condition. Leave would also be available for military families facing circumstances arising from a service member's deployment and for survivors of domestic violence, stalking, and sexual assault to seek services related to the violence. According to a summary provided by the National Partnership for Women and Families, family members for whom a worker would be able to provide care include immediate family members and extended blood-related and chosen family. Workers would receive benefit payments on a sliding scale, so that lower-wage workers would receive up to 85 percent of their usual wages with workers at the country's median wage receiving about 70 percent of their usual pay. Workers' jobs would be protected, regardless of the size of the employer they work for or their tenure or hours at their job, allowing them to return to work without facing job loss or retaliation related to their leave.

The National Organization for Women advocates for Senate passage of the FAMILY Act that will go a long way to address the many concerns that women and all workers have about safeguarding their livelihoods while caring for their families.

NATIONAL PARTNERSHIP FOR WOMEN AND FAMILIES
1725 Eye Street, NW, Suite 950
Washington, DC 20006

Statement of Michelle Feit

Organizational Endorsements of the FAMILY Act

On behalf of the undersigned organizations and the tens of millions of working families we represent, **we write in strong support of the Family And Medical Insurance Leave (FAMILY) Act.** The FAMILY Act would create a national paid family and medical leave insurance program to help ensure that people who work can take the time they need to address serious health and caregiving needs. It would help support working families' economic security, promote racial and gender equity, create a more level playing field for businesses of all sizes and strengthen our economy. The FAMILY Act is the national paid family and medical leave plan voters want and our country needs.

The benefits of paid family and medical leave are well documented, yet the vast majority of working people in the United States do not have access to this basic protection. More than 100 million people—or 73 percent of workers—do not have paid family leave through their jobs, and nearly 60 percent lack access to paid personal medical leave through their employer.¹ Access rates for workers in lower-wage jobs are even lower, and advances over the past decade have been concentrated among higher-paid employees, creating even greater disparities between lower- and higher-paid workers.² Even unpaid leave through the Family and Medical Leave Act (FMLA) is inaccessible to 44 percent of working people because of eligibility restrictions, and many who are eligible cannot afford to take unpaid leave.³ This means that when serious personal or family health needs inevitably

¹U.S. Bureau of Labor Statistics. (2023, September). *National Compensation Survey: Employee Benefits in the United States, March 2023* (See Excel tables, Civilian workers, Short term disability and Leave). Retrieved 24 October 2023, from <https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm>.

²Since 2013, access to paid family leave has increased just four percentage points for the lowest-paid workers, to eight percent in 2022, but 22 percentage points for the highest-paid workers, to 44 percent in 2022. U.S. Bureau of Labor Statistics. (n.d.) *Employee Benefits Survey (2010–2022 Excel dataset)*. Retrieved 4 April 2023, from <https://www.bls.gov/ebs/data.htm>.

³Brown, S., Herr, J., Roy, R., & Klerman, J.A. (2020, July). *Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys*. Abt Associates Publication prepared for the U.S. Department of Labor. Retrieved 4 April 2023, from https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018SurveyResults_Final_Report_Aug2020.pdf.

arise, people face impossible choices between their families' well-being, their financial security and their jobs.

Women of color are especially harmed by the lack of paid leave. Racial disparities are stark in meaningful access to leave: about 54 percent of Asian and Pacific Islander workers, 64 percent of Native American workers, 66 percent of Black workers and 69 percent of Latinx workers are either not eligible for or cannot afford to take unpaid FMLA leave.⁴ And even while women of color are so often key breadwinners for their families,⁵ they continue to face punishing wage gaps: for every dollar paid to white men, Asian American, Native Hawaiian and Pacific Islander women are paid as little as 52 cents, as Burmese women are, and overall just 80 cents for every dollar paid to white, non-Hispanic men, Black women 64 cents, Latina women 54 cents and Native American women just 51 cents.⁶ The combination of inequities, including the racial wealth gap, and discrimination also means that families of color may be less able to withstand the financial hardship associated with a serious family or medical event and struggle more to recover their stability afterward.⁷

Paid leave is also an essential support for disabled workers. Disabled workers are also more likely to work in low-wage jobs without access to paid leave. Disabled workers are disproportionately harmed by a lack of paid leave policies that allow them to take care of not only themselves but also their loved ones. The 10 occupations employing the most disabled women pay, on average, \$41,200 per year—\$15,800 less than the average annual wage across the 10 most-common occupations for non-disabled men.⁸ In 2020, disabled people overall earned about 74 cents for every dollar a non-disabled person is paid.⁹ Disabled people are also less likely to be able to come up with emergency funds for unexpected needs.¹⁰ Nationally, subminimum wage for disabled workers is also still permitted. Employment discrimination and payment inequities contributed to the critical need for a paid leave infrastructure for disabled women and their families.

The coronavirus pandemic has highlighted the consequences faced by working people when they lack access to paid leave. Even with widespread access to the COVID-19 vaccine, long-term health and caregiving consequences of the pandemic continue to impact public health and our economy. An estimated 10 to 33 million adults in the United States are affected by long COVID symptoms, including two to four million who are out of work due to long COVID.¹¹ In part due to long COVID, people with disabilities are a growing share of the population and the labor force.¹²

The FAMILY Act would create a strong, inclusive national paid family and medical leave insurance program and set a nationwide paid leave baseline.

⁴ Joshi, P., Walters, A.N., Wong, E., Shafter, L., & Acevedo-Garcia, D. (2023, March 1). Inequitable access to FMLA continues. Retrieved 4 April 2023, from Brandeis University, The Heller School, Institute for Child, Youth and Family Policy website: <https://www.diversitydatakids.org/research-library/data-visualization/inequitable-access-fmla-continues>.

⁵ Glynn, S.J. (2019, May 10). Breadwinning Mothers Continue To Be the U.S. Norm. Retrieved 4 April 2023, from Center for American Progress website: <https://www.americanprogress.org/issues/women/reports/2019/05/10/469739/breadwinning-mothers-continue-u-s-norm/>.

⁶ National Partnership for Women & Families. (2023, March). America's Women and the Wage Gap. Retrieved 4 April 2023, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/fair-pay/americas-women-and-the-wage-gap.pdf>.

⁷ Mason, J. & Molina Acosta, P. (2021, March). *Called to Care: A Racially Just Recovery Demands Paid Family and Medical Leave*. Retrieved 4 April 2023, from National Partnership for Women & Families website: <https://nationalpartnership.org/wp-content/uploads/2023/02/called-to-care-a-racially-just-recovery-demands-paid-family-and-medical-leave.pdf>.

⁸ National Partnership for Women & Families (2023 March). *Women's Work is Undervalued, and It's Costing Us Billions*. Retrieved April 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/04/womens-work-is-undervalued.pdf>.

⁹ The Century Foundation (2022 April). *Economic Justice is Disability Justice*. Retrieved April 2023, from <https://tcf.org/content/report/economic-justice-disability-justice/>.

¹⁰ National Disability Institute (2017). *Financial Capability of Adults with Disabilities*. Retrieved April 2023, from <https://www.ndi-finra-report-2017.pdf>.

¹¹ Burns, A. (2022, August 1). *What are the Implications of Long COVID for Employment and Health Coverage?* Retrieved 4 April 2023, from Kaiser Family Foundation website: <https://www.kff.org/policy-watch/what-are-the-implications-of-long-covid-for-employment-and-health-coverage/>.

¹² Ditkowsky, M. (2023, February 23). *New Data on Disability Employment: Small Gains But Institutional Barriers Remain*. Retrieved 4 April 2023, from National Partnership for Women & Families website: <https://nationalpartnership.org/new-data-on-disability-employment-small-gains-but-institutional-barriers-remain/>.

Workers would earn partial pay, for a limited period of time (up to 60 workdays, or 12 workweeks in a year) to address their own serious health issue, including pregnancy or childbirth; to deal with the serious health issue of a family member, including chosen family; to care for a new child; to address the effects of domestic violence, sexual assault or stalking; and for certain military caregiving and leave purposes. The lowest-paid workers would earn up to 85 percent of their normal wages, with the typical full-time worker earning around two-thirds of their wages. Workers who have been at their job for more than 90 days will have the right to be reinstated following their leave, and all workers will be protected from retaliation. Employees, employers, and self-employed workers would fund both the benefits and the administrative costs of the program by contributing a small amount in each pay period to a self-sustaining fund, administered through a new Office of Paid Family and Medical Leave. Eligibility rules would allow younger, part-time, low-wage and contingent workers to contribute and benefit, regardless of their employer's size or their length of time on the job. States with existing paid leave programs would be empowered to continue running them.

The FAMILY Act builds on data and lessons from successful state programs. California has had a paid family and medical leave insurance program in place since 2004, New Jersey since 2009, Rhode Island since 2014, New York since 2018, Washington and the District of Columbia since 2020, Massachusetts since 2021, Connecticut since 2022, and Oregon since September 2023. And momentum continues to grow: Colorado passed a paid leave law in 2020, Maryland and Delaware in 2022, and Minnesota and Maine in 2023. Evidence from the existing state programs shows their value and affordability; all are financially sound and self-sustaining, and each state that has paid leave in place has or is exploring ways to make it even more accessible to people who need family leave.¹³ Analyses of California's law show that both employers and employees benefit from the program.¹⁴ In New Jersey, the program's costs have been lower than expected,¹⁵ and in New Jersey and New York, small business support for paid leave programs increased after the pandemic began.¹⁶ Research on Rhode Island's program found positive effects for new parents, and a majority of small- and medium-sized employers were in favor of the program one year after it took effect.¹⁷ Paid leave programs also helped states quickly address health and caregiving needs in the early stages of the pandemic.¹⁸

The FAMILY Act would address the range of care needs people face, including the growing need to provide elder care. Changing demographics mean more adults will need elder care and the number of potential family caregivers is shrinking: For every person age 80 and older, the number of potential family caregivers will fall from about seven in 2010 to four by 2030, and then to less than three by 2050.¹⁹ It is also important to note that about three-quarters of people who take family or medical leave each year do so for reasons other than maternity or paternity care, taking leave to care for family members with serious illnesses, injuries

¹³ National Partnership for Women & Families. (2022, February). *Paid Leave Works: Evidence from State Programs*. Retrieved 4 April 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-works-evidence-from-state-programs.pdf>.

¹⁴ Appelbaum, E., & Milkman, R. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy*. Ithaca, NY: Cornell University Press.

¹⁵ Press of Atlantic City. (2010, November 15). *Paid Family Leave/Working Well*. Retrieved 22 March 2023, from <http://www.pressofatlanticcity.com/opinion/editorials/article—0d6ba980-3a1d-56f7-9101-258999b5d9d0.html>.

¹⁶ Bartel, A.P., Rossin-Slate, M., Waldfogel, J. et al. (2021, December 9). Support for Paid Family Leave among Small Employers Increases during the COVID-19 Pandemic. *Socius: Sociological Research for a Dynamic World*, 7. doi: 10.1177/23780231211061959.

¹⁷ National Partnership for Women & Families. (2015, February). *First Impressions: Comparing State Paid Family Leave Programs in Their First Years*. Retrieved 4 April 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/02/first-impressions-comparing-state-paid-family-leave-programs-in-their-first-years.pdf>; Bartel, A., Rossin-Slater, M., Ruhm, C., & Waldfogel, J. (2016, January). *Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights from a Survey of Employers*. Retrieved 4 April 2023, from U.S. Department of Labor website: https://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf.

¹⁸ Boyens, C. (2020, June). *State Paid Family and Medical Leave Programs Helped a Surge of Workers Affected by the COVID-19 Pandemic*. Urban Institute Publication. Retrieved 4 April 2023, from <https://www.urban.org/research/publication/state-paid-family-and-medical-leave-programs-helped-surge-workers-affected-covid-19-pandemic>.

¹⁹ Redfoot, D., Feinberg, L., & Houser, A. (2013, August). *The Aging of the Baby Boom and the Growing Care Gap: A Look at Future Declines in the Availability of Family Caregivers*. AARP Public Policy Institute Publication. Retrieved 4 April 2023, from http://www.aarp.org/content/dam/aarp/research/public_policy_institute/lrc/2013/baby-boom-and-the-growing-care-gap-insight-AARP-ppi-lrc.pdf.

or disabilities or for their own serious health issue.²⁰ The majority of parents, adult children and spouses who provide care for ill family members or family members with disabilities also have paying jobs, and on average work more than 30 hours per week while also managing their caregiving responsibilities.²¹ The majority of military caregivers—and more than three-quarters of caregivers for post-9/11 wounded warriors—are also in the labor force.²²

The FAMILY Act would support improved health outcomes and could lower health care costs. New mothers who take paid leave have improved overall health, reduced likelihood of re-hospitalization and of postpartum depression, and lower likelihood of reporting intimate partner violence.²³ Their children are more likely to be breastfed, receive medical check-ups and get critical immunizations.²⁴ When children are seriously ill, the presence of a parent shortens a child's hospital stay by 31 percent;²⁵ active parental involvement in a child's hospital care may head off future health problems, especially for children with chronic health conditions,²⁶ and thus reduce costs. Paid leave also lets people support older family members with serious health conditions, helping them fulfill treatment plans, manage their care, and avoid complications and hospital readmissions.²⁷ Research has found that California's paid leave program reduced nursing home utilization.²⁸ And, for the millions of families in communities that are struggling with opioid and other substance use disorders, paid leave supports family caregivers, who play a key role in care and recovery by helping loved ones with health care arrangements and treatment.²⁹

The FAMILY Act would also strengthen large and small businesses and support entrepreneurs. Paid leave reduces turnover costs—typically more than one-fifth of an employee's salary³⁰—and increases employee loyalty. In California, nine out of 10 businesses surveyed reported positive effects or no impacts on profitability and productivity after the state's paid leave program went into effect.³¹ Small businesses reported even more positive or neutral outcomes than larger businesses.³² Small business owners from across the nation expect that the FAMILY Act model would help level the playing field with large corporations; improve worker retention, productivity and morale; and help protect their economic security if an accident or

²⁰ National Partnership for Women & Families. (2023, February). *Key Facts: The Family and Medical Leave Act*. Retrieved 4 April 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/02/key-facts-the-family-and-medical-leave-act.pdf>.

²¹ National Alliance for Caregiving. (2020, May). *Caregiving in the U.S.: 2020 Report*. National Alliance for Caregiving and AARP Public Policy Institute Publication. Retrieved 4 April 2023, from <https://www.caregiving.org/wp-content/uploads/2020/05/Full-Report-Caregiving-in-the-United-States-2020.pdf>.

²² Ramchand, R., Tanielian, T., Fisher, M.P., Vaughan, C.A. et al. (2014). *Hidden Heroes: America's Military Caregivers* (Figure 3.8). Retrieved 4 April 2023 from RAND Corporation website: <http://www.rand.org/health/projects/military-caregivers.html>.

²³ Coombs, S. (2020, August). *Paid Leave Is Essential for Healthy Moms and Babies*. Retrieved 4 April 2023, from National Partnership for Women & Families website: <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-is-essential-for-healthy-moms-and-babies.pdf>.

²⁴ Heymann, J., Sprague, A.R., Nandi, A., Earle, A., et al. (2017). Paid parental leave and family well-being in the sustainable development era. *Public Health Reviews*, 38(21). doi: 10.1186/s40985-017-0067-2.

²⁵ Heymann, J. (2001, October 15). *The Widening Gap: Why America's Working Families Are in Jeopardy—and What Can Be Done About It*. New York, NY: Basic Books.

²⁶ Heymann, J., & Earle, A. (2010). *Raising the global floor: dismantling the myth that we can't afford good working conditions for everyone*. Stanford, CA: Stanford Politics and Policy.

²⁷ See e.g., Institute of Medicine. (2008, April 11). *Retooling for an Aging America: Building the Health Care Workforce*, 254. Retrieved March 2023, from <http://www.nationalacademies.org/hmd/reports/2008/retooling-for-an-aging-america-building-the-health-care-workforce.aspx>; Arbaje, A.I., Wolff, J.L., Yu, Q., Powe, N.R., et al. (2008, August). Postdischarge Environmental and Socioeconomic Factors and the Likelihood of Early Hospital Readmission Among Community-Dwelling Medicare Beneficiaries. *The Gerontologist*, 48(4), 495–504. doi: 10.1093/geront/48.4.495.

²⁸ Arora, K., & Wolf, D.A. (2017, November 3). Does Paid Family Leave Reduce Nursing Home Use? The California Experience. *Journal of Policy Analysis and Management*, 37(1), 38–62. doi: 10.1002/pam.22038.

²⁹ Biegel, D.E., Katz-Saltzman, S., Meeks, D., Brown, S., & Tracy, E.M. (2010). Predictors of Depressive Symptomatology in Family Caregivers of Women With Substance Use Disorders or Co-Occurring Substance Use and Mental Disorders. *Journal of Family Social Work*, 13(2), 25–44. doi: 10.1080/10522150903437458.

³⁰ Bahn, K., & Sanchez Cumming, C. (2020, December). *Improving U.S. labor standards and the quality of jobs to reduce the costs of employee turnover to U.S. companies*. Retrieved 4 April 2023, from Washington Center for Equitable Growth website: <https://equitablegrowth.org/wp-content/uploads/2020/12/122120-turnover-costs-ib.pdf>.

³¹ See note 13.

³² *Ibid.*

medical emergency occurs.³³ About two-thirds of small business owners support a national paid family and medical leave policy.³⁴ By including self-employed people, the FAMILY Act would also help entrepreneurs balance the risks of starting a new business with the need to ensure their families' health and security.

National paid family and medical leave has broad support from voters across party lines. Four out of five 2022 voters support a national paid family and medical leave policy, including 70 percent of Republicans, 76 percent of independents and 89 percent of Democrats.³⁵ And qualitative research shows voters prefer a national plan that covers all family relationships and includes employment protections.³⁶

Working families need a nationwide paid family and medical leave standard that is comprehensive, inclusive, and sustainable. The FAMILY Act is the only national paid family and medical leave proposal that reflects what most people in the United States need. We urge you to co-sponsor this essential legislation today, to push for swift and thorough consideration that surfaces the best practices and lessons learned from state policies, and to reject inadequate proposals that would fail to meet the needs of the nation's workforce, families or businesses—and that would do more harm than good.

Sincerely,

National:

1,000 Days, an Initiative of FHI 360
American Association of University
Women

American Muslim Health Professionals Asset Building Strategies

Caring Across Generations
Center for Biological Diversity

Center for Law and Social Policy
(CLASP)

CenterLink: The Community of LGBTQ Centers

Child Welfare League of America
Coalition on Human Needs

COVID Survivors for Change
Family Values @ Work
Federally Employed Women (FEW)
FreeFrom
The Gerontological Society of America
Human Rights Campaign

International Brotherhood of Teamsters
Ipas

Jobs With Justice
La Leche League of the United States of
America, Inc.

Latter-day Saint Democrats

American Academy of Pediatrics
American Civil Liberties Union

American Public Health Association
Campaign for a Family Friendly
Economy

Center for American Progress
Center For Economic And Policy
Research

Center for Science in the Public Interest

ChangeLab Solutions

Children's Defense Fund
Coalition of Labor Union Women, AFL-
CIO

Equal Rights Advocates
Family Values @ Work Action
First Focus Campaign for Children
Futures Without Violence
Health Care Voices
Interfaith Center on Corporate
Responsibility

Institute for Women's Policy Research
Jacobs Institute of Women's Health
Justice for Migrant Women
Lactation Education Resources

League of Women Voters of the United States

³³Main Street Alliance. (2018). *The View from Main Street: Paid Family and Medical Leave, 2018 Report*. Retrieved 4 April 2023, from https://static1.squarespace.com/static/5ff74507e375c93150f0ca32/t/6005b387c50f244ae789e87/1610986375301/MSA_PFML_Report_-_Phase_1_v3.pdf.

