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June 20, 2023

The Honorable Bernie Sanders
Chairman
Committee on Health, Education,
Labor & Pensions
United States Senate

The Honorable Bill Cassidy
Ranking Member
Committee on Health, Education,
Labor & Pensions
United States Senate

Re: Letter of Support for the Paycheck Fairness Act, the Healthy Families Act, and the Richard L. Trumka Protecting the Right to Organize Act of 2023

Dear Chairman Sanders and Ranking Member Cassidy:

On behalf of the National Women's Law Center, I write in strong support of the Paycheck Fairness Act (S.728), the Healthy Families Act (S.1664), and the Richard L. Trumka Protecting the Right to Organize Act of 2023 (S.567). We urge you to support these bills, without amendments, and vote to move each to the Senate floor.

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 low-income women and families. The three pieces of legislation being considered by the Committee are critical and complementary tools to increase earnings, especially for women of color; combat poverty and persistent pay gaps; promote public health; increase economic security; and build worker power.

Paycheck Fairness Act (S.728)

This year marks the 60th anniversary of the Equal Pay Act, which made it illegal for employers to pay unequal wages to men and women who perform substantially equal work. Although enforcement of the Equal Pay Act and other civil rights laws has helped to narrow the wage gap, significant disparities remain—and action to update the law is needed urgently.

Overall, when the wages of all women are compared to the wages of all men, women in the United States are paid just 77 cents for every dollar paid to men.¹ Even among full-time, year-round workers, women are typically paid only 84 cents for every dollar paid to men, with women of color experiencing the largest gaps.² Black women are typically paid 67 cents for every dollar paid to a white, non-Hispanic man, while Latinas and Native American women are paid only 57 cents.³ Asian American, Native Hawaiian, and Pacific Islander (AANHPI) women are paid 92 cents for every dollar paid to their white, non-Hispanic male counterparts, but the pay gap for AANHPI women varies widely by community, with some AANHPI women making significantly less.⁴ This wage gap has barely budged in the last decade, and studies show that even controlling for race, region, unionization status, education, experience, occupation, and industry leaves 38% of the pay gap unexplained.⁵ Women are paid less in nearly every occupation. The gap impacts women as soon as they enter the labor force, and it expands over time, impacting women's retirement income and adding up to a loss of nearly \$400,000 in wages over the course of a 40-year career, with women of color facing lifetime losses that can reach or surpass a million dollars.⁶

The Paycheck Fairness Act would strengthen the Equal Pay Act and provide new tools to help ensure fair pay and fight against sex-based pay discrimination. Among its provisions, the Paycheck Fairness Act would close a loophole that has allowed employers to pay women less than men for the same work without any important business justification. The Paycheck Fairness Act makes clear that any pay differential must be truly caused by something other than sex, and that factor must be related to the position in question, be consistent with business necessity, and account for the entire pay differential. In addition, the Paycheck Fairness Act would prohibit retaliation against workers who share pay information with their co-workers; limit the use of wage history in the hiring process so pay discrimination does not follow women from job to job; improve remedies for Equal Pay Act violations, placing remedies for sex-based pay discrimination on equal footing with those for discrimination based on race and ethnicity; make it easier for workers to obtain relief by coming together to challenge pay discrimination; require the EEOC to collect pay data from employers to help identify areas of concern for further investigation by enforcement agencies and encourage employer self-analysis and self-correction; and provide for research, training, and technical assistance.

Women should not have to wait any longer for equal pay. Congress must pass the Paycheck Fairness Act to help ensure an economy that works for everyone, where everyone is paid fairly.

Healthy Families Act (S.1664)

In 2022, almost 30 million civilian workers in the United States lacked any form of paid sick days—including a majority of people working in the lowest paying jobs.⁷ People working in service sector jobs—where women are overrepresented—are among the least likely to have paid sick days.⁸ Workers in these low-paid jobs often report feeling the need to report to work even when they are sick or need care—a phenomenon that not only harms individuals and their families, but also presents a risk to public health.

