



Testimony of Vicki Shabo
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U.S. House Oversight and Reform Committee Hearing – *Leading by Example: The Need for Comprehensive Paid Leave for the Federal Workforce and Beyond*

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Chair Maloney, Ranking Member Comey, and members of the committee, thank you for holding today's hearing. It is a pleasure to be here with you to discuss the value of paid family and medical leave for the federal workforce and the federal government as an employer, as well as for all working Americans, employers and the economy.

My name is Vicki Shabo and I am a senior fellow for paid leave policy and strategy at the Better Life Lab at New America, a think and action tank in Washington, D.C., though the views I express here are my own. Over more than a decade, I have helped to shape the dozens of federal, state and local paid sick days and paid family and medical leave policies that now provide security, stability and certainty to tens of millions of people and their loved ones.

Despite substantial progress at the state and local levels, more than 100 million workers still do not have paid family leave to care for a new child or a seriously ill loved one. Whether a son or daughter can afford to take time away from work to hold a parent's hand through chemotherapy treatments, a parent is home to see a baby's first smile, or a person can recover from a car accident before returning to work is largely dependent on the luck of geography and employer beneficence. This uneven access to paid leave translates into unequal life opportunities and perpetuates pervasive disparities in income and wealth. Workers' lack of access to paid leave also suppresses labor force participation and, as a result, creates a drag on our economy.

I was pleased to be here to discuss paid leave with you in December 2019 for a hearing on *Examining the Need for Comprehensive Paid Family and Medical Leave*.¹ This was just before Chairwoman Maloney's Federal Employees Paid Leave Act (FEPLA), guaranteeing 12 weeks of paid leave to new parents in the federal workforce, was included in the National Defense Authorization Act (NDAA) and signed into law.

Today's hearing is a natural progression of this even-more urgent policy discussion. Everything I included in my testimony then is even more salient now, bolstered by new evidence from state paid leave programs and reinforced by the harrowing health, workforce and economic impacts

of the COVID-19 pandemic, which brought gender, racial, economic and health disparities to the fore.

The testimony you heard in 2019 showed that the challenges facing women and all family caregivers did not start with COVID-19. Women's labor force participation had already leveled off and the aging population's care needs were growing. The federal government's provision of paid parental leave was an important step toward making the federal government a more competitive employer for younger workers, but failed to address the increasingly common caregiving responsibilities that young people have for their older loved ones and that all workers have for their own serious health needs.

The pandemic made even more clear the need for federal paid leave investments in the government's own workforce and in creating a permanent national paid family and medical leave program that provides benefits to all workers with a qualifying serious personal or family care need. Our pandemic experience shows that when workers lack paid family and medical leave, they may have no choice but to leave work. The country must build back better, with new care systems and investments that are equal to the needs of a diverse and inclusive workforce. That's why Congress should take swift action this year to expand federal employees' access to paid leave and create a national paid leave program for the country.

In Part I of my testimony, I explain the ways in which the COVID-19 pandemic exacerbated and illuminated the need for universal access to paid leave.

In Part II, I discuss the ways in which the federal government can and should lead on paid leave for its own workforce by adopting the *Comprehensive Paid Leave for Federal Employees Act* (H.R. 564/S.1158).

In Part III, I discuss the need for, value created by and elements of a comprehensive national paid family and medical leave program. The President's proposal in the American Families Plan, House Ways and Means Committee Chairman Richard Neal's draft proposal, the *Building an Economy for Families Act*, Rep. Rosa DeLauro's *FAMILY Act* (H.R. 804/S. 248) and the policies in states that many of you represent provide strong, related models for federal action.