³⁴ Lake Research Partners. (2020, October 2). *Small business owners' attitudes on paid family and medical leave*. Retrieved 4 April 2023, from https://irp-cdn.multiscreensite.com/167e816a/files/uploaded/Paid%20Leave%20for%20All_small%20business.pdf?emci=4dc34eed-b40d-eb11-96f5-00155d03affc&emdi=ea000000-0000-0000-0000-0000000000001&cuid=

³⁵ Navigator Research. (2022, September 23). *Paid Family and Medical Leave: A Guide for Advocates*. Retrieved 4 April 2023, from <https://navigatorresearch.org/wp-content/uploads/2022/09/Navigator-Update-09.23.2022.pdf>.

³⁶ Lake Research Partners and MomsRising.org (2018, February). *Interested Parties Memo on Key Findings from Recent Qualitative Research*. Retrieved 4 April 2023, from https://s3.amazonaws.com/s3.momsrising.org/images/MomsRising_LPR_Interested_Parties_memo_on_paid_leave.pdf.

Main Street Alliance	March for Moms
March of Dimes	MomsRising
Mom Congress	Movement Advancement Project
National Association of Social Workers	National Center for Lesbian Rights
National Coalition Against Domestic Violence	National Community Reinvestment Coalition (NCRC)
National Council of Jewish Women	National Education Association
National Employment Law Project	National Immigration Law Center
National Network to End Domestic Violence	National Organization for Women
National Partnership for Women & Families	National Respite Coalition
National Women's Law Center	NETWORK Lobby for Catholic Social Justice
Oxfam America	Paid Leave for All
PAVE	PFLAG National
PHI	Positive Women's Network-USA
Prevent Child Abuse America	Prosperity Now
Public Advocacy for Kids (PAK)	Public Justice Center
Reproductive Freedom for All	ROC United
Service Employees International Union (SEIU)	Shriver Center on Poverty Law
Sojourners	SPAN Parent Advocacy Network
Truah: The Rabbinic Call for Human Rights	The Collaborative
The National Domestic Violence Hotline	The National Women's Health Network
UnidosUS	United Food and Commercial Workers International Union (UFCW)
U.S. Breastfeeding Committee	USOW
Washington Premier Group	Workplace Fairness
Young Invincibles	YWCA USA
ZERO TO THREE	
Alaska:	
Alaska Children's Trust	
California:	
BreastfeedLA	Golden State Opportunity
Legal Aid at Work	
Colorado:	
Clayton Early Learning	
Florida:	
Florida Alliance for Community Solutions, Inc.	
Illinois:	
AIDS Foundation Chicago	Prevent Child Abuse Illinois
YWCA Champaign County	
Indiana:	
AAUW Indiana	AAUW Indianapolis
AAUW Valparaiso	Healthier Moms and Babies
Indiana Association of Area Agencies on Aging	Indiana Coalition Against Domestic Violence
Indiana Community Action Poverty Institute	MCCOY (Marion County Commission on Youth, Inc.)
Sisters of St. Francis, Oldenburg	Thrive Alliance
Kansas:	
First 1,000 Days Kansas/Kansas Breastfeeding Coalition	

Kentucky:

United Food and Commercial Workers
Local 227

Massachusetts:

Jewish Alliance for Law and Social
Action

Michigan:

Oakland Forward Action Fund

Missouri:

Healthy Nourishments, LLC

New Jersey:

Family Voices NJ
NJ Time to Care Coalition

New Jersey Citizen Action

North Carolina:

North Carolina Justice Center

Pennsylvania:

Children First PA

Women's Law Project

Rhode Island:

Rhode Island KIDS COUNT

Vermont:

Hunger Free Vermont

Voices for Vermont's Children

Virginia:

Virginia Breastfeeding Coalition

Washington:

Breastfeeding Coalition of Washington

West Virginia:

TEAM for West Virginia Children

Wisconsin:

Seventh Generation Interfaith Coalition
for Responsible Investment

NATIONAL WOMEN'S LAW CENTER
1350 I Street, NW, Suite 700
Washington, DC 20005
202-588-5180

November 6, 2023

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

RE: Senate Finance Committee Hearing on *Exploring Paid Leave: Policy, Practice, and Impact on the Workforce*

Dear Chair Wyden and Ranking Member Crapo:

The National Women's Law Center (NWLC) appreciates the opportunity to submit a written statement for the record to the Senate Committee on Finance regarding the hearing *Exploring Paid Leave: Policy, Practice, and Impact on the Workforce* held on October 25, 2023.

The National Women's Law Center fights for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. We use the law in all its forms to change culture and drive solutions to the gender inequity that shapes our society and to break down the barriers that harm all of us—especially women of color, LGBTQ people, and women and families with low incomes.

Care is an issue that impacts everyone—at some point, we will all need to provide care for a loved one or receive care ourselves. Yet the U.S. remains one of the only nations in the world with no national paid family and medical leave policy to support caregivers. As a result, people across the country—especially women—are struggling to care for themselves and their loved ones while paying the bills and supporting their families. While the American Rescue Plan Act and other federal pandemic relief measures provided critical support for struggling families and set the stage for a strong jobs recovery, they were temporary. Lawmakers did not make the permanent structural changes needed to address longstanding inequities or ensure widespread job quality. And in the face of the loss of federal supports, rising costs, depleted savings, and ongoing caregiving challenges, the modest wage gains spurred by a tight labor market have not been sufficient for many people working in low-paying jobs to achieve economic security. Working families are still waiting for Congress to take action to remedy the deep gaps in our economic and social infrastructure that have resulted from decades of failure to center the needs of women, people of color, and families.

Working people are struggling without policies that support caregivers.

Only around 25 percent of workers in the United States have access to paid family leave through their employers (*i.e.*, paid time away from work to, for example, care for a family member with a serious health condition or a new baby),¹ and just over 40 percent have paid medical leave to address their own serious health conditions through an employer-provided short-term disability program.² For people working in low-paid and part-time jobs—most of whom are women³—access is even more limited; among workers in the lowest 25 percent of wage earners, for example, only 13 percent have access to paid family leave.⁴ And while men are taking on increasing shares of family caregiving,⁵ women are still spending more time caring for children and other family members,⁶ and are therefore more likely to need paid time off to ensure loved ones receive the medical care and attention that they need.

In 1993, Congress passed the Family and Medical Leave Act (FMLA), which provides eligible workers with unpaid, job-protected leave to care for themselves and their families. In the intervening 30 years, it is estimated that workers have used FMLA leave nearly 463 million times.⁷ Unfortunately, strict eligibility requirements—including employer size thresholds, hours worked requirements, and job tenure minimums—mean that millions of workers never qualify for FMLA leave. And because the FMLA only provides *unpaid* leave, many workers are still forced to choose between providing or receiving care and their own economic security.

The way forward is clear: it is time for Congress to establish paid family and medical leave for all working people.

¹ U.S. Department of Labor, Bureau of Labor Statistics (BLS), “Table 7. Leave benefits by average wage category, private industry workers, March 2022,” *National Compensation Survey: Employee Benefits in the United States*, Sept. 2022, <https://www.bls.gov/ebs/publications/september-2022-landing-page-employee-benefits-in-the-united-states-march-2022.htm>.

² BLS, “Table 5. Short-term disability plans by average wage category, private industry workers, March 2022,” *National Compensation Survey: Employee Benefits in the United States*, Sept. 2022, <https://www.bls.gov/ebs/publications/september-2022-landing-page-employee-benefits-in-the-united-states-march-2022.htm>.

³ Jasmine Tucker and Julie Vogtman, “When Hard Work Is Not Enough: Women in Low-Paid Jobs,” National Women's Law Center, April 2020, <https://nwlc.org/resource/when-hard-work-is-not-enough-women-in-low-paid-jobs>.

⁴ National Compensation Survey: Employee Benefits in the United States, <https://www.bls.gov/ebs/publications/september-2022-landing-page-employee-benefits-in-the-united-states-march-2022.htm>.

⁵ Amanda Lenhart, Haley Swenson & Brigid Schulte, “Lifting the Barriers to Paid Family and Medical Leave for Men in the United States,” New America—Better Life Lab, Dec. 2019, <https://www.newamerica.org/better-life-lab/reports/lifting-barriers-paid-family-and-medical-leave-men-united-states>.

⁶ BLS, “Table 1. Time Spent in Primary Activities and Percent of the Civilian Population Engaging in Each Activity, Averages Per Day by Sex, 2021 Annual Averages,” *American Time Use Survey*, June 2022, <https://www.bls.gov/news.release/at.us.t01.htm>.

⁷ “Key Facts: The Family and Medical Leave Act,” National Partnership for Women & Families, Feb. 2023, <https://nationalpartnership.org/report/fmla-key-facts>.

Paid family and medical leave is a proven solution to help families manage work and care.

In the absence of action by the federal government to establish a universal paid family and medical leave program, several states have passed their own laws. Eleven states and the District of Columbia currently have laws guaranteeing workers paid leave.⁸ The impact of these laws clearly demonstrates the effectiveness of paid leave policies and the benefits felt by workers, businesses, and our overall economy.

- **Paid leave promotes gender equity.** Women working full time, year-round are typically paid only 84 cents for every dollar paid to men; that translates to nearly \$400,000 lost over a 40-year career.⁹ That lifetime loss doesn't account for the women who are pushed out of the labor force each year when their caregiving responsibilities come into conflict with their jobs. Women are particularly likely to struggle as they are overrepresented in low paid and part-time jobs, which are less likely to offer employer sponsored benefits like paid leave.¹⁰ The harm to women's economic security stemming from a lack of paid leave compounds over time: retirement programs like social security and employer-sponsored pensions disadvantage people who take time out of the workforce, including for caregiving responsibilities. In 2019, women on average received around \$5,000 less in annual Social Security benefits than men, driven in part by the gender pay gap and in part by women spending fewer years in the workforce.¹¹ But providing national paid family and medical leave can help narrow these disparities by increasing women's ability to stay attached to the workforce,¹² destigmatizing caregiving for men, and increasing father's involvement in child care.¹³
- **Paid leave improves individual and public health.** Guaranteeing paid time off work means workers are more likely to stay home to recover when they fall ill¹⁴ and their loved ones are more likely to receive necessary medical check-ups¹⁵ and critical immunizations. When new mothers have access to paid leave, they experience improvements in their own physical and mental health, including a decrease in postpartum depression.¹⁶ A national paid leave policy would contribute to improved health outcomes¹⁷ and could help lower health care costs.
- **Paid leave supports a stronger economy.** Research shows that paid leave strengthens businesses of all sizes by reducing turnover costs, increasing em-

⁸“State Paid Family & Medical Leave Insurance Laws,” National Partnership for Women & Families, Oct. 2022, <https://nationalpartnership.org/wp-content/uploads/2023/02/state-paid-family-leave-laws.pdf>.

⁹Jasmine Tucker, “The Wage Gap Robs Women Working Full Time, Year Round of Hundreds of Thousands of Dollars Over a Lifetime,” National Women's Law Center, March 2023, https://nwlc.org/wp-content/uploads/2023/03/lifetime_loss_factsheet_v1.pdf.

¹⁰Brooke LePage, “Part-Time Workers Are Facing Heightened Uncertainty During COVID—and Most Are Women,” National Women's Law Center, Feb. 2022, <https://nwlc.org/resource/part-time-workers-factsheet>.

¹¹Robert Paul Hartley et al., “A Lifetime's Worth of Benefits: The Effects of Affordable, High-quality Child Care on Family Income, the Gender Earnings Gap, and Women's Retirement Security,” National Women's Law Center & Center on Poverty & Social Policy (2021), <https://nwlc.org/wp-content/uploads/2021/04/A-Lifetimes-Worth-of-Benefits-FD.pdf>.

¹²Kelly Jones and Britni Wilcher, “Reducing Maternal Labor Market Detachment: A Role for Paid Family Leave,” Working Paper Series Washington Center for Equitable Growth, March 2020, <https://equitablegrowth.org/working-papers/reducing-maternal-labor-market-detachment-a-role-for-paid-family-leave>.

¹³Chris Knoester, Richard J. Petts & Brianne Pragg, “Paternity Leave-Taking and Father Involvement Among Socioeconomically Disadvantaged U.S. Fathers,” *Sex Roles* 81 (2019), <https://doi.org/10.1007/s11199-018-0994-5>.

¹⁴Kaitlin Piper et al., “Paid Sick Days and Stay-at-Home Behavior for Influenza,” *PLOS ONE* 12, no. 2 (Feb. 2017), <https://doi.org/10.1371/journal.pone.0170698>.

¹⁵Jody Heymann et al., “Paid Parental Leave and Family Well-being in the Sustainable Development Era,” *Public Health Reviews* 38, no. 21 (2017), <https://doi.org/10.1186/s40985-017-0067-2>.

¹⁶Maureen Sayres Van Niel et al., “The Impact of Paid Maternity Leave on the Mental and Physical Health of Mothers and Children: A Review of the Literature and Policy Implications,” *Harvard Review of Psychiatry* 28, no.2 (2020): 113–126, <https://doi.org/10.1097/hrp.0000000000000246>.

¹⁷Lisa Weber-Raley et al., “Burning the Candle at Both Ends: Sandwich Generation Caregiving in the U.S.” National Alliance for Caregiving and Caring Across Generations, 2019, https://caringacross.org/wp-content/uploads/2019/11/NAC_SandwichCaregiving_Report_digital112019.pdf.

ployee loyalty.¹⁸ A national paid family and medical leave policy also helps businesses by minimizing administrative and financial costs,¹⁹ which is particularly important for small business owners. And because paid leave helps improve women's labor force participation,²⁰ implementing strong care policies could help increase the country's gross domestic product (GDP) by at least 5 percent²¹—or over a trillion dollars of economic growth.

- **Paid leave helps combat racial inequality.** Workers of color are less likely to have access to paid family and medical leave than white workers.²² At the same time, Black women are more likely to be both primary breadwinners and caregivers in their families.²³ And when faced with an unforeseen illness or caregiving need, the racial and gender wealth gaps²⁴ in this country mean that women of color and their families are less likely to have the economic resources to allow them to take time away from work. Providing all workers with paid time to care would help close these gaps, while also improving persistent racial health disparities.²⁵

There is also evidence from the national level that paid leave is effective. In 2020, Congress passed the Families First Coronavirus Response Act (FFCRA),²⁶ which provided some employees with up to 10 weeks of paid, job-protected “public health emergency leave” for parents caring for children whose school, child care provider or usual source of care had closed. Research shows that the law helped flatten the curve²⁷ in the early days of the pandemic and was cost effective, with a lower price tag than the government initially predicted.²⁸ But the FFCRA paid leave program expired in 2021, and no action has been taken since.

We appreciate the Committee's bipartisan recognition of the urgency in solving the crisis caused by a lack of paid leave. But the design of a paid family and medical leave program is critical to ensuring that the law has the desired impact of supporting working families and making sure that workers aren't left behind.

Some opponents of comprehensive paid family and medical leave assert that as a result of the 2017 Tax Cuts and Jobs Act, employers are offering higher pay and better benefits to employees. Indeed, we heard similar arguments made at the hearing, suggesting that employer flexibility is the key to implementing paid leave. In fact, data indicate that rather than increasing investments in their workers as a result of the 2017 law, businesses issued record stock buybacks benefiting executives, boards of directors, and shareholders.²⁹ While some employers in a limited number

¹⁸ Brigid Schulte et al., “Paid Family Leave: How Much Time is Enough?” New America—Better Life Lab, June 2017, <https://www.newamerica.org/better-life-lab/reports/paid-family-leave-how-much-time-enough/economic-impact>.

¹⁹ Danielle Corley, “Paid Leave is Good for Small Business,” Center for American Progress, Oct. 2016, <https://www.americanprogress.org/article/paid-leave-is-good-for-small-business>.

²⁰ Tanya S. Byker, “Paid Parental Leave Laws in the United States: Does Short-Duration Leave Affect Women's Labor-Force Attachment?” *American Economic Association* 106, no. 6 (May 2016): 242–46, <https://doi.org/10.1257%2Faer.p20161118>.

²¹ Beth Ann Bovino and Jason Gold, “The Key to Unlocking U.S. GDP Growth? Women,” S&P Global, 2017, https://www.spglobal.com/Media/Documents/03651.00_Women_at_Work_Doc.8.5x11-R4.pdf.

²² Julia M. Goodman, Dawn M. Richardson & William H. Dow, “Racial and Ethnic Inequities in Paid Family and Medical Leave: United States, 2011 and 2017–2018,” *American Journal of Public Health* 112, no. 7 (2022): 1050–1058, <https://doi.org/10.2105/AJPH.2022.306825>.

²³ Sarah Jane Glynn, “Breadwinning Mothers Are Critical to Families' Economic Security,” Center for American Progress, March 2021, <https://www.americanprogress.org/issues/women/news/2021/03/29/497658/breadwinning-mothers-critical-familys-economic-security>.

²⁴ Brooke LePage and Jasmine Tucker, “A Window Into the Wage Gap: What's Behind It and How to Close It,” National Women's Law Center, Jan. 2023, <https://nwlc.org/wp-content/uploads/2023/01/2022-Wage-Gap-Factsheet-1.10.23.pdf>.

²⁵ Daria Grayer et al., “Paid Leave: A Health Justice Imperative for Maternal Mental Health,” AAMC Center for Health Justice, Nov. 2022, <https://www.aamchealthjustice.org/news/policy/paid-leave>.

²⁶ Families First Coronavirus Response Act, Pub. L. No. 116–127, <https://www.congress.gov/116/plaws/publ127/PLAW-116publ127.pdf>.

²⁷ Stefan Pichler, Katherine Wen, & Nicolas R. Ziebarth, “COVID–19 Emergency Sick Leave Has Helped Flatten The Curve In The United States,” *Health Affairs* 39, no. 12 (Oct. 2020), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.00863>.

²⁸ “COVID–19: Urgent Actions Needed to Better Ensure an Effective Federal Response,” United States Government Accountability Office, Report to Congressional Committees, Nov. 2020, <https://www.gao.gov/assets/gao-21-191.pdf>.

²⁹ National Women's Law Center, Two Years Later: The Impact of the 2017 Tax Law on Women & Families (Dec. 2019), <https://nwlc.org/resources/two-years-later-the-impact-of-the-2017-tax-law-on-women-families/>.

of sectors have been increasing paid family and medical leave policies, women, people of color, and low-wage workers are least likely to work within those sectors.³⁰ Further, provisions of the 2017 tax law, such as the pass-through deduction, may have incentivized companies to provide fewer, rather than more, benefits and protections to workers.³¹ Thus, the evidence demonstrates that the 2017 tax law did not lessen the need for comprehensive, national paid family and medical leave.

Years of progress in states have helped researchers identify components that make a strong paid family and medical leave program. When creating a national paid leave program, it is critical that that Congress crafts a policy that is inclusive, comprehensive, and builds on common sense solutions tested at the state level.

A national paid family and medical leave policy must include:

- **Meaningful duration and progressive wage replacement rate.** A paid family and medical leave program must provide at least 12 weeks of paid leave and replace all or most wages during leave to ensure that working people—especially those in low-paid jobs—can meaningfully access the benefit.
- **Broad coverage and job protection.** Paid family and medical leave must be available to all working people, including part-time workers and independent contractors. It must also give workers access to benefits quickly and guarantee that all workers are protected from retaliation for taking leave, can continue health insurance coverage during leave, and have the right to return to their jobs following leave.
- **Expansive and inclusive uses.** A strong paid leave policy must ensure that working people may take leave to care for themselves and their loved ones, including spouses, domestic partners, parents, children of any age, siblings, grandparents, grandchildren, and other individuals who comprise someone's "chosen family."
- **Stable funding source.** A national paid family and medical leave plan must be funded with new revenue—not through cuts or reductions to existing benefits from programs on which people rely. Small contributions shared by employers and working people will create a system to equitably and sustainably fund a permanent national paid leave program.