Women overall are less likely to have access⁹ to paid sick days than their male counterparts, a disparity that compounds gender inequality and economic insecurity, as women are still more likely than men to serve as both primary caregivers and breadwinners for their families.¹⁰ Part-time workers—who are more likely to be women and women of color—are also far less likely to have access to paid sick days than full-time workers.¹¹ Lack of access can mean severe economic hardship; for workers without paid sick days, taking even a few days off to recover from an illness can mean losing wages equivalent to monthly costs for groceries, gas, or household utilities like electricity and heat.¹² These realities leave working people with the impossible choice between taking care of their health and maintaining their financial security. And for survivors of domestic and sexual violence, a lack of paid time off work may create obstacles in accessing medical and legal care that enable them to protect themselves, as well as create economic insecurity. A 2018 survey on the economic impact of intimate partner violence found that almost half of respondents reported missing days of work as a result of abuse.¹³

Evidence from cities and states around the country clearly demonstrates that providing workers with paid sick time benefits individuals, families, and the economy. Providing workers with paid sick days improves public health, helping reduce the spread of illnesses by allowing workers to stay home when they are sick and to seek medical care.¹⁴ Parents with paid sick time are also better able to access health care for their children, including immunizations and regular doctor's visits.¹⁵ Paid sick days benefit businesses, too; research from states with guaranteed paid sick time shows that these laws have a positive impact on local economies.¹⁶ In addition, workers with access to paid sick days are less likely to show up to work when sick—a phenomenon that costs the economy billions of dollars each year¹⁷—and are less likely to quit their jobs, which in turn reduces costs to employers associated with employee turnover.¹⁸

Congress can learn from the progress made at the state and local level and provide working people across the country with paid sick days. The Healthy Families Act will allow employees to accrue seven sick days each year that can be used in cases of personal illness, to access preventative care, to provide care to a sick family member, to attend school meetings related to a child's health, or for safe leave to recover from or receive support related to an incidence of domestic violence, sexual assault, or stalking. Guaranteeing all workers have access to paid sick days is a simple, commonsense solution, but one that will have an outsized effect on improving workers' lives. It is long past time that working people had guaranteed paid sick days to help protect their health and safety and promote their economic security.

Richard L. Trumka Protecting the Right to Organize (PRO) Act of 2023 (S.567)

Ensuring that working people can exercise their rights to organize, join unions, and collectively bargain with their employers is a critical way to advance higher wages and better working conditions. Women especially gain from union organizing, because collective bargaining increases women's equality at work.¹⁹ Women union members who work full time typically earn about \$205 more per week than women who are not represented by unions, a larger wage advantage than men typically receive.²⁰ Among women, Latina workers experience particularly large financial benefits from union membership.²¹ And while the gender wage gap persists even when women are unionized, women in unions are consistently paid wages that are not just higher but also more equal to men's wages, compared to their nonunionized counterparts.²² One reason for the smaller gender wage gap among women who are members of unions is that unions help to ensure transparency around wages, including greater access to and control over information about salaries, and set pay scales.²³

Unions also increase access to health and leave benefits that allow working people to weather changing family responsibilities or unexpected health crises, which often disproportionately affect women workers.²⁴ And unions can help prevent and address discrimination, including sexual harassment at work. Working people with a union are better able to raise and address harassment concerns because collective bargaining agreements provide more avenues for preventing, addressing, and reporting employer wrongdoing, and greater protection from firing and retaliation than are available to most non-union workers—and if harassment or retaliation does occur, individuals have more mechanisms to challenge unjust employer actions.²⁵

Our labor laws are outdated. The National Labor Relations Act has been worn down and weakened over time from relentless corporate attacks. Employers regularly break the law and face minimal penalties, mounting sophisticated campaigns to scare their employees away from voting in their own interests.²⁶ The PRO Act is desperately needed to level the playing field for workers seeking to unionize, helping to ensure working women can come together collectively, without fear, to build better workplaces for all.

