

June 20, 2023

Honorable Bernie Sanders  
Chair  
Senate Health, Education, Labor, and Pensions Committee  
428 Senate Dirksen Office Building  
Washington, D.C., 20510

Honorable Bill Cassidy  
Ranking Member  
Senate Health, Education, Labor, and Pensions Committee  
428 Senate Dirksen Office Building  
Washington, D.C., 20510

Dear Chair Sanders and Ranking Member Cassidy:

The 32 undersigned organizations oppose the following bills being considered at the U.S. Senate Health, Education, Labor, and Pensions Committee markup on June 21, 2023: the Richard L. Trumka Protecting the Right to Organize (“PRO”) Act (S. 567), the Healthy Families Act (S. 1664), and the Paycheck Fairness Act (S. 728). Our organizations stand ready to work with the Committee to find long-term solutions that will be mutually beneficial to employees and employers alike and suggest the Committee consider several alternative measures that have either been introduced this Congress or in prior Congresses.

The PRO Act would upend federal labor policy at the expense of workers and employers’ rights. The bill would deprive many franchisees and self-employed individuals of their chosen livelihoods, deprive many workers of the right to secret ballots in union representation elections, and limit employers’ constitutionally protected free speech rights. The bill would also eliminate all right-to-work laws, make the supply chain more vulnerable to labor strife, allow unions to gerrymander union representation elections, and force employers to provide workers’ personal information to unions without the workers’ authorization. These are only some of the egregious provisions in the bill. More information on the PRO Act, its economic consequences, and its lack of public support is outlined in a March 2023 letter<sup>1</sup> that over 100 employer organizations sent to the Committee.

In place of the PRO Act, we urge the Committee to instead consider the Employee Rights Act. The Employee Rights Act makes several important changes that would modernize federal labor law to bring it in line with the 21<sup>st</sup> century workplace. The bill guarantees secret ballot elections in union representation elections, gives workers the power to choose which of their personal information is turned over to unions, safeguards independent work arrangements that are currently under attack, and protects businesses’ autonomy and investments by clarifying the joint employer standard under federal labor law.

---

<sup>1</sup> CDW letter to members of Congress (March 24, 2023), available at [http://myprivateballot.com/wp-content/uploads/2023/03/CDW-PRO-Letter-Congress\\_Mar-2023.pdf](http://myprivateballot.com/wp-content/uploads/2023/03/CDW-PRO-Letter-Congress_Mar-2023.pdf).

The Healthy Families Act is a one-size-fits-all approach to paid leave that would not consider the nuances of different industries and regions of the country. Nor would it consider the actual needs and desires of America's workers. Instead of providing the flexibility small businesses and workers value, the bill would attempt to impose a burdensome, complex leave mandate that would have devastating consequences for the economy. The bill would threaten jobs and the viability of many small businesses. A 2016 study<sup>2</sup> by the National Federation of Independent Business showed the bill would result in 430,000 lost jobs over 10 years and cost the economy \$652 billion in economic output. Small businesses alone would account for 58% of the jobs lost and 50% of the lost output. This bill would result in the shuttering of Main Streets across the country.

The Paycheck Fairness Act would make it nearly impossible for employers to prove a pay disparity is based on legitimate factors other than sex. It would impose significant compliance costs on employers and require the Equal Employment Opportunity Commission to collect an expansive array of new pay data on employees. The bill would inevitably lead to an increase in class action lawsuits, which would only benefit trial lawyers, and expose employers to unlimited compensatory or punitive damages regardless of whether there was intentional discrimination.

As alternatives to the Healthy Families Act and Paycheck Fairness Act, we urge prompt introduction and committee consideration of the Advancing Support for Working Families Act, the Working Families Flexibility Act and the Wage Equity Act. The Advancing Support for Working Families Act would allow individuals to elect to advance future child tax credits in the year of a birth or adoption. Under the Working Families Flexibility Act, workers could choose whether they want overtime pay for any hours over 40 worked in a given workweek or to instead earn more paid time off. Workers would have the ability to earn as much as 160 hours of paid leave under the legislation. Moreover, employers would pay workers for any leave they did not use, ensuring the workers do not risk losing out on their earnings. The bill also establishes protections for workers regardless of which option they choose. This proposal would give workers the flexibility they want and the autonomy to determine which option would best help them meet their needs.

The Wage Equity Act would ensure workers receive equal pay for equal work by encouraging employers to proactively review their pay practices and eliminate and rectify any disparities they find. It would also protect employers' ability to use bona fide business-related factors other than sex to set workers' compensation and allow workers to voluntarily disclose their prior salary histories when they choose to do so.

In sum, the PRO Act, Healthy Families Act, and Paycheck Fairness Act would hurt the individuals they claim to help. The Committee should instead focus on legislation that will protect workers without negatively hurting job creators or the economy. The Employee Rights Act, Working Families Flexibility Act, and Wage Equity Act contain significantly better policies that would

---

<sup>2</sup> NFIB Research Center, "The Economic Impact of H.R. 932 and Mandatory Paid Sick Leave on U.S. Small Businesses" (January 14, 2016), available at <https://www.remi.com/wp-content/uploads/2017/10/320-NFIB-Mandatory-Paid-Sick-Leave.pdf>.

safeguard the rights of workers and employers and promote sounder workplace policy across the economy and country.

Sincerely,

Air Conditioning Contractors of America  
American Bakers Association  
American Hotel & Lodging Association  
American Trucking Associations  
Argentum  
Associated Builders and Contractors  
Associated General Contractors of America  
FMI – The Food Industry Association  
Global Cold Chain Alliance  
HR Policy Association  
ICSC  
Independent Electrical Contractors  
International Foodservice Distributors Association  
International Franchise Association  
National Association of Home Builders  
National Association of Manufacturers  
National Association of Professional Insurance Agents  
National Association of Wholesaler-Distributors  
National Club Association  
National Council of Chain Restaurants  
National Lumber & Building Material Dealers Association  
National Restaurant Association  
National Retail Federation  
National Roofing Contractors Association  
National Stone, Sand & Gravel Association  
National Tooling and Machining Association  
Precision Machined Products Association  
Precision Metalforming Association  
Small Business & Entrepreneurship Council  
Truck Renting and Leasing Association  
U.S. Chamber of Commerce  
Workplace Policy Institute