The Family and Medical Insurance Leave (FAMILY) Act, first introduced over a decade ago and strengthened this Congress, was the first comprehensive national paid family and medical leave plan designed to provide people, especially women and families, with the supports they need. The FAMILY Act builds on the progress made at the state level and represents the gold standard of federal paid leave proposals.

Building an economy that works for all people requires us to address not only the long-term impacts of the pandemic on women of color and women more generally, but also the deep underlying flaws in our social infrastructure that have long harmed women of color and their families. Paid family and medical leave is a vital part of how we build a new and better economy that finally works for women—and for all of us.

Sincerely,

Laura Narefsky
Senior Counsel, Workplace Justice

NEW AMERICA, BETTER LIFE LAB
740 15th Street, NW, Suite 900
Washington, DC 20005
Phone: 202-986-2700
<https://www.newamerica.org/>

October 25, 2023

Chairman Ron Wyden
Ranking Member Mike Crapo
U.S. Senate
Committee on Finance

³⁰ PL+US Employer Trends Report, Paid Leave for the U.S. (PL+US) (2019), <https://paidleave.us/plusemployertrendsreport>.

³¹ Brendan Duke, *Pass-Through Deduction in 2017 Tax Law Could Weaken Wages and Workplace Standards*, Ctr. on Budget and Pol'y Priorities (Dec. 2018), <https://www.cbpp.org/research/federal-tax/pass-through-deduction-in-2017-tax-law-could-weaken-wages-and-workplace>.

219 Dirksen Senate Office Building
Washington, DC 20510–6200

Re: October 25, 2023 full committee hearing: *Exploring Paid Leave: Policy, Practice, and Impact on the Workforce*

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

Thank you for convening this hearing, which is the first ever held by the full Senate Finance Committee focused exclusively on paid family and medical leave. I am a gender equity and work-family policy expert, and it has been my pleasure to testify and submit letters to Congress numerous times over the past decade about the need to guarantee universal access to meaningful paid family and medical leave as a national policy priority. I write today as a senior fellow at New America, a 501(c)(3) think tank “dedicated to renewing, reimagining, and realizing the promise of America in an era of rapid technological and social change,” though the views expressed here are my own.

The testimony and discussion at this hearing will undoubtedly build on the evidentiary record created in both the House and Senate over many years of committee hearings and congressional fact-finding.¹ That record includes data, analysis, and testimonials about: the value of paid leave for workers, families, smaller and larger businesses, and the economy; the multiple harms and costs of legislative inaction; and workable policy models and best practices for both delivering paid leave benefits and the importance of extending unpaid leave protections beyond the coverage of the 1993 Family and Medical Leave Act (FMLA).

We often invoke values of freedom and family in this country, but our country’s current approach to people’s need to care for themselves and their loved ones does not honor or respect these values. A brief review of workers’ variable, disparate and often precarious access to paid leave reveals a nation of “haves” and “have-nots” when it comes to the ability to take paid time away from work to care for ourselves and our loved ones.

Employers as Gatekeepers Between Workers and their Families in Times of Need. Employers are gatekeepers to most workers’ ability to care and provide for loved ones. For the vast majority of workers, the gate is closed.

Just 27 percent of private sector workers² have paid family leave through their jobs, according to the Bureau of Labor Statistics (BLS) as of March 2023. Access for workers in the top decile of earners is 10 times greater³ than for the lowest decile of earners (51 percent, still only a bare majority, vs. 5 percent)—and the gap has been growing over the past decade rather than shrinking. In addition, only about

¹Prior Senate hearings and roundtables on paid family and medical leave include: Senate HELP Committee, July 2021 (<https://www.help.senate.gov/hearings/paid-leave-for-working-families-examining-access-options-and-impacts>); Senate Finance Bipartisan Working Group on Paid Leave, June 2020 (<https://www.finance.senate.gov/hearings/paid-leave-proposals-in-the-covid-era>); Senate Finance Subcommittee on Social Security, Pensions and Family Policy, July 2018 (<https://www.finance.senate.gov/imo/media/doc/39619.pdf>); Senate HELP Subcommittee on Children and Families, July 2014 (<https://www.help.senate.gov/hearings/paid-family-leave-the-benefits-for-businesses-and-working-families>).

Prior House hearings include: House Oversight and Reform Select Subcommittee on the Coronavirus, July 2022 (<https://www.govinfo.gov/content/pkg/CHRG-117hhrg47667/html/CHRG-117hhrg47667.htm>); House Ways & Means Markup of the Build Back Better Act, Sept. 2021; House Oversight and Reform, July 2021 (<https://oversightdemocrats.house.gov/legislation/hearings/leading-by-example-the-need-for-comprehensive-paid-leave-for-the-federal>); House Ways & Means Committee, April 2021 (<https://democrats-waysandmeans.house.gov/legislation/hearings/full-committee-hearing-their-own-words-paid-leave-child-care-and-economy-failed>); House Education and the Workforce Subcommittee on Worker Protections, February 2020 (<https://democrats-edworkforce.house.gov/hearings/balancing-work-health-and-family-the-case-for-expanding-the-family-and-medical-leave-act>); House Ways & Means Committee, January 2020 (<https://democrats-waysandmeans.house.gov/legislation/hearings/legislative-proposals-paid-family-and-medical-leave>); House Ways & Means Committee, May 2019 (<https://democrats-waysandmeans.house.gov/legislation/hearings/paid-family-and-medical-leave-helping-workers-and-employers-succeed-0>); House Education and the Workforce HELP Subcommittee, July 2018 (<https://democrats-edworkforce.house.gov/hearings/hr-4219-workflex-in-the-21st-century-act>); House Education and the Workforce Subcommittee on Worker Protections, April 2017 (<https://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=401520>); House Education and the Workforce Subcommittee on Worker Protections, April 2013 (<https://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=326446>).

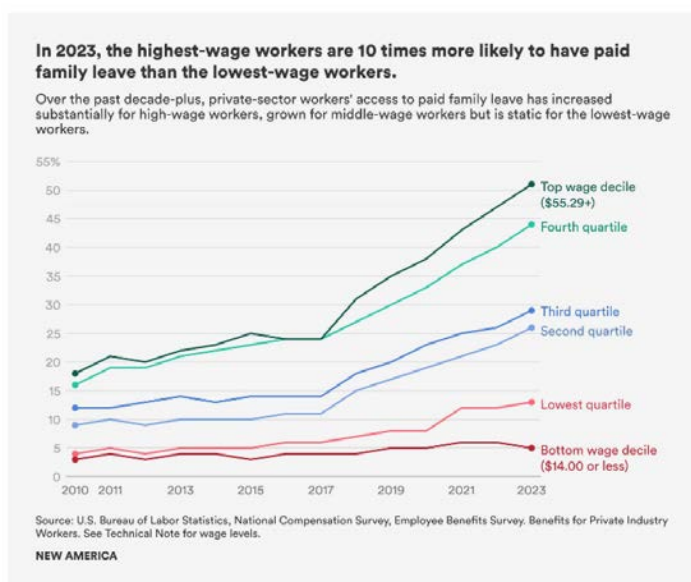
²<https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm>.

³<https://www.newamerica.org/better-life-lab/blog/bls-family-leave-2023/>.

four in 10 workers⁴ have paid medical leave through an employer-provided short-term disability insurance plan for their own serious personal health issue.

The percentage of workers with access to employer-provided paid family leave has grown over the past decade, from 12 percent to 27 percent, but not evenly across industry, occupation, region, or wage level—and not nearly enough given the tens of millions of workers without paid family leave. Short-term disability insurance access rates have been relatively static. It would take well beyond the year 2100 to create universal access to paid family and medical leave if the private sector were left to its own devices.

In December 2017, Congress enacted the 45S paid family and medical leave tax credit⁵ and subsequently extended the availability of the credit through the end of 2025, but this nudge to incentivize employers to provide paid leave does not seem to have made an appreciable difference. BLS data shows that access to paid leave is higher and has grown more for higher-wage workers (for whom employers cannot seek the credit), and has grown more modestly for some lower-wage workers and hardly at all for the lowest wage workers for whom employers can seek the credit. Temporary disability insurance access has increased for some workers, but the gains have been modest and most middle- and lower-wage workers do not have coverage.



IRS data show that the 45S credit isn't widely used. In the 2020 tax year, only 1230 firms nationwide filed claims for 45S credits,⁶ according to a review of the most IRS recent data—a tiny proportion of all firms in the country. In addition, an overwhelming share of federal dollars spent on the credit are flowing to higher-revenue firms: of the \$101 million given to firms in tax credits between July 2020 and June 2021, \$89 million went to pay 180 claims from firms with over \$1 billion in revenue, whereas the remaining \$12 million went to the other 1000+ lower-revenue, perhaps smaller, firms. Finally, there's no indication whether these firms are using the credit to expand access to new benefits or simply to offset existing costs of paid leave they had already been providing; there is also no information about the number of employees who have been able to take leave or the quality of the leave they are provided by duration, purpose or wage replacement rate (the 45S credit is available for

⁴ <https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm>.

⁵ <https://www.irs.gov/newsroom/section-45s-employer-credit-for-paid-family-and-medical-leave-faqs#:~:text=Internal%20Revenue%20Code%20Section%2045S,on%20family%20and%20medical%20leave.>

⁶ <https://home.treasury.gov/system/files/131/Section-45S-Claims-Tables-10172023.pdf>.

employer plans that offer as little as two weeks of leave at 50 percent pay, for one FMLA purpose).

States as Laboratories for Experimentation and Coverage. State-created comprehensive paid family and medical leave programs are the one mechanism that has dramatically increased access for workers, no matter their employer, their job, or their wage level.

As of October 2023, 13 states plus the District of Columbia⁷ have adopted paid leave programs that extend eligibility in a state to all or most private sector workers based on well-defined criteria; nine of these are currently operational (California, Connecticut, D.C., Massachusetts, New Jersey, New York, Oregon, Rhode Island and Washington), a tenth will begin paying benefits to eligible applicants in January 2024 (Connecticut), and four more will begin to operate fully in 2026 (Delaware, Maine, Maryland, and Minnesota).

Paid leave is not a new or experimental idea in the United States. The oldest paid family leave program in the country (California) has been providing security to workers for nearly 20 years (since mid-2004); the second oldest, New Jersey, has been in operation for nearly 15 years (since mid-2009); the third, Rhode Island, has been in place for nearly 10 years (since mid-2014). New York's program began providing benefits in 2018. These four states had pre-existing temporary disability insurance programs to build on. Newer state programs—Washington state and Washington, D.C. (beginning in 2020), Massachusetts (beginning in 2021), Connecticut (beginning in 2022), and Oregon beginning not even two months ago in September 2023—all built new programs from scratch and have shown their ability to deliver benefits to workers as well as shed light on the best ways to structure and resource a new program.

Working people use paid leave programs judiciously to care for themselves and their loved ones. State program data show that only a small share of workers⁸ use these programs in a year (no more than 6.3 percent in one state (RI) in 2021 and typically a far smaller 3 percent share in others in the most recent year for which data is available) and, if anything, they have been underutilized.⁹ Underutilization has been due, in part, to low wage replacement rates that were part of original program structures and have since been improved in most places; lack of job protections, which have now been improved but are still imperfect in some places; and low levels of awareness, which states are now intentionally seeking to address earlier on. The older programs in California, New Jersey, Rhode Island and New York have been improved multiple times to be responsive to workers' and families' needs. These findings provide useful lessons for crafting new state programs and—one day, soon—a federal program.

Elements of Comprehensive State Paid Leave Program Coverage and Benefits. State paid leave programs cover workers with recent earnings or work history, regardless of their job or their employer, in most cases. They provide anywhere between 60% and 100% of a worker's typical wages¹⁰ up to a weekly cap, for a period of time (12 weeks is most common)¹¹ to care for a new child, a seriously ill injured or disabled loved one, or a workers' own serious health issue. Some state programs also cover leave for military families when a loved one's deployment triggers caregiving needs for family members and/or for circumstances related to domestic violence. Most workers claim benefits by applying to a state agency, which reviews and approves or denies claims, operates an adjudication system, and ensures program integrity.

These programs are sustainably funded¹² through small payroll deductions from workers, employers, or both (often with contribution exemptions for the smallest employers). Small businesses in these states benefit from, and are not harmed by these programs. In fact, in states with the longest-standing paid leave programs, Cali-

⁷ <https://www.newamerica.org/better-life-lab/briefs/explainer-paid-and-unpaid-leave-policies-in-the-united-states/>.

⁸ https://www.datawrapper.de/_/f0R9V.

⁹ <https://nationalpartnership.org/wp-content/uploads/2023/02/meeting-the-promise-of-paid-leave.pdf>.

¹⁰ https://www.datawrapper.de/_/d7HGz.

¹¹ https://www.datawrapper.de/_/zqft6.

¹² https://www.datawrapper.de/_/D7vN6.

fornia,¹³ New Jersey,¹⁴ Rhode Island,¹⁵ and New York,¹⁶ small employers are supportive of paid leave programs and overwhelmingly report positive or neutral effects on productivity, morale, loyalty, and the ease of dealing with employees' leaves.

Voluntary Programs. There are other state models aimed at creating pathways for employers to offer paid leave to their workers, but these have not expanded paid leave access in appreciable ways. For example, New Hampshire created a pooled fund run and operated by a private insurer¹⁷ that employers can choose to pay into; individuals whose employers do not provide coverage can choose to individually insure themselves beginning in 2024. In the first year of the New Hampshire program, only a tiny fraction of employers bought into the state plan, which means that the share of workers with access to paid leave is unlikely to have increased appreciably, if at all. Vermont is experimenting with this same approach; private employers are able to buy in now, with coverage that begins in January 2024. Watching these two states in 2024 will provide important information about the effectiveness and reach of this approach.

Virginia and a few other states have created a process to license private insurers to expand their lines of coverage from short-term disability insurance to family leave insurance. This option has been open to insurers in Virginia for more than one year, but—as of October 2023, only one insurer has secured the ability to offer a paid family leave product to sell to employers in the commonwealth of Virginia, and only two insurers, including the one that was approved, have tried. It is too early to find data whether insurers will choose to offer this product in the other states, which passed legislation in 2023. And there is currently no way to tell whether employers are buying the lone insurer's product that is offered in Virginia or to predict whether they will buy private insurance in other states. If short-term disability insurance purchase is any guide, the answer is that employee coverage will be disparate by job, industry and wage level, and far from universal.

The Current Patchwork Perpetuates Compounding Inequality. The status quo—with employers as gatekeepers and states divided into have- and have-not geographies—translates into vast inequalities in workers' access to paid leave and both families' and small business' access to support. For larger companies, different rules mean employees in one state may have different benefits than workers in another even within the same firm. Inequality in access to paid leave perpetuates inequities in economic security, wealth, health, and employment in ways that particularly disadvantage women, people of color, and people with low incomes.

Geographic and employer variation also disproportionately harm rural communities. According to original research¹⁸ I had the privilege to collaborate on with researchers at the University of North Carolina in 2022, people in rural communities must travel three to five times further¹⁹ than people in metro areas to seek six major kinds of hospital-based services (OB, NICU, pediatric care, cancer screening, cancer treatment, and cardiac care) and nursing home care. At the same time, workers in rural areas—especially women—are less likely to have access to paid time away from work²⁰ for health or caregiving reasons than those in metro areas. Our research concluded that paid leave is a rural health, labor force, and economic development imperative.

It Is Well Past Time To Establish a National Paid Leave Program. Today, more than 30 years after the FMLA went into effect, millions of people in this country (an estimated 44 percent of the workforce) still do not have any federal family or medical leave protections because of the FMLA's exclusion of businesses with fewer than 50 employees within a 75-mile radius and restrictive eligibility rules for workers, which require a year of tenure and at least 1,250 hours of work for one's employer within the past year. And, as explained above, millions more do not have

¹³ <https://www.cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

¹⁴ <https://www.cepr.net/documents/nj-fli-2014-06.pdf>.

¹⁵ https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf.

¹⁶ https://www.nber.org/papers/w28672?utm_campaign=ntwh&utm_medium=email&utm_source=ntwh1.

¹⁷ <https://www.paidfamilymedicalleave.nh.gov/>.

¹⁸ <https://www.newamerica.org/better-life-lab/reports/health-work-and-care-rural-america/key-findings>.

¹⁹ <https://www.newamerica.org/better-life-lab/reports/health-work-and-care-rural-america/distances-to-travel-to-hospital-based-health-care>.

²⁰ <https://www.newamerica.org/better-life-lab/reports/health-work-and-care-rural-america/lack-of-paid-leave-as-a-barrier-to-care-health-and-economic-security/#c-additional-insights-on-access-to-paid-leave-in-rural-america>.

paid leave to use through their jobs when a child arrives or a family member needs care, or a serious health issue of their own requires time away from work.

The federal government has taken steps toward universal paid leave. In 2014–2016, DOL funds helped spur state paid leave innovation and study, to expand access to more workers. The 2017 federal paid leave 45S tax credit, while ineffective, revealed an interest in a national approach. In 2019, the federal government created new rights for parents in the federal workforce in the bipartisan NDAA. In 2020, the bipartisan Families First Coronavirus Response Act included a first-ever, limited paid sick and child care leave benefit. In 2021, the House passed the first-ever comprehensive paid family and medical leave program in the Build Back Better Act. All of these steps, plus lessons about paid leave benefits and administration at the state level, shows us what a national paid leave program should include and offers models for how such a program could be structured.

As detailed in this short article,²¹ a well-designed, well-implemented, and well-funded comprehensive national paid leave program that follows best-practices from state programs and looks like other models Congress has considered before²² (e.g., the Build Back Better Act as approved by the House Ways & Means Committee) and currently before it (The Family and Medical Insurance Leave Act)²³ would improve the economic security and health of individuals; contribute to a stronger and more inclusive labor force; support thriving large and small businesses and promote entrepreneurship; and help grow the economy. It would also advance gender, racial and economic equity, reduce health disparities and promote the efficient use of health resources and other public expenditures.

A national program should:

- **Make at least 12 weeks of paid leave available to all workers** so that they can address their serious personal and family medical and caregiving needs. This treats all of the caregiving needs people have as equally important and valuable; it minimizes the risk of unintended consequences with respect to gender or age discrimination; and it is particularly beneficial for women and people of color, who are least likely to have meaningful paid leave provided by employers but are more likely to take on family caregiving responsibilities. This federal standard would set a meaningful and familiar baseline that serves the needs of the vast majority of workers who need leave. It is also consistent with most state programs—though some state programs provide even more time.
- **Have eligibility rules that are inclusive of all working people**, whether full-time or part-time; in the private-, non-profit, or public-sector; traditional employees, self-employed and independent workers; younger workers; people with intermittent work histories; and people with limited earnings but recent attachment to the labor force.
- **Replace a high share of wages, or all wages, for lower-wage workers** while providing middle-wage workers at least two-thirds of their wages, using a sliding scale for wage replacement. This reflects important lessons from state paid leave programs and international experience, and incorporates recommendations of leading researchers.
- **Include family caregiving rules that reflects the diversity of caregiving relationships people have.** This reflects state best practices: virtually all states with paid leave programs now provide paid leave for workers to care for loved ones beyond immediate family and several include family members related by affinity as well as blood.
- **Ensure that all paid leave is job protected** so that workers feel secure using the paid leave that is available without risking job loss; this is especially important in any system that is funded fully or partially through worker contributions. Anti-retaliation protections for all workers are also very important.
- **Harmonize federal and state programs' administration** so that workers in states where paid leave is available and either equal to or more generous than a federal program can maintain the value of their state policies and state benefit administration. Federal legislation should provide states the time and fi-

²¹ <https://www.newamerica.org/the-thread/seven-outcomes-of-implementing-a-universal-paid-leave-policy-in-the-united-states/>.