Adopting a national paid family and medical leave program like the Neal or Biden plan would add \$1.3 billion to household incomes and the economy through direct wage replacement and the follow-on jobs and worker income that flow from purchases of goods and services.² Researchers estimate that for every dollar spent on paid leave benefits, other workers would earn an additional 50 cents.³ Universal access to paid leave would help create a national workforce that is more inclusive of women and people of color, which study after study have shown are good for employers' bottom lines, share prices and ROI.⁴ And, as one of a number of innovations that promotes gender equality in the workforce, it is estimated to help to boost the country's GDP by an estimated \$2.4 trillion.⁵

I hope today's hearing is part of a thoughtful but expeditious legislative process that leads to the expansion of paid leave to federal workers who need time away from their jobs to address a personal or family member's serious health condition or a loved one's military deployment as well as to the creation of a comprehensive national paid family and medical leave program for all working people in the United States.

I. The Urgency of Now: COVID Illuminated and Exacerbated Workers' and Families' Health and Caregiving Challenges

There can be little debate that when COVID-19 hit, the country as a whole was unprepared for the unprecedented work interruptions, job losses and caregiving needs that arose. Congress intervened quickly by guaranteeing access to paid sick and child care leave for some workers in the Families First Coronavirus Response Act. And, as part of the American Rescue Plan earlier this year, Democrats guaranteed COVID-19 paid leave for federal workers and expanded tax credits to subsidize some employers' voluntary paid leave programs. These were important steps, yet the absence of comprehensive, universal paid sick and family leave left serious voids.

As experts like the Center for American Progress' Jocelyn Frye warned early on in the pandemic, women and people of color – especially women of color – have been hit hardest, whether because they are working on the front lines as essential workers, working from home while managing caregiving for children and older or disabled adults, or quitting work in order to navigate the health and care issues that demand their attention.⁶ Unfortunately, Ms. Frye's predictions came true.

A. A Dire Situation for Women, People of Color and the Economy Due to Caregiving

The National Women's Law Center estimates that 4.2 million women have lost jobs overall since the start of the pandemic, and nearly two million remain out of the labor force.⁷ Workforce participation rates for women have hit 30-year lows – and women will have lost an estimated \$64.5 billion in wages – in part because of the tremendous caregiving needs and health concerns that the pandemic wrought.⁸ Unemployment among women of color remains pervasive, even as the country's job situation for women overall improved in May.⁹

A lot of attention has rightly focused on child care and school closures, but needs and burdens are more complex – with broader health and care needs at the center. Recent national survey data from the Bipartisan Policy Center (BPC) and Morning Consult sheds light on the role that caregiving and illness played in workforce dynamics and the role that paid leave could have played in helping.¹⁰ For example:

- Among people who stopped working during the pandemic, 15 percent – translating to about 10.6 million workers – cited caregiving for a child or an older or ill adult as the reason. Another 8 percent left due to a personal illness.

- 57 percent of those who said caregiving impacted their ability to work and did not have access to paid family leave said the benefit would have helped them continue to work.
- 38 percent of currently unemployed workers said they would be more likely to return to work sooner if their next employer provided paid family leave, particularly unemployed parents, nearly half of whom (47 percent) said it would help them return to work sooner.

Fears of illness and family caregiving needs were cited disproportionately by workers of color as the reason they left the workforce, according to the BPC/Morning Consult crosstab data.¹¹ More than one-fifth of Black and Latinx workers (22 percent) cited a fear of contracting COVID-19 at work as the reason they left the workforce, compared to 16 percent of white workers. More than one-fifth of Black workers (22 percent) and more than one in ten Latinx workers (12 percent) cited caregiving for a family member or relative as the reason they left the workforce, compared to just 7 percent of white workers.