Women and families across the country need an economy that will promote their equity, health, and financial security. We urge your strong support for the Paycheck Fairness Act (S.728), the Healthy Families Act (S.1664), and the Richard L. Trumka Protecting the Right to Organize Act of 2023 (S.567).

Sincerely,



Emily J. Martin
Vice President for Education & Workplace Justice

¹ Brooke LePage and Jasmine Tucker, *A Window Into the Wage Gap: What's Behind It and How to Close It*, NAT'L WOMEN'S LAW CTR. (Jan. 2023), <https://nwlc.org/resource/wage-gap-explainer/>.

² *Id.*

³ *Id.*

⁴ Jasmine Tucker and Sarah Javaid, *Some Asian American, Native Hawaiian, and Pacific Islander Women Lose Over \$1 Million Over a Lifetime to the Racist and Sexist Wage Gap*, National Women's Law Center, NAT'L WOMEN'S LAW CTR. (March 2023), <https://nwlc.org/wp-content/uploads/2023/03/AANHPI-Wage-Gap-3.28.23.pdf>.

⁵ Francine D. Blau & Lawrence M. Kahn, *The Gender Wage Gap: Extent, Trends and Explanations*, NAT'L BUREAU OF ECON. RESEARCH (Jan. 2016), <http://www.nber.org/papers/w21913.pdf>.

⁶ Jasmine Tucker, *The Wage Gap Robs Women Working Full Time, Year Round of Hundreds of Thousands of Dollars Over a Lifetime*, NAT'L WOMEN'S LAW CTR. (March 7, 2023), <https://nwlc.org/resource/the-wage-gap-robs-women-working-full-time-year-round-of-hundreds-of-thousands-of-dollars-over-a-lifetime/>.

⁷ U.S. Bureau of Labor Statistics (BLS), *Employee Benefits in the United States: Labor Force Statistics from the Current Population Survey* (March 2022), <https://www.bls.gov/news.release/pdf/ebs2.pdf>.

⁸ See Jasmine Tucker and Julie Vogtman, *When Hard Work Is Not Enough: Women in Low-Paid Jobs*, NAT'L WOMEN'S LAW CTR. (Apr. 2020), <https://nwlc.org/resource/when-hard-work-is-not-enough-women-in-low-paid-jobs>.

⁹ Daniel Schneider and Kristen Harknett, *Essential and Vulnerable: Service-Sector Workers and Paid Sick Leave*, THE SHIFT PROJECT (Apr. 2020), <https://shift.hks.harvard.edu/essential-and-vulnerable-service-sector-workers-and-paid-sick-leave>.

¹⁰ 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>.

¹¹ Brooke LePage, *Part-Time Workers Are Facing Heightened Uncertainty During COVID—and Most Are Women*, NAT'L WOMEN'S LAW CTR. (Feb. 2022), <https://nwlc.org/resource/part-time-workers-factsheet>.

¹² Elise Gould and Jessica Schieder, *Work Sick or Lose Pay?*, ECONOMIC POLICY INSTITUTE (June 2017), <https://www.epi.org/publication/work-sick-or-lose-pay-the-high-cost-of-being-sick-when-you-dont-get-paid-sick-days>.

¹³ Cynthia Hess & Alona Del Rosario, *Dreams Deferred: A Survey on the Impact of Intimate Partner Violence on Survivors' Education, Careers, and Economic Security*, INST. FOR WOMEN'S POLICY RESEARCH (2018), https://iwpr.org/wp-content/uploads/2018/10/C474_IWPR-Report-Dreams-Deferred.pdf.