²² <https://www.urban.org/research/publication/evolution-federal-paid-family-and-medical-leave-policy>.

²³ <https://www.congress.gov/bills/118th-congress/senate-bill/1714>.

nancial resources they need to adapt their existing programs to a new federal landscape. It should also create rules for employers who operate across multiple states that honor state-level benefits, especially where those benefits exceed federal benefits, while also acknowledging these employers' unique need to harmonize benefits across states.

- **Offer assistance for small businesses** so that small employers—like their workers—are grateful beneficiaries of this new benefit. Research from states shows the value of paid leave programs for small businesses in terms of attracting and retaining workers, helping to navigate employees' absences, and promoting productivity, among other positive outcomes.
- **Include resources for agency implementation, research, outreach and enforcement** so that the promise of the program can be realized. State paid leave experience underscores the importance of continued investments in ensuring people understand and can use the benefits available and in analyzing the way benefits are delivered to ensure equitable utilization.

Paid leave rewards work and helps build a strong economy at the same time as it supports families. It strengthens people's attachment to the workforce and promotes employee retention while honoring people's responsibilities to their loved ones. It also reflects values that unite us, like love, responsibility, care, dignity, freedom, and family.

A national paid family and medical leave program isn't a "nice to have" and is not experimental. It's essential. I urge you to address both the needs and the desires of the American public, who—across demographic, ideological and regional lines—have long been overwhelmingly supportive of national action on paid leave.

When Congress enacts a national paid leave plan, the United States will no longer force working people, families, or businesses to go it alone. It is well past time to make access to meaningful, inclusive, comprehensive paid family and medical leave a reality for every working person in the United States, no matter where they live, work, their job, or their serious care or health need.

With appreciation for the committee's time, attention, and care,

Vicki Shabo

Senior Fellow for Gender Equity, Paid Leave, and Care Policy and Strategy
Better Life Lab at New America

1,000 DAYS
An Initiative of FHI 360
2101 L Street, NW, Suite 700
Washington, DC 20037

October 26, 2023

This week, the Senate Finance Committee held a hearing on paid leave, highlighting the critical need for family and medical paid leave and how our current patchwork of paid leave policies falls short of supporting all infants and families. It also confirmed the importance of paid leave for workers, businesses, and the country.

While there have been some gains in paid family leave over the past five years, the Bureau of Labor Statistics shows that only about 1 in 4 employees (27 percent)¹ in the private sector workforce have access to paid family leave. Access to paid family leave is lower among those receiving lower wages or working part-time. People of color also have less access to paid family leave than their white counterparts.

This lack of paid family leave means parents are often forced to choose between taking time off from work to care for their young children and earning the income they need to support their families. It means that 1 in 4 women in America² return to work just 2 weeks after giving birth, putting their health and that of their infant at risk. Policies that enable parents to spend time nurturing and caring for their babies—particularly in the early weeks after birth and for babies that are born pre-term, low birthweight or with illness—are critical to the healthy cognitive, social, and emotional development of children.

¹ <https://www.bls.gov/ebs/factsheets/family-leave-benefits-fact-sheet.htm>.

² <https://inthesetimes.com/article/the-real-war-on-families>.

We applaud state, local and business-level efforts to increase access to paid family leave, but it is not enough to address this public health crisis. We need a national paid family and medical leave program that is comprehensive and covers all workers, including small business employees and the self-employed. Paid leave is the biggest obstacle to working women in the U.S. in the 1,000-day window and can reduce racial and ethnic health disparities. Our 2020 qualitative paid leave report³ highlights real stories from families without access to paid leave and the detrimental impacts it had on their family, including their health and the health of their baby.

We appreciate the Senate Finance Committee's thoughtful attention to this issue. We call on Congress to take the next step, moving legislation to enact a comprehensive national paid leave policy that supports mothers and families and ensures children get the strongest start to life.

Solianna Meaza
Interim Initiative Director

OXFAM AMERICA
1101 17th Street, NW, Suite 1300
Washington, DC 20036 USA
TEL +1 (202) 496-1180
FAX +1 (202) 496-1190
<https://www.oxfamamerica.org/>

October 25, 2023

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee,

Thank you for the opportunity to submit a statement for the record for the hearing on "Exploring Paid Leave: Policy, Practice and Impact on the Workforce." Oxfam is a global organization whose mission is to fight inequality to end poverty and injustice. As part of that mission, we advocate for economic justice and gender equality. Domestically in the US, we conduct research and advocate for policies that improve the well-being of workers, working families, and their communities.

We focus on labor and care policies that directly or disproportionately impact low-wage workers, who are disproportionately women and people of color.¹ We believe that policies that improve conditions for the most marginalized workers raise standards for all workers, while helping to fight gender, racial, and economic inequality. These include policies to support unpaid caregivers and care workers, as care work is not only inherently valuable, but it also makes all other work possible. Policies centering care are essential to supporting workers and working families; they have the potential to lift people out of poverty; and because women are often responsible for a disproportionate share of unpaid care work, they can help fight gender inequality.

Providing paid family and medical leave to all workers will help workers care for themselves and their families without having to sacrifice their livelihoods. Low-wage workers are less likely to have access to any form of leave, and they are more likely to face harmful financial consequences from taking leave. This especially harms women and people of color, who are overrepresented in the low-wage workforce. With access to paid family and medical leave, workers will not be forced to choose between caring for themselves and their families, and keeping their jobs.

One crucial way to work toward a more equitable and prosperous United States is to provide paid family and medical leave to all workers. Oxfam's research and analysis demonstrates that while the US is far behind its economic peer nations when it comes to supporting workers and working families, there are models both in US states and peer nations that demonstrate the benefits of paid family and medical leave to both the economy and the well-being of working families.

We appreciate the attention the Committee has given to this topic.

Congress Can Support Workers, Caregivers, and Working Families

The workforce is the backbone of our economy. The paid and unpaid labor people do outside and within their homes is what keeps this country running. But without

³ https://thousanddays.org/wp-content/uploads/Qualitative-paid-leave-report_FINAL-single-pages-1.pdf.

¹ Oxfam America, "The Crisis of Low Wages in the U.S.: Who Makes Less Than \$15 an Hour in 2022," March 21, 2022 at https://webassets.oxfamamerica.org/media/documents/low_wage_report_2022_final.pdf.

workplace policies that allow them to care for themselves and their families, we strip workers of their dignity, cause workers and caregivers harm, and devalue care work. Paid family and medical leave is a critical policy that contributes to workers' and their families' financial security and their physical, mental, and emotional well-being. This is especially true for workers who are women and people of color, groups who are least likely to have paid family and medical benefits through their employer or due to the state in which they live.

Oxfam America's *US Care Policy Scorecard*,² developed together with the National Partnership for Women and Families, the National Women's Law Center, and Notre Dame University, analyzes 30 federal policy indicators related to unpaid care work, underpaid care work, and workplace policies in the US. Under this analysis, the US scores a shameful 43% overall. Under our category of "Care Supporting Workplaces," the US scores a 7%, in part because there is no federally mandated paid leave of any kind in this country. This shows that we are failing at ensuring workplaces meet the needs of our paid workforce, especially by providing workers with the support needed to provide and receive care at home.³

Examples from US States and Peer Nations Show Paid Family and Medical Leave Policies Contribute to a Strong Economy

The United States is the only economically advanced country that does not guarantee a single day of paid family or sick leave for its workers. In Oxfam America's 2023 report, *Where Hard Work Doesn't Pay Off*, we analyze 56 policies across all 38 OECD member nations in three key dimensions: wages, worker protections, and rights to organize. In all three categories, the US ranks near-last or last among our economic peer nations. In other OECD countries, new parents are guaranteed months of paid leave to care for and bond with their new children, while in the United States new parents are guaranteed zero paid days off. Our research comparing the US to its economic peers shows that critical workplace and caregiving policies like paid family and medical leave are in fact a key part of a robust workforce and thriving economy.⁴

In 2023, Oxfam released our fifth annual *Best and Worst States to Work in America* and *Best States for Working Women Index*, which analyzes 26 policies in all 50 states plus Washington, D.C., and Puerto Rico. Our report rank states from best to worst across three policy dimensions: wages, worker protections (including paid family and medical leave), and rights to organize. Our *Best States for Working Women Index* looks specifically at labor policies that directly or disproportionately impact working women, including paid family and medical leave. Our research not only highlights effective state-level models for paid leave programs, but it also finds that states with stronger labor policies experience better measures of household income, GDP per capita, food security, and even lower rates of infant mortality. Minnesota's new paid leave program, for example, is comprehensive, providing up to 20 weeks of paid leave for private, public, and part-time employees, and extending "safe leave" coverage for survivors of sexual or domestic violence. Further, the policy's definition of family is expansive, recognizing that workers may routinely care for people to whom they aren't legally or biologically related. Examples from US states demonstrate that a federal paid family and medical leave policy will have beneficial impacts on our country's economy and its workforce.⁵

While state policies provide useful models, the variation from state to state is perpetuating inequality in our country; a federal paid family and medical leave program is crucial to ensuring that a worker's dignity, health, and prosperity does not depend on where they live.

Paid Family and Medical Leave Promotes Gender and Racial Equity

In a 2020 report, Oxfam America and Institute for Women's Policy Research demonstrated that, prior to COVID-19, women in the US spent 37% more time on un-

²Oxfam America, "US Care Policy Scorecard: Assessing federal unpaid and underpaid care policies in the US," July 19, 2023 at <https://www.oxfamamerica.org/explore/research-publications/uscarescorecard/>.

³*Ibid.*

⁴Oxfam America, "Where Hard Work Doesn't Pay Off: An index of US labor policies compared to peer nations," May 3, 2023 at <https://www.oxfamamerica.org/explore/research-publications/where-hard-work-doesnt-pay-off/>.

⁵Oxfam America, "Best and Worst States to Work in America 2023," August 20, 2023, at <https://www.oxfamamerica.org/explore/research-publications/best-and-worst-states-to-work-in-america-2023/>.

paid care work than men—that is an average of more than 2 hours a day. A conservative estimate of the value of women and girls’ unpaid care work in the United States is \$1.48 trillion annually—more than twice the US defense budget or about double the combined annual revenue of America’s top five technology companies.⁶ Stagnating wages in the U.S. disproportionately harm women, specifically women of color, who are often caught in low-wage positions and are overwhelmingly breadwinners for their families. Occupational segregation means women, and especially women of color, are stuck in low-wage positions lacking paid family leave or paid sick leave. For those women who are primary breadwinners or single parents, illness or family concerns often mean losing pay to care for oneself or others, putting these families’ ability to afford basic costs of living at risk, continuing the cycle of poverty even for full-time workers.

This makes paid family and medical leave especially crucial for ensuring that all women can stay in the paid workforce without losing pay, while protecting their own and their families’ health and well-being. Federal paid family and medical leave would have tremendous impacts for all women of color, as workers of color are the least likely to be able to afford to take Family and Medical Leave Act (FMLA) leave because it is unpaid. Additionally, paid family and medical leave helps combat the maternal health crisis that Black women face in this country, while also increasing their earnings and reducing their “parenthood penalty.”⁷

Paid Family and Medical Leave Will Support Working Families and Strengthen the Economy

We applaud the bipartisan congressional support for enacting paid leave and we are grateful to the Committee for prioritizing this issue. Passing federal paid leave legislation is essential to supporting workers and working families—especially women, who are more likely to have caregiving responsibilities—and to strengthening our economy. Oxfam joins our allies in urging Congress to enact federal paid family and medical leave that meets the needs of all workers.

This is why we are calling for the passage of the Family and Medical Insurance Leave (FAMILY) Act, which provides up to 12 weeks of paid family and medical leave for reasons ranging from medical issues to childbirth, or to support caregiving responsibilities.

Thank you for your consideration of these perspectives and recommendations, and for the important work the Committee is doing to meet the needs of workers and caregivers in the United States. Oxfam America’s experts welcome the opportunity to further discuss the need for paid family and medical leave, including sharing more about our research, analysis, and policy recommendations outlined above. We look forward to working with the Committee.

Sincerely,

Oxfam America

PHI

QUALITY CARE THROUGH QUALITY JOBS
261 Madison Avenue, Suite 913
New York, NY 10016
718-402-7766
<https://www.phinational.org/>

Thank you for the opportunity to provide a statement regarding the need for a national paid leave policy that includes direct care workers.

About Us. PHI is a national organization committed to strengthening the direct care workforce by producing robust research and analysis, leading federal and state advocacy initiatives, and designing groundbreaking workforce interventions and models. For more than 30 years, we have brought a 360-degree perspective on the long-term care sector to our evidence-informed strategies. **As the nation’s leading**

⁶ Oxfam America and Promundo, “Caring Under COVID-19: How the Pandemic Is and Is Not Changing the Unpaid Care and Domestic Work Responsibilities in the United States,” July 29, 2020 at <https://www.oxfamamerica.org/explore/research-publications/caring-under-covid-19/>.

⁷ National Partnership for Women and Families, “For Women and Workers of Color in Every State, Paid Leave Is a Lifeline,” October 2021, at <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-lifeline-in-states.pdf>.

authority on the direct care workforce, PHI promotes quality direct care jobs as the foundation for quality care.

Direct care workers need and deserve access to paid leave. Direct care workers assist older adults and people with disabilities with essential daily tasks and activities across a range of long-term care settings. They include 4.8 million home care workers, residential care aides, and nursing assistants in nursing homes.¹ Tragically, most of these workers cannot take paid time off to care for themselves or a loved one: one study found that only 35 percent of direct care workers who took time off for family care or medical reasons were able to take paid leave.²

Paid family and medical leave is a crucial benefit that direct care workers—who earn poverty-level wages—need to succeed and remain in their jobs. Nearly a third of direct care workers have children under the age of 18 living at home—including one in ten who live with a child or children under the age of five.³ Many direct care workers manage other caregiving responsibilities as well: 17 percent of direct care workers live with someone with long-term care needs, while 29 percent of home care workers, 31 percent of residential care aides, and 18 percent of nursing assistants are family caregivers.⁴

The need direct care workers have for paid leave was reinforced and amplified by the COVID-19 pandemic. While providing essential care for older adults and people with disabilities across settings during an unprecedented crisis, most workers could not afford to take time off when needed, for example, to quarantine due to COVID-19 exposure or illness—and as a result, many left their jobs altogether.⁵ Unfortunately, few of these workers returned to the field.⁶ With a national program of paid family and medical leave in place, these workers would not be forced to choose between keeping their jobs to survive financially or safeguarding their own health or that of their families and clients.

Paid leave is a critical component to overcoming our nationwide direct care workforce crisis. Home care agencies, residential care environments, nursing homes, and individual consumers are struggling across the country to recruit and retain direct care workers.⁷ This problem will only worsen, absent significant policy changes. Given our rapidly aging population and increasing need for long-term services and supports, the direct care workforce is expected to add over one million new jobs from 2021 to 2031—more new jobs than any other single occupation in the country.⁸ When also accounting for direct care positions created as workers leave

¹PHI. 2023. Direct Care Workers in the United States: Key Facts. New York, NY: PHI. <https://www.phinational.org/resource/direct-care-workers-in-the-united-states-key-facts-2023/>.

²Cook, Allison. 2018. Paid Family and Medical Leave: How States Should Support Direct Care Workers. New York, NY: PHI. <https://phinational.org/resource/paid-family-medical-leave-states-support-direct-care-workers/>.

³PHI. 2023. “Workforce Data Center.” <https://phinational.org/policy-research/workforce-data-center/>.

⁴Ruggles, Steven, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas, and Matthew Sobek. 2020. IPUMS USA: Version 10.0. <https://doi.org/10.18128/D010.V10.0>; analysis by PHI (May 2021); PHI. 2023. Direct Care Workers in the United States: Key Facts. New York, NY: PHI. <https://www.phinational.org/resource/direct-care-workers-in-the-united-states-key-facts-2023/>.

⁵Campbell, Stephen. 2021. “Will COVID-19 Change Direct Care Employment? New Data Offer Clues.” *PHI Newsroom*, April 12, 2021. <https://www.phinational.org/will-COVID-19-change-direct-care-employment-new-data-offer-clues/>.

⁶McCall, Stephen, Kezia Scales, and Joanne Spetz. 2021. Workforce Displacement and Re-Employment During the COVID-19 Pandemic: Implications for Direct Care Workforce Recruitment and Retention. San Francisco, CA: UCSF Health Workforce Research Center on Long-Term Care. <https://www.phinational.org/resource/workforce-displacement-and-re-employment-during-the-COVID-19-pandemic/>.

⁷American Health Care Association. 2022. State of the Nursing Home Industry: Survey of 759 nursing home providers show industry still facing major staffing and economic crisis. Washington, DC. <https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/SN-F-Survey-June2022.pdf>; Kerr, Natalie. 2022. “A Shortage of Health Aides is Forcing out Those Who Wish to Get Care at Home.” *Shots: Health News from NPR*, May 5, 2022. <https://www.npr.org/sections/healthshots/2022/05/05/1095050780/a-shortage-of-health-aides-is-forcing-out-those-who-wish-to-get-care-at-home> <https://www.npr.org/sections/health-shots/2021/06/30/1010328071/with-workers-in-short-supplyseniors-often-wait-months-for-home-health-care>.

⁸U.S. Bureau of Labor Statistics (BLS), Employment Projections Program (EPP). 2022a. National Employment Matrix—Industry. <https://data.bls.gov/projections/nationalMatrixHome?ioType=i>; analysis by PHI (June 2023). U.S. Bureau of Labor Statistics (BLS), Employment Projections Program (EPP). 2022. EP Data Tables, Table 1.10 Occupational Separations and Openings, Projected 2021–2031. <https://www.bls.gov/emp/tables.htm>; analysis by PHI (June 2023).

their jobs—a symptom of poor job quality in this sector—there will be an estimated 9.3 million total job openings in direct care from 2021 to 2031.⁹

At the heart of this quickly deepening workforce crisis is a policy and financing framework that perpetuates the historical undervaluing of essential, professional, and high-quality direct care work. Direct care workers' economic security and willingness to stay in the field rely on livable wages and comprehensive employment benefits. Higher wages in direct care are desperately needed: median annual earnings are just \$23,688, while 39 percent of these workers live in low-income households and 46 percent rely on public benefits, such as Medicaid, SNAP, and cash assistance.¹⁰ In this context, increasing access to employment benefits and protections—especially paid leave—is crucial for ensuring direct care workers have the total compensation they need to meet their basic needs and improve economic security across the workforce.

Paid leave is critical for equity, especially for a diverse and marginalized direct care workforce. More broadly, lack of access to paid leave disproportionately impacts women and people of color, who are at greater risk of taking unpaid leave or exiting the labor force if they experience a serious illness or need to care for a family member (which they are also more likely to experience).¹¹ Lack of access to paid leave also disproportionately impacts low-wage workers, who are less likely to have that benefit through their employers and, even when they have access to unpaid leave, often cannot afford to take it.¹² The direct care workforce falls largely into these categories: 86 percent are women, 62 percent are people of color, and median annual earnings are a mere \$23,688—well below a living wage in any state.¹³

A national paid leave program, like the approach proposed in the FAMILY Act, is an important step toward addressing these racial and gender inequities in accessing paid leave.¹⁴ Such a national plan would boost labor force participation and reduce turnover in a field experiencing both a crisis of turnover and an explosion in need. It would also help to address the long-standing historical undervaluing of essential workers who provide vital long-term care and need the ability to provide that same care to themselves and their loved ones.