In a different national survey from near the beginning of the pandemic, voters overwhelmingly said that a national paid leave program would have helped the country navigate the pandemic more easily.¹² An analysis of California and Rhode Island paid leave programs' claims data shows that these states were able to accommodate an uptick in claims at the beginning of the pandemic,¹³ suggesting that Americans' intuitions about the value of national paid leave in a crisis are likely to be true. The BPC/Morning Consult data shows that 71 percent of workers, and 87 percent of those with caregiving responsibilities, who had paid family leave at their jobs said it helped them to continue working.¹⁴

During the first months of the pandemic, paid sick time and paid family and medical leave were the top relief policies that voters in key states and congressional districts said they wanted, commanding support from 80 percent to more than 90 percent of voters.¹⁵ National polling data has consistently shown that paid leave garners intense and high levels of support, both during and before COVID-19.¹⁶ Recent survey data in each of ten states, several of which members of this committee represent, show that paid family and medical leave is both an intensely supported priority and commands more overall support than any other element of the President's American Families plan.¹⁷ And an aggregate survey of seven key states shows that 84 percent of voters support national comprehensive paid family and medical leave and more than three-quarters (76 percent) want paid leave passed as soon as possible, as part of a jobs and infrastructure package.¹⁸

And it isn't just individual people who lament the country's lack of preparation and wish for new policies going forward: As of last fall, after the first COVID surge and before the second, two-thirds of business owners with fewer than 50 employees said they supported a national paid leave program.¹⁹ This is consistent with levels of small business support now (70 percent) as the country is emerging from the pandemic as well as before the pandemic,²⁰ and reflects the value that paid leave policies have for businesses as well as for workers.

Investing in families' ability to support themselves and their loved ones by making care easier to receive and provide is essential to rebuilding from the pandemic and creating a vibrant, gender-inclusive economy. Analysts at McKinsey predict that GDP that could grow by an estimated \$2.4 trillion beyond current expectations if federal action on paid leave and related policies comes soon.²¹ Moody's analysts likewise estimate favorable effects of investing in jobs and families, including higher GDP, more jobs and lower unemployment.²²

B. It's Not Just About Numbers, It's About People

But this isn't just a matter of economics. It's also about values that unite us, like love, responsibility, care and dignity – and these values too often come into conflict with the need to support one's self and one's family when care needs arise.

Congress' prior work on paid leave honored new parents in the federal workforce, who can now take 12 weeks to care for a newborn or newly placed adopted or foster child. Congress' next step must honor the activism of people like April Kimbrough, a home care worker who lost her job and her home when she needed to care for her adult son as he battled both kidney cancer and COVID-19, and who was compelled by this experience to help fight for the successful passage of Colorado's newly enacted paid family and medical leave program;²³ the hardships and loss of the widow of Felix Trinidad, a grocery store worker in New York who died of stomach cancer eight years ago and left behind two small children because he couldn't take time off work to uncover cancer as the cause of his stomach pain until he started vomiting blood and then had to work shifts at the grocery store through chemotherapy treatments;²⁴ and the struggles and sacrifices of small business owners like Eric Sorkin, who is testifying today, and Sarah Piepenburg, the owner of a small oil and vinegar store in Minnesota who fell behind on her own commercial lease and home mortgage in order to provide paid leave to an employee who had broken both arms.²⁵

These stories are just the tip of the spear. During the pandemic, the consequences of workers' lack of access to paid leave became crystal clear. Brave people have come forward to share their experiences about leaving work or losing jobs, falling ill, struggling to make ends meet, struggling to provide or receive care, fearing exposing their loved ones to COVID-19, or being unable to be there for dying or ill loved ones.²⁶ Organizations representing workers, people with serious health issues, and small businesses have a treasure trove of these stories²⁷ – and those too represent merely a small portion of the stories that exist within virtually every household in America, including mine and very likely many of yours.

At least some of the harm, risk and grief that has befallen workers across the country could have been mitigated by universal access to paid family and medical leave. We must learn from the past. It would be a national tragedy if the country were to emerge from the pandemic without enacting comprehensive national policies that would help prepare us for major public health emergencies in the future and – just as important – address the individual health and care crises that affect virtually every household at one time or another.