¹⁴ LeaAnne DeRigne, Patricia Stoddard-Dare & Linda Quinn, *Workers Without Paid Sick Leave Less Likely To Take Time Off For Illness Or Injury Compared To Those With Paid Sick Leave*, 35 HEALTH AFFAIRS 520 (March 2016), <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2015.0965>; Yusheng Zhai et al., *Paid Sick Leave Benefits, Influenza Vaccination, and Taking Sick Days Due to Influenza-like Illness Among U.S. Workers*, 36 VACCINE 7316 (Nov. 2018), <https://doi.org/10.1016/j.vaccine.2018.10.039>.

¹⁵ Abay Asfaw and Maria Colopy, *Association between Parental Access to Paid Sick Leave and Children's Access to and Use of Healthcare Services*, 60 AMERICAN JOURNAL OF INDUSTRIAL MEDICINE 276 (Feb. 2017), <https://doi.org/10.1002/ajim.22692>.

¹⁶ See generally *Paid Sick Leave is Good for Business*, A BETTER BALANCE (March 2022), <https://www.abetterbalance.org/wp-content/uploads/2021/02/Paid-Sick-Leave-Is-Good-for-Business-3.31.22.pdf>.

¹⁷ Walter F Stewart et al., *Lost Productive Work Time Costs From Health Conditions in the United States: Results From the American Productivity Audit*, 45 JOURNAL OF OCCUPATIONAL AND ENVIRONMENTAL MEDICINE 1234 (Dec. 2003), <https://doi.org/10.1097/01.jom.0000099999.27348.78>.

¹⁸ Hilary Wething, *Reduced Job Turnover in Small U.S. Firms is an Overlooked Benefit of Paid Sick Leave*, WASHINGTON CTR. FOR EQUITABLE GROWTH (July 2022), <https://equitablegrowth.org/reduced-job-turnover-in-small-u-s-firms-is-an-overlooked-benefit-of-paid-sick-leave>.

¹⁹ See generally *Amanda Fins*, Sarah David Heydemann & Jasmine Tucker, *Unions Are Good for Women*, NAT'L WOMEN'S LAW CTR. (July 2021), <https://nwlc.org/wp-content/uploads/2021/07/Union-Factsheet-9.8.21.pdf>.

²⁰ *Id.*

²¹ Among full-time workers, unionized Latinas typically make 40% more per week (\$271 more) than Latina non-union workers. *Id.*

²² In 2020, unionized women overall typically made 88 cents for every dollar made by unionized men, while non-union women typically made just 82 cents for every dollar made by non-union men. *Id.*

²³ See *Salary Range Transparency Reduces Gender Wage Gaps*, NAT'L WOMEN'S LAW CTR. (Sept. 2022), <https://nwlc.org/wp-content/uploads/2022/09/Salary-Transparency-FS-2021-9.20.22.pdf>.

²⁴ For example, unionized workplaces are 22% more likely than non-union workplaces to provide parental leave and are 12% more likely to allow women to take leave during pregnancy; when women in unions do take parental leave, their leave is 13% more likely to be paid than leave taken by non-union women workers. See Brief of the National Women's Law Center, The Leadership Conference on Civil and Human Rights and 85 Additional Organizations Committed to Civil Rights and Economic Opportunity as Amici Curiae in Support of Respondents, AFSCME Council 31, et al. (Jan. 19, 2018), <https://nwlc.org/press-releases/nwlc-and-the-leadership-conference-submit-amicus-brief-in-supreme-court-case-seeking-to-undermine-public-sector-unions>.

²⁵ See generally, e.g., *Addressing Sexual Harassment in the Workplace: There Is Power in My Union*, AFL-CIO (Feb. 2019), https://aflcio.org/sites/default/files/2019-03/1907_SexHarrassToolkit_eversion_0.pdf.

²⁶ See generally, Celine McNicholas, et al., "U.S. Employers are Charged with Violating Federal Law in 41.5% of all Union Election Campaigns," (Economic Policy Institute, Dec. 2019), <https://www.epi.org/publication/unlawful-employer-opposition-to-union-election-campaigns>.