REPRODUCTIVE FREEDOM FOR ALL
1725 Eye Street, NW, Suite 900
Washington, DC 20006

We thank the Senate Finance Committee and Chairman Ron Wyden for scheduling time to discuss the critical need for paid leave and for the opportunity to submit a statement to the Committee on this important issue. On behalf of our 4 million members, Reproductive Freedom for All urges you to pass legislation to establish a comprehensive, inclusive, and equitable national paid family and medical leave program for every working person in the United States. As Chairman Wyden emphasized throughout the hearing, paid leave is not only incredibly popular, but it would have profound, positive impacts on the lives and well-being of all workers and their families.

I. Paid Family and Medical Leave is a Critical Component of Reproductive Freedom

Paid family and medical leave is a critical component of reproductive freedom and everybody deserves the freedom, dignity, and financial stability that it offers. Paid

⁹BLS EPP. 2022.

¹⁰PHI. 2023. “Workforce Data Center.” <https://phinational.org/policy-research/workforce-data-center/>.

¹¹Milli, Jessica, Jocelyn Frye, and Maggie Jo Buchanan. 2022. “Black Women Need Access to Paid Family and Medical Leave.” *Center for American Progress*, March 4, 2022. <https://www.americanprogress.org/article/black-women-need-access-to-paid-family-and-medical-leave/>; Gallagher Robbins, Katherine & Jessica Mason. 2023. “Women’s unpaid caregiving is worth more than \$625 billion—and it could cost more.” *National Partnership for Women & Families Blog*, August 14, 2023. <https://nationalpartnership.org/womens-unpaid-caregiving-worth-more-than-625-billion/>.

¹²Mason, Jessica and Katherine Gallagher Robbins. 2023. “Women’s Work Is Undervalued, and It’s Costing Us Billions.” *National Partnership for Women & Families*, March 2023. <https://nationalpartnership.org/wp-content/uploads/2023/04/womens-work-is-undervalued.pdf>.

¹³PHI. 2023. “Workforce Data Center.” <https://phinational.org/policy-research/workforce-data-center/>.

¹⁴*Family and Medical Insurance Leave (FAMILY) Act*. 2023. H.R. 3481.

leave is essential for allowing individuals and families to exercise their freedom to determine if, when, and how to have a child. Without it, people do not have the time needed to heal from childbirth, families do not have time to bond with their new babies, and many working people must risk their livelihoods to care for sick or injured family members.

The American College of Obstetricians and Gynecologists has recognized the importance of paid leave and the role it plays in improving the health of the pregnant/post-partum person and the new baby, reducing infant mortality, and strengthening the parent-child bond.¹ As Jocelyn Frye, the President of the National Partnership for Women & Families stated in her testimony (https://www.finance.senate.gov/imo/media/doc/10252023_frye_testimony.pdf) for the hearing, “paid leave programs increase the time new mothers take to bond with new children and recover from birth, and reduce the incidence of low birthweight and preterm births—with both benefits especially pronounced for Black mothers. Research also links state paid leave programs to improved physical and mental health for new mothers, including lower postpartum distress, improved on-time vaccination rates, greater initiation and duration of breastfeeding, fewer infant hospitalizations and more.”

Yet, because the United States currently lacks a national paid family leave program, one in four women returns to work less than 10 days after giving birth.² Furthermore, under our current system in which workers are at the mercy of employer policies or state laws, Black and Hispanic employees are less likely to be eligible for paid leave programs than white workers.³ These disparities further entrench income inequality and contribute to disproportionate maternal mortality rates. As Frye explained in her testimony, “[t]he inadequate access to paid leave for women and communities of color compounds other racial injustices including the racial wealth gap, maternal morbidity and mortality, inequitable access to health care and discriminatory experiences with health care providers. Inadequate paid leave policies cost Black women and their families nearly \$4 billion a year in lost wages, a loss that is especially challenging because Black women also face a large gender wage gap. Despite their caregiving commitments, surveys find that Black and Latino workers are less able to take leave when they need it.”

All people deserve quality time to nurture their children and to care for themselves and their family members without the fear of financial instability. A paid family leave program will stop employers from denying new parents precious time with their new child and will provide all families with the dignity of paid time off to care for loved ones.

II. Congress Should Act Now to Establish a Comprehensive, Inclusive, and Equitable National Paid Family and Medical Leave Program for All Workers

Paid leave legislation is essential for ensuring that all working people have the ability to take time off to care for their children and family members, and to address their own serious health conditions. The U.S. needs a paid leave program that would, at a minimum, provide all workers with an adequate portion of their wages for 12 weeks per year to:

- Address their own serious health conditions or due to pregnancy and childbirth;
- Care for a new child, including an adopted child or a child in foster care;
- Care for a family member with a serious health condition; or
- Take on certain caregiving responsibilities.

We are past due for a national paid leave program to meet the needs of new parents and people with serious personal or family health conditions.

Under current law established by the Family and Medical Leave Act (FMLA), employers are only required to provide 12 weeks of unpaid leave.⁴ FMLA also only applies to employers with over 50 employees, leaving millions of people without any

¹*Paid Parental Leave Statement of Policy*, AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS (Aug. 2020), https://www.acog.org/clinical-information/policy-and-position-statements/statements-of-policy/2020/paid-parental-leave?utm_source=redirect&utm_medium=web&utm_campaign=int.

²*A Quarter of New Moms Return to Work 2 Weeks After Childbirth*, CHICAGO TRIBUNE (Aug. 20, 2015), <https://www.chicagotribune.com/business/ct-maternity-leave-two-weeks-20150820-story.html>.

³*Quick Facts on Paid Family and Medical Leave*, CENTER FOR AMERICAN PROGRESS (Feb. 5, 2021), <https://www.americanprogress.org/issues/women/news/2021/02/05/495504/quick-facts-paid-family-medical-leave>.

⁴29 U.S.C. §§2601 et seq.

workplace leave protections.⁵ In 2020, only 20% of private sector workers in the United States had access to paid family leave through their employers.⁶ In addition, 93% of people with low income have no access to paid family leave.⁷ Working people who lack paid family and medical leave face lost wages or even job loss when they miss work because of their own illness, to recover from pregnancy and childbirth, or to care for an ill child or parent.

In addition to covering all working people, it is essential that any paid leave program include all of the reasons for leave currently covered for unpaid leave under FMLA. Proposals that limit paid leave only to reasons related to a new child (including pregnancy, birth, adoption, or foster care), that offer only temporary help, or that penalize parents for taking leave simply do not meet the needs of workers across the country.⁸

Furthermore, the definition of family must be inclusive to reflect the diverse identities and realities of workers across the country. The program must be gender-inclusive, as well, in order to address persistent sex discrimination in the utilization of leave benefits and reduce the disparity between women and men regarding who takes time off from work to fulfill caregiving duties.

To prevent further entrenching gender, race, and income disparities, the program should also include job protections for workers who take leave. Finally, the program needs to include individuals with low wage jobs, self-employed individuals, and others who are currently systemically denied access to paid leave.

III. Conclusion

All people deserve the freedom to nurture their children and care for themselves and their family members without the fear of financial instability. It is time to ensure that all working families have the freedom to care for their loved ones. NARAL strongly supports the creation of a national comprehensive paid family and medical leave program and urges lawmakers to pass such a bill.

SMALL BUSINESS MAJORITY
1015 15th Street, NW, Suite 450
Washington, DC 20005
(202) 828-8357
<https://smallbusinessmajority.org/>

November 3, 2023

Thank you, Chairman Wyden, Ranking Member Crapo and members of the Senate Committee on Finance.

My name is John Arensmeyer and I'm the founder and CEO of Small Business Majority. As a leading representative of America's 33 million small businesses, Small Business Majority is pleased to provide written testimony to the U.S. Senate Committee on Finance regarding the hearing on Exploring Paid Leave: Policy, Practice and Impact on the Workforce.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our nine offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enables us to educate stake-

⁵ 29 U.S.C. § 2611(4)(A).

⁶ *Databases, Tables and Calculators by Subject: Percent of Private Industry Workers with Access to Paid Family Leave*, U.S. DEPT OF LABOR, BUREAU OF LABOR STATISTICS (May 3, 2021), <https://data.bls.gov/timeseries/NBU287000000000000033349>.

⁷ Fact Sheet: *Economic Recovery Must Include Job-Protected Paid Family and Medical Leave*, THE CENTER FOR LAW AND SOCIAL POLICY (March 2021), https://www.clasp.org/sites/default/files/publications/2021/03/2021_Economic%20Recovery%20PFML.pdf.

⁸ *Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys*, U.S. DEPT OF LABOR (July 2020) (noting that 51% of employees who take unpaid FMLA leave do so to address their own illness, 25% take FMLA leave for pregnancy, childbirth, adoption, or foster care, and 19% take FMLA leave to care for a parent, spouse, or child), https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018SurveyResults_FinalReport_Aug2020.pdf.

holders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

Simply put, access to paid family and medical leave programs is good for business. It allows small business owners and their employees to access and offer paid time off for individuals to care for their families and their well-being. This is an inevitable need that many come to experience at one point or another.

However, the majority of small businesses do not have the resources to offer robust benefits that larger companies can provide, like paid family and medical leave, which puts them at a disadvantage when it comes to attracting and retaining employees. Unfortunately, private insurers generally do not offer affordable, adequate paid leave¹ policies to small businesses. As a result, as of 2019 only 14% of workers in firms with 99 or fewer employees had access to employer-provided paid family leave, compared to 29% of workers in firms with 500 or more employees. These numbers have no doubt become exacerbated by the pandemic and the Great Resignation, which both disproportionately affected our smallest businesses on Main Street. What's more, tight profit margins, lack of human resources staff, and limited resources are some of the top reasons why small businesses struggle to provide robust benefits on their own.

This is why Small Business Majority has advocated on behalf of and with small business owners nationwide for paid family and medical leave policies at the federal and state levels. In the absence of a federal program, we have mobilized along with small business advocates and small business owners to support the enactment, rule-making and expansion of such programs in a number of states² including California, Colorado, Georgia, Maine, Minnesota, New Mexico and Virginia, among others. From our experience advocating for state plans, we firmly believe that policymakers must meet the moment by providing similar policies at the federal level so that small businesses can remain competitive in attracting top talent from today's modern workforce.

Small businesses know how important it is to access and offer benefits such as paid family and medical leave policies, and many have been supportive of passing a federal policy that has yet to materialize. In fact, a found that 70% of small business owners and operators support establishing a federal program to guarantee access to paid family and medical leave. When you consider that our small business communities nationwide account for the vast majority of businesses in the United States and employ nearly half of all U.S. employees, it's clear that there is a critical gap in access to this benefit.

What's more, most of the small businesses driving our economy—nearly 82% of them—are solo entrepreneurs or self-employed individuals, according to the U.S. Small Business Administration.³ These are businesses that, with the proper support of the federal government, could eventually become employers and contribute even more to our economy. These, and small businesses in general, are businesses that are in need of a modernized and robust benefits infrastructure that can promote wealth creation, financial security and quality jobs. Creating a federal paid family and medical leave insurance pool can be the first step in providing this much-needed infrastructure.

The pandemic left our small business community in dire need of resources and support structures, and it became extremely challenging for them to recruit and attract a qualified workforce. And while it's true that many small businesses increased employee wages and offered more flexibility⁴ to attract more candidates during this challenging time, doing so while they're struggling with inflation and market changes can be devastating to their bottom line. This is why entrepreneurs are looking to lawmakers to provide the necessary infrastructure to support the small business ecosystem.

We thank you for the opportunity to comment on this critical issue and welcome the Committee's efforts in ensuring that Main Street can remain competitive by providing access to benefit structures that underpin quality jobs. For these reasons, implementing a federal paid family and medical leave insurance program is an important step forward to leveling the playing field for not only small businesses but for

¹<https://www.bls.gov/ebs/home.htm>.

²<https://smallbusinessmajority.org/our-policy-statements?issue=18>.

³<https://advocacy.sba.gov/wp-content/uploads/2022/08/Small-Business-Economic-Profile-US.pdf>.

⁴<https://smallbusinessmajority.org/our-research/small-business-owners-support-criminal-justice-reforms-address-persistent-workforce-challenges>.

our economy as a whole. We look forward to working closely with the U.S. Senate Committee on Finance to consider the benefits of creating a national paid family and medical leave program for our small business community.

Sincerely,

John Arensmeyer
Founder & CEO

THIRD WAY

1025 Connecticut Ave., NW, Suite 400
Washington, DC 20036

Dear Chairman Wyden and Ranking Member Crapo,

Thirty years after the passage of the Family and Medical Leave Act, America is stuck. One in four new mothers return to work within two weeks of giving birth. Around 53 million Americans currently act as a caregiver for a family member. And yet, just a quarter of workers have a paid family leave benefit.

The pandemic reminded America what is obvious to many—people become ill and have to miss work, which can mean missing a paycheck and losing one's livelihood. But with our current patchwork of employer-based, state, and local leave policies, too many workers are left without the time or resources to care for themselves or their families. In this moment, making progress on paid leave is a must.

Thankfully, progress is also possible. As Third Way has written in the past, there are a number of policy levers available which can expand access to paid leave.¹ Expanding this important benefit to more workers will bolster America's long-term economic growth, help businesses attract and retain productive workforces, and improve workers' capacity to balance work and family life. We encourage the Committee to carefully consider the urgent need for paid leave policy and the litany of legislative tools available to better protect workers. Our statement for the record walks through both why policymakers need to take federal action to expand paid leave and options to make progress.

Third Way applauds the Senate Finance Committee for continuing this important conversation and hopes action can be taken to get more families the paid leave they need today.

Why We Need Federal Action on Paid Leave

1. Paid Leave Fuels Economic Growth

Federal action on paid leave will boost our economy by helping workers and businesses thrive. Economists estimate that family-friendly policies, including paid leave, could boost US GDP by as much as \$1 trillion and help curb long-term inflation.² Access to paid leave is also shown to bolster female labor force participation. If the number of women in the labor force was on par with peer nations, our GDP would be a staggering 5% larger.³

Providing workers with the time to care for themselves and their families strengthens personal finances and builds stronger economic outcomes. Paid leave access is found to increase household economic security, reduce reliance on public assistance, and drive down spending from other federal programs.⁴ One study of California's

¹McSwigan, Curran and Anthony Colavito. "10 Questions for a New Paid Leave Plan." Report, Economy, *Third Way*, 19 Jan. 2023, <https://www.thirdway.org/report/ten-questions-for-a-new-paid-leave-plan>. Accessed 1 Nov. 2023.

²Stiglitz, Joseph. "Seventeen winners of the Nobel Prize in economics sign letter in support of the President's Build Back Better package." *Statement*, Economic Policy Institute. 20 Sep. 2021, <https://www.epi.org/press/nobel-laureate-economist-joseph-stiglitz-issues-statement-in-support-of-build-back-better-agenda/>. Accessed 1 Nov. 2023. And; Ceron, Ella. "Paid Leave and Universal Child Care Could Boost U.S. GDP by \$1 Trillion." *Bloomberg*, 8 Mar. 2022, <https://www.bloomberg.com/news/articles/2022-03-08/paid-leave-and-universal-child-care-could-boost-u-s-gdp-by-1-trillion?sref=sLBNpTza>. Accessed 1 Nov. 2023.

³Factsheet: What does the research say about the economics of paid leave?" Equitable Growth, 22 Apr. 2021, <https://equitablegrowth.org/factsheet-what-does-the-research-say-about-the-economics-of-paid-leave/>. Accessed 1 Nov. 2023.

⁴"The Economic Benefits of Paid Leave: Fact Sheet." Ranking Democrat Carolyn B. Maloney, The Joint Economic Committee, https://www.jec.senate.gov/public/_cache/files/646d2340-dcd4-4614-ada9-be5b1c3f445c/jec-fact-sheet---economic-benefits-of-paid-leave.pdf. Accessed 1 Nov. 2023.

paid leave program found the policy was associated with an 11% decline in nursing home usage among older adults, which in turn decreased Medicare and Medicaid spending.⁵ The same outcomes at the federal level would save \$3.4 billion annually according to the National Partnership for Women and Families.⁶

2. Paid Leave Helps Businesses—Both Big and Small

Federal action on paid leave will help businesses flourish—whether they have two employees or 2,000. Workplaces with paid leave are more productive, see lower worker attrition, and are more likely to attract talent than businesses without.⁷

While some argue that federal paid leave policies will burden small businesses, these programs actually help level the playing field. Smaller employers often lack the capital and ability to provide benefits like paid leave to their workers; this is especially true for service sector industries where offering these benefits can mean raising prices for consumers.⁸ Federal efforts can help ensure workers at small businesses are able to care for themselves and their families and that paid leave is not just a benefit accruing to college-educated workers in office jobs.

Paid leave is good for big businesses as well. One study of large employers found that introducing a paid leave policy on average increased revenue by almost 5% and profits by 7%.⁹ From New York to Rhode Island to California, businesses continue to view states' policies positively, including smaller establishments.¹⁰

3. Paid Leave Helps Workers

By giving workers the capacity to manage their personal affairs, paid leave makes it easier for workers to hold their jobs and remain productive members of the labor force. Paid leave gives working parents and caregivers the time and money needed to recover from childbirth, to bond with a newborn, or to handle family matters in a way that best positions them to return to work. Few are as exposed to these cross-currents as women, who provide a disproportionate share of childcare, and make up over 60% of adult caregivers.¹¹

Research confirms that paid leave bolsters labor force participation and improves workers' capacity to support themselves. State paid leave laws increase work among leave takers, especially among low-income women.¹² Paid leave also reduces reliance

⁵Arora, Kanika and Douglas A. Wolf. "Does Paid Family Leave Reduce Nursing Home Use? The California Experience." *Journal of Policy Analysis and Management*, 3 Nov. 2017, <https://onlinelibrary.wiley.com/doi/abs/10.1002/pam.22038>. Accessed 1 Nov. 2023.

⁶Mason, Jessica. "Paid Leave Would Cut Healthcare Costs." *Issue Brief*, National Partnership for Women & Families. Oct. 2021, <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-would-cut-health-care-costs.pdf>. Accessed 1 November, 2023.

⁷"The Business Impacts of Paid Leave." *Panorama and the American Sustainable Business Council*. Sep. 2019, <https://www.asbcouncil.org/sites/main/files/file-attachments/panorama-report-business-impacts-of-paid-leave.pdf>. Accessed 1 Nov. 2023. And; Stroman, Trish et al. "Why Paid Family Leave is Good Business." *Boston Consulting Group*, Feb. 2017, <https://www.bcg.com/publications/2017/human-resources-people-organization-why-paid-family-leave-is-good-business>. Accessed 1 Nov. 2023.

⁸"Paid Family and Medical Leave is Good for Business." *Fact Sheet*, National Partnership for Women & Families. Oct. 2023, <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>. Accessed 1 Nov. 2023.

⁹"Hill Fact Sheet." *Small Business for Paid Family & Medical Leave*, 2020, https://static1.squarespace.com/static/5cf16d6c89b0940001fec8f/t/5e2b7eae7ef3a12a55b1acf6/1579908783140/SB4PL+Hill+Fact+Sheet_1_24_2020_updated.pdf. Accessed 1 Nov. 2023.