II. Comprehensive Paid Family and Medical Leave for Federal Employees Reflects Workers' Needs and Will Help the Government Attract and Retain a Diverse Workforce

The Family and Medical Leave Act (FMLA) of 1993 was the country's first law to recognize the intersection of worker's professional and personal lives. The FMLA established the idea that workers need leave from work for a variety of serious reasons. Most people who use the FMLA do so for their own serious health issue (51 percent), followed by those caring for a new child (25 percent) and caring for a loved one, including a military-service caregiving need (19 percent).²⁸

The Federal Employees Paid Leave Act that Chairwoman Maloney introduced in March 2019 (H.R. 1534) proposed 12 weeks of paid family and medical leave for *all* of the purposes in the FMLA to meet the needs of federal workers across their lifespans and address the range of caregiving responsibilities they may have. The NDAA for Fiscal Year 2020 made a down payment on this policy by addressing parental leave.

Now Congress should make federal employees' leave complete by passing the *Comprehensive Paid Leave for Federal Employees Act*. As an employer, the federal government should see the value in adopting comprehensive paid family and medical leave for at least three, overlapping reasons:

First, younger workers are worried not just about caring for newborn and newly placed adopted or foster children, but about caring for children beyond the first few months of life and for aging, ill and disabled loved ones, as well as for their own serious health issues. Without paid leave, workers' care needs will go unmet. Talented public servants may leave federal employment for the private sector or, more troubling, federal employees may leave the paid workforce entirely – a result more likely for workers that do not have paid family and medical leave.

Second, paid leave is especially relevant to women and people of color – and particularly for women of color. The federal government will better able to attract a more diverse workforce and create more inclusive workplaces if paid leave is available, which has beneficial effects on workplace inputs and outcomes.

Third, paid leave is a critical intervention for workers with disabilities. Guaranteeing paid family and medical leave for federal workers would further the government's continued commitment to creating inclusive workplaces for people with disabilities.

A. “Caring Generations” of Younger People Need Paid Family and Medical Leave

One of the key justifications for congressional action on federal employees’ paid parental leave was making the federal government a more competitive and attractive workplace for younger workers. With large portions of federal workers nearing retirement age, the federal government needs to be competitive to attract younger people to public service. To be sure, the 12 weeks of paid parental leave is an important workforce attraction and retention tool. However, it would be a mistake to think that parental leave – leave for a single, time-limited caregiving purpose – is enough to attract and retain young workers.

Younger people in the United States are increasingly providing care to older loved ones.

According to AARP, as of 2019, more than one in five adults in the United States (21 percent) are providing care to a loved one, up from 18 percent in 2015 – an increase of an estimated 9.5 million people providing care.²⁹

Among Generation X (29 percent) and Millennials (23

percent), leave-taking is more common than among adults overall, and even 6 percent of the youngest workers (those in Generation Z) are providing care to a loved one. Caregiving responsibilities are most common among Boomers, the youngest of whom will approach the average age for federal retirement within a few years and for whom paid family leave could induce delayed retirement. Each younger generation expects their caregiving responsibilities to persist, with 34 percent Generation Z, 46 percent of Millennials and 60 percent of Generation X caregivers telling researchers they expect that they will still be providing care five years into the future.³⁰ COVID-19 intensified and exacerbated caregiving responsibilities that many caregivers anticipate will endure.³¹

Approximate 11 million people in the United States with children under 18 are also caring for an older, ill or disabled loved one. As of 2015, 28 percent of all caregivers were so-called “sandwich generation” caregivers in the United States. They too are disproportionately in Generation X (49 percent of all sandwich generation caregivers) and the Millennial generation (31 percent).³² The prevalence of sandwich generation caregiving increased between 2015 and 2019.³³ Most sandwich generation caregivers report at least one work effect, such as needing to go in late or leave early, taking a leave of absence to care for a loved one, cutting back on hours, or turning down a promotion.³⁴ The care needs that most sandwich generation caregivers describe are long-term conditions (55 percent); their care recipients are most often in their 60s and are likely to require care for many years.³⁵ Access to paid leave is an essential support to help these younger workers stay employed and advance in their jobs and careers.

Percentage of family caregivers by generation

Generation (birth years)	2015	2020	change
Gen Z (1997 or later)	0%	6%	N/A
Millennials (1981-1996)	23%	23%	—
Gen X (1965-1980)	25%	29%	▲
Boomers (1946-1964)	34%	39%	▲
Silent/Greatest (1945 or earlier)	13%	7%	▼

Source: Caregiving in the U.S. 2020
*In general, members of Gen Z were not old enough to be caregivers in 2015

In the absence of policy and culture changes, the difficulties caregivers may have with stress, burnout and inflexible workplaces could mean that family caregivers will increasingly find it difficult to continue to work and be unable to seize opportunities for advancement, leading to substantially diminished financial security during their own retirement. For example, research from AARP and the Met Life Mature Market Institute published nearly a decade ago, shows that adults 50+ suffered an average loss in lifetime earnings and retirement security of more than \$303,000 when they left a job to care for an aging parent.³⁶ The retirement security and income effects are likely to be even greater now. All of these trends create urgency in developing policies that support working family caregivers, and paid family care leave is among the most critical.

In addition to paid leave to care for a loved one, paid medical leave for federal employees' own health issues beyond currently provided paid sick leave is important. Research shows that access to paid medical leave can improve workers' return to work, especially when paired with specialized return-to-work services.³⁷ Guaranteeing access to personal medical leave may become more important in the wake of COVID-19, where an estimated one-quarter of patients develop long-haul symptoms that require ongoing care and periodic treatment or rest.³⁸

B. To Create a Diverse and Inclusive Workforce, Paid Family and Medical Leave is Essential

Paid family and medical leave is a workplace benefit that promotes workplace retention,³⁹ which is critical to achieving workplace diversity and inclusion objectives. Business and management literature demonstrates the value of creating workforces and workplaces in which women and people of color are well represented, feel safe speaking up, and are able to be full and equal participants. In the private sector, diverse and inclusive workplaces are associated with lower turnover, higher rates of job satisfaction, increased trust and engagement, greater innovation, better problem-solving, and improved performance.⁴⁰ Experts have urged public sector employers to pay similar attention to the value of diversity and inclusion in government agencies, especially in the wake of COVID-19.⁴¹

Although the federal government laudably exceeds the private sector on the key metric of gender pay equity among full-time workers, gender representation in the federal government is elusive: women comprised just 43 percent of the federal executive branch workforce prior to the pandemic.⁴² Given the toll the pandemic took on women's workforce participation, the federal workforce may be even more skewed toward male workers now.

The federal government also has room for improvement with respect to racial and ethnic diversity. According to a recent analysis by the Partnership for Public Service, people of color represent 46 percent of entry-level hires but hold just 32 percent of senior civil service positions and only 22 percent of Senior Executive Service jobs.⁴³

Creating policies that attract women and people of color is one way to help to correct gender, racial and ethnic imbalances in the federal workforce and to diversify senior civil service leadership. Six in ten caregivers for loved ones are women, and women take on the majority of caregiving for children as well; gender-equal paid leave may help to correct these biases by making caregiving more possible for men while also reflecting current realities around the gendered nature of care.⁴⁴ Black and Latinx people also tend to be disproportionately represented among family caregivers, to have lower incomes than white caregivers, to have children in their household in addition to caring for a loved one, and to report greater negative financial impacts as a result.⁴⁵ Communities of color have also been disproportionately affected by COVID-19 and may have more ongoing health and care needs as a result.⁴⁶ And caregivers of color face more systemic biases within the health care system in trying to navigate care for their loved ones.⁴⁷ Paid leave can play a role in addressing these realities and helping to ensure workers feel supported.