¹⁰"Paid Family and Medical Leave is Good for Business." *Fact Sheet*, National Partnership for Women & Families. Oct. 2023, <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>. Accessed 1 Nov. 2023. And; Bartel, Ann P. et al. "Support for Paid Family Leave Among Small Employers Increases During COVID-19 Pandemic." *Working Paper 29436*, National Bureau of Economic Research, Dec. 2021, https://www.nber.org/system/files/working_papers/w29486/w29486.pdf. Accessed 1 Nov. 2023. And; Corley, Danielle. "Paid Leave is Good for Small Business." *Center for American Progress*, 19 Oct. 2016, <https://www.americanprogress.org/article/paid-leave-is-good-for-small-business/>. Accessed 1 Nov. 2023.

¹¹Zamarro, Gema and Maria J Prados. "Gender differences in couples' division of childcare, work and mental health during COVID-19." *Review of Economics of the Household*, Vol. 19, Mar. 2021, <https://doi.org/10.1007/s11150-020-09534-7>. Accessed 1 Nov. 2023. And; "Caregiving in the U.S." *Research Report*, AARP, May 2020, <https://www.aarp.org/content/dam/aarp/ppi/2020/05/full-report-caregiving-in-the-united-states.doi.10.26419-2Fppi.00103.001.pdf>. Accessed 1 Nov. 2023.

¹²Rossin-Slater, Maya, Christopher Ruhm, and Jane Waldfogel. "The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes." *Journal of Policy Analysis and Management*, Vol. 32, 17 Dec. 2012, <https://doi.org/10.1002/pam.21676>. Accessed 1 Nov. 2023. And; Byker, Tanya S. "Paid Parental Leave Laws in the United States: Does Short-Duration Leave Affect Women's Labor-Force Attachment?"

on public aid programs. One study found that women who took paid leave following the birth of a child were 39% less likely to receive public assistance and 40% less likely to receive food stamps compared to women who did not.¹³ And when caregiving reduces a mother's lifetime earnings by 15%, paid leave can reduce inequalities in a manner that is consistent with the value Americans place in work.¹⁴

How We Can Make Progress

We believe there are paths to making much-needed progress on paid leave in our divided government. Below, we have outlined a menu of federal policy options to make progress today, while laying building blocks for a more comprehensive program in the future.¹⁵ Ideas include:

Parental Leave Progress

- Expand unpaid parental leave to cover all workers.
- Create a national parental-only paid leave program.
- Build in more short-term and long-term flexibility to help parents return and stay in the workforce.

Medical Leave Progress

- Invest in better medical leave data.
- Ensure more workers have basic unpaid medical leave protections and businesses can better accommodate leave.
- Make sure all workers have at least 7 days of paid sick leave.
- Expand existing short-term disability insurance to cover more workers.

Caregiving Leave Progress

- Invest in better caregiving data.
- Ensure more workers have basic unpaid caregiving leave protections and broaden the definition of caregiving.
- Make a refundable tax credit for lost wages from caregiving.
- Enact a flexible caregiving leave benefit.
- Create a standardized form for employees to request flexible work arrangements.

UNIDOSUS

Raul Yzaguirre Building
1126 16th Street, NW, Suite 600
Washington, DC 20036-4845

Supporting Latino Workers and Fueling Economic Growth Through Paid Leave

Statement of Susana Barragán, Policy Analyst, Economic Policy Project, Policy and Advocacy

On behalf of UnidosUS, we respectfully submit this statement for the record to elevate the urgent need for a national paid family and medical leave program for Latinos—a critical and growing workforce in the United States.

UnidosUS, previously known as NCLR (National Council of La Raza), is the nation's largest Hispanic¹ civil rights and advocacy organization. Since 1968, we have chal-

American Economic Review, Vol. 106, No. 5, May 2016, <https://www.aeaweb.org/articles?id=10.1257/aer.p20161118>. Accessed 1 Nov. 2023.

¹³ Houser, Linda and Thomas P. Vartanian. "Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses, and the Public." Center for Women and Work, School of Management and Labor Relations, *The State University of New Jersey—Rutgers*, Jan. 2012, <https://smlr.rutgers.edu/sites/smlr/files/Documents/Centers/CWW/Publications/CWW%20Paid%20Leave%20Brief%20Jan%202012.pdf>. Accessed 1 Nov. 2023.

¹⁴ Johnson, Richard W., Karen E. Smith, and Barbara A. Butrica. "Lifetime Employment-Related Costs to Women of Providing Family Care." Research Report, Program on Retirement Policy, *Urban Institute*, Feb. 2023, https://www.dol.gov/sites/dolgov/files/WB/Mothers-Families-Work/Lifetime-caregiving-costs_508.pdf. Accessed 1 Nov. 2023.

¹⁵ McSwigan, Curran and Anthony Colavito. "12 Ideas to Jumpstart Progress on Paid Leave." *Third Way*, 11 Apr. 2023, <https://www.thirdway.org/report/12-ideas-to-jumpstart-progress-on-paid-leave>. Accessed 1 Nov. 2023.

¹ The terms "Hispanic" and "Latino" are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race. This

Continued

lenged the social, economic, and political barriers that affect Latinos through our unique combination of expert research, advocacy, programs, and an Affiliate network of nearly 300 community-based organizations across the United States, including Puerto Rico.

As we have previously shared,² the creation of a national paid family and medical leave program will not only fill in gaps left by current family leave policies in place but can serve as a bridge to economic security and prosperity. Federal law under the Family Medical Leave Act of 1993 (FMLA)³ requires employers to provide up to 12 weeks of guaranteed unpaid, job-protected leave for eligible workers who need time off from work to care for their own illness, care for a new child, or to care for a seriously ill family member. But only 30.1% of Latino workers with low wages are eligible for FMLA,⁴ compared to 56% of all U.S. employees.

This gap is exemplary of how the current structure of the labor system is unable to meet the immense value provided by U.S. Latino workers, who have the country's highest labor force participation rate⁵ and are overrepresented in sectors considered essential to keep our economy functioning.⁶ So, when the only federal leave policy in the country fails to reach more than two-thirds of Latino families and one of the country's strongest economic assets, it is past time for change.

Concerning family-friendly policies, the United States is woefully outgunned at the international level. The U.S. is one of six countries in the world⁷ that lacks any form of national paid leave. And it is the only wealthy country in the world without any guaranteed paid parental leave⁸ at the national level. This leaves millions of U.S. workers unable to take paid time off from work to address a serious health condition. If it remains without a national paid leave program, the United States will compete with one hand tied behind on a global stage alongside countries with more family-friendly policies.⁹

As we noted in our recent report, *Making Jobs Work for Latinas*,¹⁰ Latinas are primed to drive U.S. economic growth in the coming years. They are entering the workforce in record numbers and by 2031, the number of Latinas in the workforce is expected to grow by approximately 26%. Notably, no other demographic is projected to grow by as much.

But existing headwinds in the labor market threaten Latinas' potential labor performance and economic growth. For example, Latinas experience one of the largest wage gaps in the marketplace.¹¹ Given existing wage floors, this pay gap increases as a Latina's education and income increase. Still, many Latinas contend with low wages that lag the rising cost of living and are unable to build a nest egg to use towards emergencies, homeownership, and other paths to build wealth. Latina women also experience one of the largest unequal distributions of work with their male counterparts. This includes hours spent in household activities, like caring for other family members. As one of the fastest growing groups in the U.S. workforce, family-friendly policies that reflect the reality of its workforce is imperative to the strength and future of the labor market.

There are few supports in place to ensure Latinas remain in the workforce or have a path back if they must exit temporarily. The COVID-19 pandemic showed that Latinas were among the first workers to lose jobs at the start of the economic crisis. Latinas also dropped out of the workforce at higher rates than Latino men, primarily due to increased childcare needs. As schools closed, the primary responsibility for providing childcare in Latino households fell on women. A 2021 UnidosUS

document may also refer to this population as "Latinx" to represent the diversity of gender identities and expressions that are present in the community.

² https://unidosus.org/wp-content/uploads/2021/07/unidosus_statementforthecord_paid_familymedicalleave.pdf.

³ <https://www.dol.gov/agencies/whd/fmla>.

⁴ https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/American%20University_Final_20220105_508.pdf.

⁵ <https://fred.stlouisfed.org/series/LNS11300009>.

⁶ https://www.jec.senate.gov/public/_cache/files/71785c75-00f4-4db8-9686-2960f0526b65/hispanic-workers-brief.pdf.

⁷ <https://www.nytimes.com/2021/10/25/upshot/paid-leave-democrats.html>.

⁸ <https://www.washingtonpost.com/world/2021/11/11/global-paid-parental-leave-us/>.

⁹ https://athens.indymedia.org/media/old/raising_the_global_floor_dismantling_the_myth_that_we_cant_afford_good_working_conditions_for_everyone_stanford_politics_and_policy_.pdf.

¹⁰ https://unidosus.org/wp-content/uploads/2023/08/unidosus_makingjobsworkforlatinass.pdf.

¹¹ <https://nationalpartnership.org/wp-content/uploads/2023/02/latinass-wage-gap.pdf>.

report¹² found that almost half of Latinas quit their jobs or reduced their hours during the pandemic.

In emergencies, the burden for keeping their household afloat disproportionately lies on the shoulders of Latina women. In fact, Latinas are three times more likely to be single heads of households than white women. Despite the few resources and support available to Latinas, Latinas have marshaled an exceptional recovery in the face of a disastrous economic situation. Only three years after the pandemic, Latinas reached full employment levels in 2022.¹³ In other words, all Latina women who were able and willing to work were virtually all employed. A combination of increased worker organizing,¹⁴ increases in real wages,¹⁵ and recovery in sectors¹⁶ in which Latinas are overrepresented in, such as hospitality and leisure, have ushered the Latina workforce into comparable (and at times, improved) pre-pandemic levels of employment.

But, we need to ensure this recovery can be sustained in the long term. For most U.S. workers, traditional employment is the nexus to critical benefits needed to live and build wealth in the U.S., like health insurance and retirement accounts. While a 2022 Bureau of Labor Statistics analysis¹⁷ of employer costs related to employee compensation found that benefits make up one-third of employee compensation packets, nearly two-thirds of Latinos work in low-wage jobs that offer few or no benefits.¹⁸ This includes paid family and medical leave.

Latinos are the least likely of any racial or ethnic group to have access to paid family leave¹⁹ through their employer, with only 25.1% of Latinos reporting access to paid parental leave, compared to 49.7% of whites.

The lower wages typically earned by Latinas complicate Latinas' take-up of Family Medical Leave Act (FMLA) even when they are eligible. The Heller School for Social Policy and Management at Brandeis University²⁰ estimates that of 54% of working parents eligible for FMLA leave, only 34% of parents can afford to take unpaid leave. For Latinos, the percentage of those who can afford to take leave dwindles to 26%. Yet Latino children represent approximately 25% of the U.S. population of children, and Latinos are the only group in which a majority of households have children. When these children are born, their families are likely to have access to supports, like paid leave, that are essential to caring for a new infant. And if these children become seriously ill, their parents may struggle to provide care if it means an absence from work.

It is unsurprising that almost 40% of Latinas²¹ are very worried about having access to paid family and medical leave. More than 20% of Latinos serve as caregivers to an adult family member or someone close to them, and on average, Latino caregivers spend about 40% more time providing care than do white caregivers.²²

Congress has an obligation to support policies that reflect the needs of America's diverse workforce. A national paid family and medical leave policy would help address the most formidable barriers that keep Latinas out of the labor market and lay a strong foundation for a growing U.S. workforce.

¹² <https://unidosus.org/publications/2150-closing-the-latina-wealth-gap-building-an-inclusive-economic-recovery-after-covid/>.

¹³ https://unidosus.org/wp-content/uploads/2023/08/unidosus_makingjobsworkforlatinaspdf.

¹⁴ <https://www.latimes.com/business/story/2023-08-30/downtown-l-a-hotel-workers-strike-as-political-science-conference-kicks-off-union-vows-dirty-rooms-and-non-stop-noise>.

¹⁵ <https://www.epi.org/publication/swa-wages-2022/>.

¹⁶ <https://fred.stlouisfed.org/series/USEHLS>.

¹⁷ <https://fred.stlouisfed.org/series/USEHLS>.

¹⁸ http://www.appam.org/assets/1/7/occupational_segregation_report_40219.pdf.

¹⁹ <https://www.americanprogress.org/article/latinos-least-likely-to-have-paid-leave-or-work-place-flexibility/>.

²⁰ <https://www.brandeis.edu/now/2015/november/fmla-qa.html>.

²¹ https://unidosus.org/wp-content/uploads/2023/08/unidosus_makingjobsworkforlatinaspdf.

²² <https://www.aarp.org/content/dam/aarp/ppi/2015/caregiving-in-the-united-states-2015-report-revised.pdf>.

U.S. BREASTFEEDING COMMITTEE

1629 K Street, NW, Suite 300
Washington, DC 20006

October 25, 2023

Dear Chair Wyden and Ranking Member Crapo:

The U.S. Breastfeeding Committee (USBC) submits this letter to the Senate Committee on Finance for the record of the full committee hearing, “Exploring Paid Leave: Policy, Practice, and Impact on the Workforce” in full support of establishing a paid family and medical leave insurance program.

The USBC is a coalition bringing together 139 organizations—including federal agencies, national, state, tribal, and territorial organizations, as well as for-profit businesses—that support the USBC mission to create a landscape of breastfeeding support across the United States. We are committed to ensuring that all families in the U.S. have the support, resources, and accommodations to achieve their breastfeeding goals in the communities where they live, learn, work, and play.

We know that the vast majority of people become parents during their lifetime.¹ Their needs and the needs of their infants are neither surprising nor difficult to meet when anticipated and planned for. Paid family and medical leave is a basic necessity, and this committee has a critical opportunity to support the establishment of a federal program for job-protected, paid family and medical leave for our nation’s workers.

Breastfeeding has a profound impact on population health outcomes. The evidence for the value of human milk on overall health for infants, children, and mothers is scientific, robust, and continually reaffirmed by new research. The American Academy of Pediatrics recommends infants be exclusively breastfed for six months with continued breastfeeding while introducing complementary foods for two years or as long as mutually desired by the mother and child.² Breastfed infants are at lower risk of certain infections and sudden unexplained infant death. A recent CDC study of over 3 million U.S. births found that ever breastfeeding is associated with a 26% reduction in the odds of post-perinatal (between 7–364 days) infant death.³ Breastfed children have a decreased risk of obesity, type 1 and 2 diabetes, asthma, and childhood leukemia. Women who breastfeed their babies reduce their risk of specific chronic diseases, including type 2 diabetes, cardiovascular disease, and breast and ovarian cancers.⁴

The majority of pregnant women and new parents want to feed their baby breast milk, but significant barriers in the community, health care, and employment settings can impede breastfeeding success.⁵ The national breastfeeding initiation rate among children born in 2020 was 83.1%. However, by six months of age, only 25.4% of infants are exclusively breastfed in the U.S.⁶ Despite overall increases in breastfeeding initiation and duration, deep racial, geographic, and socioeconomic disparities in breastfeeding rates persist. Fewer non-Hispanic Black infants (77.3%) are ever breastfed compared with Asian infants (87.1%), non-Hispanic White infants (85.3%) and Hispanic infants (81.9%).⁷ Furthermore, a distressing 60 percent of mothers report that they did not breastfeed for as long as they intended.⁸

Structural and environmental barriers can make it difficult or impossible for families to establish an adequate milk supply to sustain human milk feeding at medi-

¹Martinez, G.M., & Daniels, K. (2023). (rep.). *Fertility of Men and Women Aged 15–49 in the United States: National Survey of Family Growth, 2015–2019*. National Health Statistics Reports.

²Meek, J.Y., & Noble, L. (2022). Policy statement: Breastfeeding and the use of human milk. *Pediatrics*, 150(1). doi:10.1542/peds.2022–057988.

³Li, R., Ware, J., Chen, A., Nelson, J.M., Kmet, J.M., Parks, S.E., . . . Perrine, C.G. (2022). Breastfeeding and post-perinatal infant deaths in the United States, a national prospective cohort analysis. *The Lancet Regional Health—Americas*, 5, 100094. doi:10.1016/j.lana.2021.100094.

⁴Making the decision to breastfeed, <https://www.womenshealth.gov/breastfeeding/making-decision-breastfeed/#1>. Published 2020. Accessed December 20, 2022.

⁵The Surgeon General’s Call to Action to Support Breastfeeding. *Clinical Lactation*. 2011;2(1):33–34. doi:10.1891/215805311807011746.

⁶Centers for Disease Control and Prevention (CDC). (2022). Breastfeeding report card, United States, 2022. <https://www.cdc.gov/breastfeeding/data/reportcard.htm>.

⁷Centers for Disease Control and Prevention (CDC) (2023). Facts. <https://www.cdc.gov/breastfeeding/data/facts.html>.

⁸Odom E.C., Li R., Scanlon K.S., Perrine C.G., Grummer-Strawn L. Reasons for Earlier than Desired Cessation of Breastfeeding. *Pediatrics*. 2013;131(3):e726–732. Accessed January 22, 2020, <https://www.ncbi.nlm.nih.gov/pubmed/23420922>.

cally recommended levels.⁹ For many families, rather than being a matter of personal choice, infant feeding practice is informed by circumstance.

The U.S. is one of only three countries that does not guarantee paid leave for new mothers.¹⁰ Only 19 percent of the workforce has any paid family leave through an employer.¹¹ The Family and Medical Leave Act provides for unpaid leave, but about 40 percent of the workforce is not eligible.¹² Many parents return to work quickly after birth, before a strong breastfeeding relationship is established because they cannot afford to take unpaid leave or because they do not qualify for federal legal protections.

“Paid family leave is a huge public health need. While my daughter was able to take 3 months off, she had to save up all her PTO for 2 years to do so, meaning no vacations or extra days off. If we want to increase breastfeeding rates and reduce infant mortality, families need paid leave.”

—Becky, Oklahoma

A significant barrier to human milk feeding in the United States is the social and economic pressure to return to paid employment soon after birth. But, as recognized in *The Surgeon General's Call to Action to Support Breastfeeding*, access to paid family leave programs can lay the groundwork for breastfeeding success.¹³ Paid family leave programs make it possible for employees to take time for childbirth recovery, bonding with their baby, establishing feeding routines, and adjusting to life with a new child without threatening their family's economic well-being. This precious time provides the foundation for success, contributing to improved rates of breastfeeding initiation and duration.¹⁴

State paid family and medical leave programs are making a difference for families throughout the country. Thanks to recent legislative successes, thirteen states and the District of Columbia have paid medical leave laws.¹⁵ In addition, more than 106 cities and counties across 32 states enacted paid leave policies.¹⁶ In California, access to paid family leave doubled the median duration of breastfeeding for all new mothers who used it during the first six years after the state's law went into effect in 2004.¹⁷

However, these state-financed family leave programs are not enough. Breastfeeding can benefit every family, and paid family and medical leave must be accessible to all workers. There are significant disparities in access to paid leave among some racial and ethnic groups, with Black and Hispanic employees less likely than their white non-Hispanic counterparts to have access to paid parental leave.¹⁸ There are similar disparities in breastfeeding outcomes among racial groups.

Guaranteed paid family and medical leave is a vital component of maternal and child health and should be available for all workers through a national paid family leave program, like the Family and Medical Insurance Leave (FAMILY) Act. The USBC, our member organizations, and our partners continue to stand ready to work

⁹ Reis-Reilly H., Fuller-Sankofa N., Tibbs C. Breastfeeding in the Community: Addressing Disparities Through Policy, Systems, and Environmental Changes Interventions. *Journal of Human Lactation*. 2018;34(2):262-271. doi:10.1177/0890334418759055.

¹⁰ Data—OECD. Oecd.org. <https://www.oecd.org/gender/data/length-of-maternity-leave-parental-leave-and-paid-father-specific-leave.htm>. Accessed January 22, 2020.

¹¹ BLS.gov. <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf>. Published 2019. Accessed January 22, 2020.

¹² FMLA is Working. Dol.gov. https://www.dol.gov/whd/fmla/survey/FMLA_Survey_fact_sheet.pdf. Accessed January 22, 2020.

¹³ Office of the Surgeon General (US); Centers for Disease Control and Prevention (US); Office on Women's Health (US). *The Surgeon General's Call to Action to Support Breastfeeding*. Rockville (MD): Office of the Surgeon General (US); 2011.

¹⁴ Hamad R., Modrek S., White J. Paid Family Leave Effects on Breastfeeding: A Quasi-Experimental Study of US Policies. *Am J Public Health*. 2019;109(1):164–166. doi:10.2105/ajph.2018.304693?

¹⁵ Comparative Chart of Paid Family and Medical Leave Laws in the United States. A Better Balance. <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>. Published 2023. Accessed October 31, 2023.

¹⁶ Paid Family/Parental Leave Policies for Municipal Employees (Not Exhaustive). <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-family-leave-policies-for-municipal-employees.pdf>. Published 2020. Accessed October 31, 2023.

¹⁷ Huang R., Yang M. Paid maternity leave and breastfeeding practice before and after California's implementation of the nation's first paid family leave program. *Economics & Human Biology*. 2015;16:45–59. doi:10.1016/j.ehb.2013.12.009.

¹⁸ Bartel A., Kim S., Nam J., Rossin-Slater M., Ruhm C., Waldfogel J. Racial and ethnic disparities in access to and use of paid family and medical leave: evidence from four nationally representative datasets. *Mon Labor Rev*. 2019;142. doi:10.21916/mlr.2019.2

with policymakers and federal, state, and local agencies to establish at least 12 weeks of job-protected, paid family and medical leave.

At the national level, improving breastfeeding practices through programs and policies has been shown to be one of the best investments a country can make, as every dollar invested is estimated to result in a US \$35 economic return.¹⁹ For the employer, paid leave policies have been shown to benefit businesses' bottom lines by lowering turnover costs through greater retention and increasing productivity and morale.²⁰ It's time to bring these benefits to the entire nation.

"I had no access to paid parental leave and was forced, financially, to return to work just three days after my son's birth. When my wife needed me the most, I could not be there because someone had to work. It was my job to care for them in those first weeks, but because I had to return to work so soon, I failed at that job. As a nation, we need to pull together and make it possible for everyday families to stay home with their brand-new babies while not worrying about the bills. It is time for America to join the rest of the world and offer paid family leave to its citizens. Dads: please join me in raising our voices and our votes in support of this issue. It is long overdue."

—Jarred, Massachusetts

We appreciate the opportunity to submit this comment. Thank you for considering the positive impact of paid family leave programs on breastfeeding families in the United States. Sincerely,

Cheryl Lebedevitch
National Policy Director
U.S. Breastfeeding Committee

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS
3211 Fourth Street, NE
Washington, DC 20017-1194

Statement of Archbishop Borys Gudziak, Chairman,
Committee on Domestic Justice and Human Development

The U.S. Conference of Catholic Bishops has long supported family leave.¹ It is pro-life to support families as they welcome new life and care for one another in their most vulnerable periods. National support of paid family leave is an important step towards building an authentically life-affirming society that prioritizes the well-being of families.

Catholic tradition teaches that the purpose of the economy is to enable families to thrive. "[I]t is necessary that businesses, professional organizations, labor unions and the State promote policies that, from an employment point of view, do not penalize but rather support the family nucleus."² Our tradition also holds that the State must help attain the common good and that government action is necessary to address problems that are beyond the reach of individual and community efforts alone.³

¹⁹Walters, D., Dayton Eberwein, J., Sullivan, L., D'Alimonte, M., & Shekara, M. (2017). An Investment Framework for Meeting the Global Nutrition Target for Breastfeeding (Rep.). World Bank Group.

²⁰Paid Family and Medical Leave Is Good for Business. (2023). National Partnership for Women and Families. Retrieved October 31, 2023, from <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>.

¹See United States Catholic Bishops, *Economic Justice for All*, 1986, https://www.usccb.org/upload/economic_justice_for_all.pdf; United States Catholic Conference, *Putting Children and Families First*, 1991, <https://www.usccb.org/putting-children-and-families-first-challenge-our-church-nation-and-world>.

²Pontifical Council of Justice and Peace, *Compendium of the Social Doctrine of the Church*, no. 294, 2004, https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html.

³See Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, no. 168, 2004, https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html; United States Conference of Catholic Bishops, *A Place at the Table*, 2002, <https://www.usccb.org/resources/place-table>; USCCB, *Forming Consciences for Faithful Citizenship*, no. 48, 2020, <https://www.usccb.org/resources/forming-consciences-faithful-citizenship-pdf>.

The research is clear: paid leave supports families. Parental leave is beneficial for child development and infant health;⁴ it strengthens the parent-child bond;⁵ it increases family stability;⁶ and at a time when maternal health is worsening in the United States, it aids new mothers' mental and physical health.⁷ Medical leave allows workers to pursue medical treatment earlier in their illness and to better manage their care throughout their illness.⁸ Caregiving leave allows family members to better respond to the needs of their loved ones, which is especially important as our nation's population ages and the number of people involved in informal caregiving of older adults is expected to grow.⁹ Workers with access to paid leave are less likely to experience material hardship and financial instability.¹⁰

The United States is one of only a handful of countries, and the only high-income country, that does not guarantee paid family leave.¹¹ The current patchwork system of family leave programs leaves too many families behind. For example:

- Only one in four U.S. workers had access to paid family leave last year.¹²
- Only 56% of U.S. employees are eligible for unpaid leave under the Family Medical Leave Act (FMLA), based on employer and work history requirements.¹³
- Only 43% of private employees and 27% of state and local government employees have access to short-term disability insurance.¹⁴
- Low-wage workers are less likely to have access to paid family leave benefits than high-wage workers.¹⁵

⁴Lindsey Uniati and Maya Rossin-Slater, "Paid Family Leave Policies and Population Health," *Health Affairs*, March 28, 2019, <https://www.healthaffairs.org/doi/10.1377/hpb20190301.484936/>.

⁵Raquel Plotka and Nancy A. Busch-Rossnagel, "The Role of Length of Maternity Leave in Supporting Mother-Child Interactions and Attachment Security Among American Mothers and Their Infants," *International Journal of Child Care and Education Policy* 12, no. 2, January 16, 2018, <https://doi.org/10.1186/s40723-018-0041-6>.

⁶Richard J. Petts, Daniel L. Carlson, and Chris Knoester, "If I [Take] Leave, Will You Stay? Paternity Leave and Relationship Stability," *Journal of Social Policy* 49, no. 4, November 14, 2019, <https://doi.org/10.1017/s0047279419000928>.

⁷Maureen Sayres Van Niel et al., "The Impact of Paid Maternity Leave on the Mental and Physical Health of Mothers and Children: A Review of the Literature and Policy Implications," *Harvard Review of Psychiatry* 28, no. 2, 2020, <https://doi.org/10.1097/hrp.0000000000000246>; Zoe Aitken et al., "The Maternal Health Outcomes of Paid Maternity Leave: A Systematic Review," *Social Science & Medicine* 130 2015, <https://doi.org/10.1016/j.socscimed.2015.02.001>.

⁸Washington Center for Equitable Growth, "Paid Medical Leave Research," April 30, 2020, <https://equitablegrowth.org/research-paper/paid-medical-leave-research/>.

⁹Juliana M. Horowitz, "Americans Widely Support Paid Family and Medical Leave, but Differ over Specific Policies," Pew Research Center, March 23, 2017, <https://www.pewresearch.org/social-trends/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/>.

¹⁰Alexandra Boyle Stanczyk, "Does Paid Family Leave Improve Household Economic Security Following a Birth? Evidence from California," *Social Service Review* 93, no. 2, 2019, <https://doi.org/10.1086/703138>; Linda Houser and Thomas P. Vartanian, "Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public," Rutgers Center for Women and Work, January 2012, <https://nationalpartnership.org/wp-content/uploads/2023/02/pay-matters.pdf>; Chantel Boyens, Michael Karpman, and Jack Smalligan, "Access to Paid Leave Is Lowest among Workers with the Greatest Needs," Urban Institute, July 14, 2022, <https://www.urban.org/research/publication/access-paid-leave-lowest-among-workers-greatest-needs>.

¹¹WORLD Policy Analysis Center, "Is Paid Leave Available to Mothers of Infants, Including Maternity and Parental?," January 2022, <https://www.worldpolicycenter.org/policies/is-paid-leave-available-to-mothers-of-infants-including-maternity-and-parental>.

¹²Bureau of Labor Statistics, U.S. Department of Labor, "Employee Benefits—EBS Latest Numbers," 2023, <https://www.bls.gov/ews/latest-numbers.htm>; Bureau of Labor Statistics, "Employee Benefits in the United States, March 2023," September 2023, <https://www.bls.gov/ews/publications/employee-benefits-in-the-united-states-march-2023.htm>.

¹³Scott Brown et al., Abt Associates, "Employee and Worksite Perspectives of the Family and Medical Leave Act: Executive Summary for Results from the 2018 Surveys," U.S. Department of Labor Chief Evaluation Office, July 2020, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018SurveyResults_ExecutiveSummary_Aug2020.pdf.

¹⁴Bureau of Labor Statistics, U.S. Department of Labor, "Employee Benefits in the United States—March 2023," September 21, 2023, <https://www.bls.gov/news.release/pdf/ews2.pdf>.

¹⁵Bureau of Labor Statistics, U.S. Department of Labor, "The Economics Daily: A look at paid family leave by wage category in 2021," January 10, 2022, <https://www.bls.gov/opub/ted/2022/a-look-at-paid-family-leave-by-wage-category-in-2021.htm>.

- Black and especially Hispanic workers are less likely to have access to these benefits than white workers.¹⁶

Given the gaps in the current paid family leave offerings, a national paid leave policy is needed to help ensure families, especially those who are most vulnerable, have access to paid family leave. Many employers would like to offer paid family leave but cannot do so financially without a national or state architecture in place to make it more feasible. **As you work to advance paid family leave proposals, I urge you to ensure that such a proposal will not unduly burden lower-income organizations or individuals, will not penalize larger families, and will not destabilize existing social service programs.** I encourage your continued efforts to help families and welcome the opportunity to work with you to accomplish this goal.

STATEMENT SUBMITTED BY LAURA VALLE-GUTIERREZ, FELLOW

THE CENTURY FOUNDATION

Paid Leave is a Fundamental Worker Protection That Helps the Economy

The United States is long overdue in creating a permanent, comprehensive paid family and medical leave program in the United States (U.S.) to ensure that every worker has access to paid leave to care for themselves or a loved one with a serious health condition. In the U.S. it is still, on the whole, too hard to parent, to foster or adopt a child, or to have an aging parent who needs support as they face Alzheimer's, cancer, or other diseases of old age; and too hard to make ends meet while caring for a seriously ill loved one of any age, or to be ill yourself. All of those situations are hard enough on their own. Congress should be working to ease the challenges. But the present reality is this: just as you face the most emotionally and physically draining experiences of your life, you also must shoulder the stress of possibly losing your paycheck, multiplying the struggle to pay your bills, or derailing your career.

New research by the Women's Bureau at the Department of Labor shows that 35 percent of mothers¹ lack access to paid leave.² The United States is the only rich country that doesn't have paid family leave. This leads to parents not taking leave, even when they need it, including 13 percent of mothers who needed leave but did not take it in the past month. For just over one in six mothers who needed leave but didn't take it, the main reason was because they could not afford losing income.

Paid leave is also essential for people taking care of their own or family member's serious health conditions. The Family and Medical Leave Act—the national unpaid family medical leave program that guarantees job protection for time away for caregiving—only covers 56 percent of workers.³ Moreover, for many workers, taking leave without pay is untenable. No one should have to choose between caring for a newborn or another loved one, their health and well-being and economic security.

At the height of the pandemic, care policy moved forward in important, but temporary ways. The Families First Response Act, signed into law on March 18, 2020, guaranteed two workweeks of emergency paid sick leave and ten workweeks of emergency paid family leave to people working in businesses with fewer than 500 employees for many pandemic-related purposes,⁴ such as quarantines and recovering from the virus. While more limited a policy than was truly needed, for those that were included and able to use it, the support was vital.

The emergency paid leave program was discontinued before its impacts could be widely felt by workers, however, and the many gaps from political compromise weakened what it could have done. Still, the emergency program had several tenets

¹⁶ Bureau of Labor Statistics, U.S. Department of Labor, "Racial and ethnic disparities in access to and use of paid family and medical leave: evidence from four nationally representative datasets," January 2019, <https://www.bls.gov/opub/mlr/2019/article/racial-and-ethnic-disparities-in-access-to-and-use-of-paid-family-and-medical-leave.htm>.

¹ <https://www.dol.gov/agencies/wb/data/leave-job-flexibilities/leave-access#Access-to-Leave>.

² <https://www.nytimes.com/2021/10/25/upshot/paid-leave-democrats.html>.

³ <https://public.tableau.com/app/profile/women.s.bureau.department.of.labor/viz/shared/GS56TJD35>.

⁴ <https://tcf.org/content/commentary/will-congress-latest-covid-19-relief-package-address-paid-sick-family-leave/>.

that should be considered a model for good policy going forward. Notably, the program covered part-time workers,⁵ which is especially important for women who are more likely to work part-time due to care responsibilities. Unfortunately, Congress allowed these provisions to expire at the end of 2020 rather than extend them.

There is also a strong business case for paid family and medical leave—increased recruitment and retention, improved productivity, and loyalty, among other benefits. But at its core, this policy is about valuing communities, people, and care.

A strong paid family and medical leave policy⁶ is one that includes everyone who works (including self-employed people, domestic workers, and people who work for multiple employers), ensures that workers can afford to take the time to care, provides a meaningful duration of leave, guarantees job protection, covers a wide variety of family members and close relationships, and offers user-friendly ways to find out about these benefits and protections and use them.

Given the clear benefits to both workers and employers, it is critical for Congress to act. The United States is long overdue for establishing a paid leave program that gives workers and their families the ability to take care of their babies, their seriously ill loved ones and their own health without having to risk their economic security.

ZERO TO THREE

2445 M Street, NW, Suite 600
Washington, DC 20037

Statement of Miriam Calderón, Chief Policy Officer

Chairman Wyden and Ranking Member Crapo:

Thank you for the opportunity to provide comments for the Committee's hearing on *Exploring Paid Leave: Policy, Practice, and Impact on the Workforce*. Shining a light on the need for paid leave policy is critically important for infants, toddlers, and families, and we greatly appreciate your leadership in holding this hearing. Paid leave is a pillar of the robust policies our nation's families need and want. While paid leave covers many types of family needs, including paid sick days, my statement today emphasizes Paid Family and Medical Leave (PFML) as precisely the right policy to facilitate one of the most profound periods of human development, the first weeks and months of a child's life with parents or close caregivers in which they begin to forge the bonds foundational to all later development, learning and relationships.

Attention to paid leave has diminished. But the challenges families face when they cannot take time off to care for themselves or their children continue to cause families distress. Family stories of their challenges and the benefits of paid leave punctuate the discussion below, illustrating the choices and dilemmas they face. Unmistakably, families, their children, their employers and the economy all pay a price for the lack of this most basic family policy. Polls consistently show support for paid family and medical leave across demographic groups.¹

At ZERO TO THREE, our mission is to ensure every infant and toddler has what they need to thrive. We translate the science of early childhood development into useful knowledge and strategies for parents, practitioners, and policymakers. We work to ensure that babies and toddlers benefit from the family and community connections critical to their well-being and healthy development. And the science of early development tells us that nothing is more important to who we become in life than the early close relationships we form from birth. The protections offered by Paid Family and Medical Leave are essential to parents and babies as well as to workers and our country's economy. Protections offered by Paid Family and Medical Leave are particularly important for families of color, who are more likely to work in jobs where such benefits are not offered, and who are less likely to have the financial reserves to take needed time off work.

As you consider the need for paid leave policies, I call your attention to four points.

⁵ [https://www.dol.gov/agencies/whd/pandemic/ffcr-employee-paid-leave#:~:text=For%20reasons%20\(1\)%2D\(4,over%20a%20two%2Dweek%20period.](https://www.dol.gov/agencies/whd/pandemic/ffcr-employee-paid-leave#:~:text=For%20reasons%20(1)%2D(4,over%20a%20two%2Dweek%20period.)

⁶ <https://tcf.org/content/commentary/10-ways-make-workplace-laws-work-everyone/>.

¹ Bennett, B. (September, 2022). Americans overwhelmingly support paid family and medical leave. (<https://navigatortresearch.org/americans-overwhelmingly-support-paid-family-and-medical-leave/>).

- Paid Family and Medical Leave is a basic child development policy, especially for newborn or newly adopted children, responsive to the need for unhurried time for infants and toddlers with the caregivers who are important to them, to forge the human connections essential to healthy brain connections.
- Paid Family and Medical Leave is a major cross-cutting policy with benefits that span improved maternal and infant mortality rates, health, mental health, child care and economic stability.
- Paid leave policies can promote equitable access to these benefits, of great importance to infants and toddlers of color, who are more likely to live with poverty and low income and therefore more likely to miss out on responsive, unhurried time with parents.
- The amount and nature of paid leave policies is critical to full realization of these benefits, particularly the duration of leave, level of wage replacement, definition of family members covered, and job protection provided.

The bottom line: Although time for parents and close caregivers is an essential ingredient for young children's development and later success, our nation has turned its back on the commonsense policy that could supply this time, putting it out of reach for many families, often leaving it as the province of families with higher income. We all pay for this gap, children and families most of all. Poor health outcomes drain potential and increase costs. Economic strain can impact children's well-being. In fact, poverty is associated with undermining brain growth in areas affecting key areas of self-regulation, learning, memory, language and emotional control. The primary factor in buffering that harmful development? Strong parental support. As a nation, we should be doing everything we can to ensure parents and close caregivers can be present for their young children to give this responsive support. That begins with paid leave.

"When Grayson was born and needed open heart surgery, we were stunned and terrified. Everything happened so quickly and I was having a hard time processing it all—trying to stay strong, trying to be there for both my new baby and toddler at home, worried about how we would pay the medical bills, worried about finding a new job, worried about how much time I would have to stay home and take care of him, worried about keeping track of his medicines and appointments, worried about how this would impact his future and our lives. Paid family leave would have made a tremendous difference during this traumatic time in our lives. How? It would have helped us sleep at night. It would have helped us get through the day. It would have allowed us to not make decisions based on fear and finances. It would have enabled us to be present and care for each other fully during the most difficult time of our lives." Hannah S. (Farmington, MN)

The Importance of Paid Leave to the Earliest Development

Learning happens from the moment a baby opens their eyes, as billions of neurons start forming connections—one million or more every second. A baby's earliest relationships are central to this burgeoning brain architecture, providing the environment in which experiences unfold. In short, healthy brain connections depend on healthy human connections. Science tells us that forming secure attachments to a few caring and responsive adults is a primary developmental milestone for babies in the first year of life. But from the baby's perspective, the way we are held, talked to and cared for teaches us about who we are and how we are valued, which profoundly shapes who we will become.

All infants need ample time with their parents at the very beginning of their lives to form these critical relationships that are the portal through which they first encounter the world. It takes several months of "time off" from the flow of daily life—not only to adjust to the new physical demands of breastfeeding and sleepless nights—but to decipher the nuanced patterns and communications of a newborn, choreographing the "dance of development"² that establishes a foundation that will influence the child's long-term cognitive, social, and emotional development.³ Through these positive, meaningful relationships and experiences that ideally they

²Zigler, E., Muenchow, S., & Ruhm, C. (2012). Time off with baby: the case for paid care leave. ZERO TO THREE Press.

³Center on the Developing Child (2009). Five Numbers to Remember About Early Childhood Development (Brief). Retrieved from www.developingchild.harvard.edu.

have the time to form from the beginning, children gain confidence in their ability to explore and learn from the world around them.

When Wendy and her husband adopted Bryce, they prioritized having time to properly bond and attach with their new baby. She was able to take 12 weeks off work due to a combination of personal time off and FMLA, a large part unpaid. While she doesn't regret the time she took off at all, having no income for several weeks was a financial strain. Paid leave would have allowed her to take that valuable bonding time without the stress of not having her reliable income to help meet household expenses. In her words:

"Bonding is the foundation of our relationship with Bryce. From the time we met him in the hospital when he was a day old, we immediately began skin to skin contact with him. We were able to take time off from work to be with him for the first three months of life, and that was extremely important to us. Bonding as he is older means reading together, playing on the floor with one another, and simply being together as a family." Wendy D. (Ballwin, MO)

This dance, as complicated as it can be magical, is the foundation of a young child's learning. And yet, as a nation we make it difficult for parents to carry it out. Only a quarter of workers have access to paid family leave that would ensure they have this unhurried time. While current data are scarce, previous research has shown that a quarter of all birthing people return to work within 2 weeks of giving birth.⁴ This short duration of time off from work raises grave concerns for the birthing parent who has not had time to heal or cope with mental health issues and the role of parenting, and who may face a greater challenge in making child care arrangements. But again, thinking from a newborn's perspective, they are thrust into an unimaginably strange world at birth, striving to connect with the humans who care for them to secure he most basic needs in life—sustenance and warmth—beginning to learn to count on that special person, their guide to this unfamiliar territory. And then suddenly that special person disappears for hours at a time.

Moreover, just as babies thrive when their emotional needs are met and they feel secure, experiences in those early years that are harmful, stressful, or traumatic can undermine their development. When the dance goes wrong, disrupted by adverse experiences such as economic insecurity or parental depression, parents may lose the ability to provide responsive, stimulating caregiving.⁵

Paid family and medical leave makes it possible for parents or close caregivers with newborn or newly adopted children to form families, to have that quality time to forge connections and lay the groundwork for the secure attachments and social and emotional development that in turn will spark strong cognitive development. Research has found longer lengths of leave to be associated with more positive interactions between mothers and infants, greater sensitivity, and higher quality mother-infant relationships.⁶

Fathers also benefit. Studies of two-parent, opposite-sex households show a number of positive outcomes when fathers take leave. Fathers who take two or more weeks off after the birth of a child are more involved in that child's direct care nine months after birth than fathers who take no leave.⁷ Involved fathers also promote children's

⁴Van Niel M.S., Bhatia R., Riano N.S., de Faria L., Catapano-Friedman L., Ravven S., Weissman B., Nzodom C., Alexander A., Budde K., Mangurian C. The Impact of Paid Maternity Leave on the Mental and Physical Health of Mothers and Children: A Review of the Literature and Policy Implications. *Harv Rev Psychiatry*. 2020 Mar/Apr;28(2):113–126. doi: 10.1097/HRP.0000000000000246. PMID: 32134836.

⁵Cole, P., Trexberg, K., & Schaffner, M. (2023). State of babies yearbook: 2023. Washington, DC: ZERO TO THREE. <https://stateofbabies.org/>.

⁶Van Niel, et al.

⁷Nepomnyaschy, L., & Waldfogel, J. Paternity Leave and Fathers' Involvement with their Young Children: Evidence from the American Ecls-B. *Community, Work and Family*, 10(4), 427–453. 2007.

educational attainment and emotional stability.⁸ And, a father's involvement in a newborn's care in the first six months can mean both mother and baby sleep better.⁹

"Neither of us get any type of paid maternity/paternity leave but it was very important to me to take time off to bond together as a family after Penelope's birth. I saved up my sick time and was able to take three weeks off after her birth. It isn't a ton of time, but I'm thankful that I was able to do it. We already feel like a family and I believe that transition from being the 'three of us' to now being the 'four of us' really took place for me during those three weeks. I was also able to support my wife during that time by letting her sleep in, have one-on-one time with each child, spend time with friends, etc. in a way that wouldn't have been possible if I hadn't been able to take time off." Ryan C. (Bozeman, MT)

Paid Family and Medical Leave Is a Major Cross-cutting Policy

ZERO TO THREE's recent *State of Babies Yearbook: 2023* identified five urgent priorities for policymakers to address, along with a comprehensive set of policies to do so.¹⁰ Several foundational policies that could improve child and family well-being stood out across priority issues. Notably, paid leave played a role in addressing multiple needs: improving maternal and infant health, promoting strong infant and early childhood mental health and addressing mental health needs of women and birthing people, and providing economic security for families with young children. Cross-cutting policies such as PFML compound their benefits, making them very cost-effective and bolstering child and family well-being across multiple domains. While much of our focus is on paid leave for the birth or adoption of a child, other situations in the lives of babies and families, including serious childhood illness, also require time off for parents and close caregivers.

Maternal and Infant Health: Yearbook data reveal the crisis in maternal and infant health, beginning with alarming and steadily increasing maternal mortality rates for Black women and birthing people. This same pattern of racial disparities also is apparent in access to early prenatal care as well as infant birth outcomes. The mortality rate for Black infants is twice the national average (10.6 deaths per 1,000 live births compared with 5.4 nationally), placing the United States 37th among Organization for Economic Co-operation and Development nations. Black infants also are the most likely to be born preterm and with low birthweight.¹¹

PFML has a strong association with reduced infant and post-neonatal mortality rates. It also yields higher rates and longer periods of breastfeeding, which reduce childhood infections, disease and obesity. Evidence from California's long-running PFML program shows health and developmental improvements continuing into elementary school, as well as long-term health benefits for the breastfeeding parent. Time at home with young children helps parents ensure their children can attend well-child visits and receive vaccinations. The Yearbook shows that 1 in 10 infants and toddlers had not had a well-child visit in the previous year and more than a quarter were not up to date on recommended vaccines, with babies in families with low income lagging further behind. More time with babies can help parents and practitioners identify and intervene in a variety of developmental difficulties. This is especially important for caregivers of infants who are considered at high risk, such as babies born preterm or at low birth weights and those who have illnesses or birth defects.¹²

"Zoë is the first newborn that we have had significant time to bond with out of the 3 children we have, mainly because I (mom) am not working at all and dad was given paid family leave through his job as health and physical education instructor at a charter school. It has made a world of difference in her happiness and overall well-being. I was not able to successfully breastfeed for very long with my other children due to the stress of returning to work just a few weeks postpartum. I am elated that Zoë con-

⁸ Michael Lamb, *The role of the father in child development*, 4th ed. (pp. 1–18, 309–313), 2004. Hoboken, N.J.: John Wiley & Sons, Inc.; Kristin Smith, *After the Great Recession, More Married Fathers Providing Child Care*. Carsey School of Public Policy, 2005. Retrieved from <https://carsey.org>.

⁹ Liat Tikotzky, Avi Sadeh, Ella Volkovich, Rachel Manber, Gal Meiri, and Golan Shahar, *Infant sleep development from 3 to 6 months postpartum: links with maternal sleep and paternal involvement*. *Monographs of the Society for Research in Child Development*, 80(1), p. 107–124, 2015.

¹⁰ Cole, P., et al.

¹¹ *Ibid.*

¹² Zigler, et al.

tinues to breastfeed strong! Each drop of milk I can provide her contributes to her physical and emotional health.”¹³ RaShona B. (Wilmington, DE)

Maternal Mental Health: More than one in ten (11.5 percent) of women and birthing people are estimated to experience postpartum depression, with higher rates for those in lower socioeconomic group.¹³ One fifth of maternal deaths in the postpartum period are related to mental health conditions.¹⁴ Moreover, babies’ mental well-being is intertwined with that of their parents, so a parent’s depression can affect the attachment process.

Paid leave can have a significant impact on maternal mental health. Research shows that each week of paid leave up to 12 weeks reduces the odds of a new mother/birthing person experiencing symptoms of postpartum depression.¹⁵

“[When Emmett was in the NICU], I would pump every three hours, begin my work days before the sun came up. I would leave work before lunch and spend time in the NICU in the afternoon. I would come home and finish my work day and after dinner, I would go to the NICU for the last feeding. I was trying my best to be in two places at once but because there are no resources for moms in situations like mine, I was forced to sacrifice my mental/physical health and healing to ‘get it all done.’ I suffered extreme postpartum depression and anxiety from the overwhelm that was on my plate and the fact that I was watching a tiny premature baby fight for his life in the NICU. When I was postpartum, I still had health complications and I never had a chance to take care of myself. My husband and I planned for a baby and we tried our best to prepare for the financial aspect of unpaid leave. However, as much as we feel like our world is in a stand still, the bills do not stop. My husband took intermittent parental leave to make sure that we did not have a gap in health insurance. Without him doing that, our NICU bills would have been astronomical.” Jessica D. (Florence, MA)

Child Care: PFML is part of a continuum of policies needed to ensure families can balance work and family needs. Child care is the next step. The majority of families with a newborn or newly adopted child very quickly are thrown into a search for child care in a system that is not ready for them. Infant care is the most expensive care and hardest to find with wait lists exceeding months in many parts of the country. The challenges associated with finding high-quality, affordable child care add to the strain on a family adjusting to a new addition and increased anxiety for the well-being of their child and the economic necessity of returning to work.

Strong PFML policies can help both family transitions back to work as well as ease a key strain on the child care system. Families in states such as California and Rhode Island report positive effects on their ability to arrange child care.¹⁶ Longer periods of paid leave relieve pressure on the child care system.

Economic Security: The birth of a child can be an unsettling event economically. Recent data show one in four mothers experience poverty around the time of their child’s birth.¹⁷ A lack of leave may cause pregnant people to leave their jobs entirely, especially since fewer than 60 percent of workers are covered by Family and Medical Leave Act job protection.¹⁸ Lack of access to paid leave almost certainly propels the high rates of return to work within a few weeks of giving birth.

The economic benefits to families of having paid leave are clear, but many of these benefits also accrue to their employers and to society as a whole. Paid leave provides wage stability and increases attachment to the labor force. It can help the birthing parent remain in line for wage increases. Employers avoid recruiting and retraining costs. Families are less likely to use public assistance, resulting in reduced costs for

¹³ Van Niel, et al.

¹⁴ Trost, S., Beauregard, J., Chandra, G., Njie, F., Berry, J., Harvey, A., & Goodman, D.A. (2022). Pregnancy-related deaths: Data from Maternal Mortality Review Committees in 36 US states, 2017–2019. Centers for Disease Control and Prevention. <https://www.cdc.gov/reproductivehealth/maternal-mortality/erase-mm/datammrc.html>.

¹⁵ Kornfeind, K.R., & Sipsma, H.L. (2018). Exploring the link between maternity leave and postpartum depression. *Women’s Health Issues*, 28(4), 321–326.

¹⁶ Appelbaum, E., & Milkman, R. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy* (p. 49). Ithaca, NY: Cornell University Press.

¹⁷ Hamilton, C., Sariscany, L., Waldfogel, J. & Wimer, C. (2023). Experiences of poverty around the time of a birth: A research note. *Demography*, 60(4), 965–976. <https://doi.org/10.1215/00703370-10837403>.

¹⁸ National Partnership for Women and Families (2023). *Paid leave. Paid Leave—National Partnership for Women & Families.*

state and federal governments.¹⁹ Moreover, the vast majority of small business owners, many of which could not afford to pay for paid leave on their own, report either positive effects or no effect on their profitability and in fact have experienced positive effects on turnover and competitiveness with larger businesses.²⁰

Due to severe health issues, Shawnnita's son, Kaden, was rushed to the emergency room countless times in his early years, where he was frequently admitted for care. Shawnnita and her husband spent many days and nights with Kaden in the hospital. Even as their child was receiving emergency care, Shawnnita and her husband were compelled to work. Kaden's younger brother, Kairo, is now 6 months old and struggling with similar health issues. In her words:

"This was a challenging time for our family. We spent many days and nights in the hospital. Not having adequate time or paid leave to take off of work made the challenge even greater. Many nights as our son slept in the hospital bed next to us, a time we also should have been sleeping, we pulled out our laptops to work. We were living on a fixed income, we struggled with the expense of the special formula Kaden needed for his health issues, and we could not afford to miss work. Ultimately we had no choice. It was through this experience that we realized how important it was for parents to have access to adequate paid time off to take care of their children who has a serious health need." Shawnnita B. (Bedford, TX)

Early Childhood Illnesses: Birth or adoption often is not the only time an infant or toddler needs their parents' constant presence. For example, the rates of childhood cancer have been increasing over the past 20 years. Almost half of all pediatric cancer occurs during early childhood, with the peak incidence of invasive childhood cancer occurring during infancy. Unquestionably, all children and particularly very young ones need the reassuring presence of their parents at such times. Families who care for a child with cancer incur considerable costs during the diagnostic, treatment, and follow-up care phases of the disease. Four major factors contribute to these expenses: necessary travel; loss of income because of a reduction or termination of parental employment; out-of-pocket treatment expenses; and inability to draw on assistance programs to supplement or replace lost income.²¹ As with most caregiving duties, the majority falls on the mother and therefore her career and financial stability is most at risk. Typically, the mother is the one who terminated or reduced work hours, which affects the entire family's financial well-being. This economic burden can have long-term effects on the financial security, quality of life, and future well-being of the entire family, including the siblings of the affected child. Paid family and medical leave would help to alleviate the financial burden and eliminate the fear of retaliation when returning to work after caring for a chronically ill child.

Anna's son, Gareth, had severe allergies and asthma that led to multiple hospitalizations in his first year of life. Had Anna had access to comprehensive paid family and medical leave, she would have been able to spend more time bonding with Gareth and understanding what was causing his illness. Instead she had to walk away from a job she loved to care for her sick child. In her words:

"Having to return to work when your baby is six weeks is no mother's dream. I had to return to work due to the exhausting my entire leave. None of the leave was paid, but my job was on the line if I didn't return to work. If there were more time for me to bond with my baby, I would have had more knowledge of what was going on with him. I would not have had to resign from my job if there was more time allowed to be home with him." Anna A. (Bastrop, LA)

Paid Leave Policies Promote Equity from the Start

The ability to take time off at the birth or adoption of a child or during a prolonged health need of the worker or family members is inextricably bound to a worker's economic situation. One of the most important findings in the *Yearbook* is that "poverty and low income remain the most striking demographic factor of babies in the

¹⁹ Van Niel, et al.

²⁰ National Partnership for Women and Families (2023). Paid family and medical leave is good for business. *paid-leave-good-for-business.pdf* ([nationalpartnership.org](https://nationalpartnership.org/paid-leave-good-for-business.pdf)).

²¹ Miedema, B., Easley, J., Fortin, P., Hamilton, R., & Mathews, M. (2008). The economic impact on families when a child is diagnosed with cancer. *Current Oncology*, 15(4), 173–178. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2528308/>.

United States, illustrating the intersectionality of income with race and ethnicity. In 2021, nearly two in five (38.9 percent) of the nation's infants and toddlers lived in families earning less than 200 percent of the federal poverty level (\$55,000 a year for a family of four). Racial and ethnic disparities are clear: 62.3 percent of Black infants and toddlers lived in families with low income, as did 61.4 percent of Native American and 50.8 percent of Hispanic infants and toddlers.²²

Because families of color are overrepresented in the population with low income, not surprisingly they are less likely to be in jobs that provide paid leave and have less ability to use unpaid leave because they cannot afford to lose income. The *Yearbook* describes the racial wealth gap for Black and Latine families in particular, noting that their overall disparities in having financial assets to fall back on is a barrier to taking advantage of unpaid leave,²³ and saving for time off is challenging for families living paycheck to paycheck. An additional barrier is wage discrimination where Black, Latine and Native workers earn less on average than white men and women workers.²⁴

The ramifications of this inequity go far beyond economics. Families with young children who cannot take time off from work are impeded in giving their babies the unhurried time for the responsive care that promotes positive development. Disparities in health access and outcomes are magnified, so that the health and mental health of birthing parents and babies alike are placed at risk. Family life could be more chaotic simply because parents cannot catch their breath or be fully present for their babies. Financial instability, which the *Yearbook* shows is a reality for many babies and especially babies of color, could be even more precarious. Parents who return to work must continue the family scramble of looking for infant child care, with minimal support in that area as well, and less access to quality programs for families of color or with low income.

One of paid leave's most important impacts thus would be promoting equity for families and babies even before birth. Research on California's paid family leave program found that the program has not only increased the amount of time off taken by all women, but also has resulted in parity in the number of weeks taken by Black and white mothers/birthing parents.²⁵ By promoting job retention, paid leave can help promote financial stability not only during the leave period, but afterwards as well, especially as women who take paid family leave are more likely to have wage increases in the following year.²⁶ Finally, the ability to care for oneself, attend to mental health and health needs and potentially reduce maternal and infant mortality would be a huge gain in health equity—and should be a fundamental guarantee to people in the United States, as it is to residents of other industrialized nations.

The Parameters of a Robust Paid Leave Program

A national paid family and medical leave policy must be broad and robust to comprehensively address families' needs for providing care. ZERO TO THREE has endorsed the Family and Medical Insurance Leave (FAMILY) Act, which meets this goal. It would

- Provide workers a **meaningful duration of leave**, not less than 12 weeks, for caring for their own serious health condition, the birth or adoption of a child, addressing the effects of domestic violence or sexual assault, or to make arrangements for military deployment.
- Provide **wage replacement rates** to make taking leave financially possible for all working people—ensuring the lowest paid workers receive 85 percent of their normal wage, with typical workers earning around two-thirds of their wages.
- Be **inclusive of all working people** across the United States, covering workers in all companies, no matter their size. Younger, part-time, lower-wage, contingent, and self-employed workers would all be eligible for benefits.
- Ensure workers on the job for more than 90 days have the **right to be reinstated** following their leave, and all workers are protected from retaliation.

²² Cole, P., et al.

²³ *Ibid.*

²⁴ National Partnership for Women & Families. (2018). Paid family and medical leave: A racial justice issue—and opportunity. <https://nationalpartnership.org/resource/paid-family-and-medical-leave-a-racial-justice-issue-and-opportunity/>.

²⁵ *Ibid.*

²⁶ Van Niel, et al.

- Be affordable, cost-effective, and sustainably funded by **small employee and employer payroll contributions.**

Conclusion

Care is a fundamental factor in human life. We all have needed care as babies and will almost certainly need care again at some point. Most of us also will be called on to be caregivers. And, except in a handful, but growing, number of states and the military, families shoulder this responsibility with little support from policies that ensure financial security and peace of mind. Congress can and should change this with policies like paid leave.

Many potential parents are giving up on our nation, faced with the daunting prospect of having a baby during increasingly complex times, residing in what amounts to a family policy desert among industrialized nations. From the first *State of Babies Yearbook* five years ago to the one just released, the cohort of infants and toddlers in the United States dropped by 900,000 babies, from 11.9 million to 11 million. The reasons behind the decline in births are complex. Yet, family-friendly policies could be an important key to turning the birthrate around and ensuring the future generation needed to sustain our economy.