C. The Federal Government's Longstanding Commitment to Hiring People With Disabilities and Being a Model Employer Will Be Advanced by Guaranteeing Paid Leave

In July 2010, President Obama issued Executive Order 13548, expressing the federal government's commitment to hiring and retaining people with disabilities,⁴⁸ and this commitment continues.⁴⁹ The 2020 Progress Report on National Disability Policy published by the National Council on Disability noted progress in federal hiring from 2010 through 2018; however, the report also highlighted continued barriers, particularly with respect to agencies' use of the government's Schedule A hiring authority.⁵⁰

Paid leave is an intervention that could help the federal government to attract and retain workers with disabilities and sets up the federal government as a model employer for the private sector. Workers with disabilities disproportionately work in part-time, low-wage jobs that do not offer paid leave; they also tend to have lower earnings that make unpaid leave-taking precarious or impossible.⁵¹ At the same time, workers with disabilities' need for time away from work to deal with health issues and the need to provide care to loved ones is as varied as workers overall, and may also be distinctive; for example, chronic conditions may require frequent medical visits and recovery time from routine medical procedures may be greater for people with certain conditions.⁵² These flexibilities may allow more people with disabilities to work full time or in more demanding jobs and use their skills and knowledge as part of the federal government. The Americans with Disabilities Act allows leave as an accommodation in some circumstances, but does not guarantee paid leave. There are also substantial misunderstandings of and discrimination against people with disabilities – and universal paid leave would help to reduce this stigma by acknowledging that virtually all workers will at some point need flexibility in their jobs. The federal government could distinguish itself as an employer of choice by making leave financially possible for people with disabilities and normalizing health and care needs.

III. Meeting the Needs of the Entire U.S. Workforce: Comprehensive, Permanent Paid Family and Medical Leave for All

Many of the same demographic and workforce imperatives for the federal government and its employees are true for the civilian workforce overall. Even before the pandemic, access to paid family and medical leave was too rare and too disparate. Declines in birth rates, the rapid aging of the population and patterns of job sector growth in industries and occupations that do not offer paid leave benefits made public investments in guaranteeing paid family and medical leave an important and much-needed policy intervention.⁵³ COVID-19 exacerbated gender, race, economic and health disparities that now make the enactment of a national paid family and medical leave program an even more urgent worker, family, business and economic imperative.

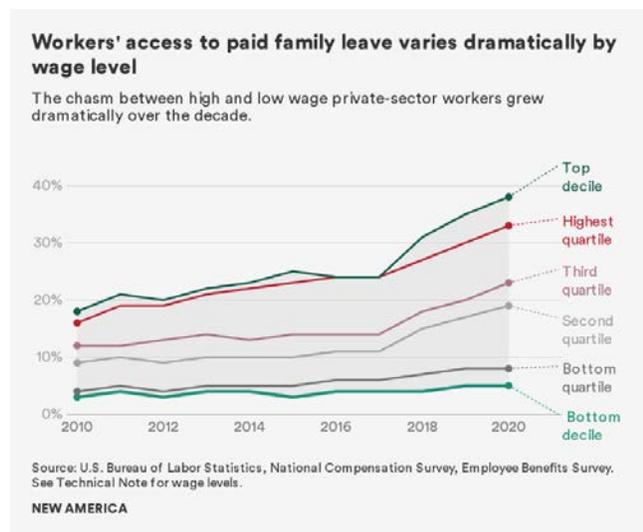
The federal government must create a program that ensures access to paid family and medical leave for all working people, no matter where they live, their job, their employer or their serious health or care need. Fortunately, the President’s American Families Plan, Chairman Neal’s *Building an Economy for Families Act* and the *FAMILY Act* – which are, themselves, modeled after and reflect the lessons of 10 state programs – provide viable paths forward.

A. In the Private Sector, Disparate Access to Paid Family and Medical Leave Means Multiple Losses to Workers, Families, Businesses and the Economy

In March of 2020, just as the pandemic hit, only one in five private sector workers (20 percent) had access to paid family leave to care for a new child or a seriously ill loved one through their employers.⁵⁴ Just two in five (42 percent) had access to employer-provided temporary disability insurance to provide income support during a personal medical leave lasting several weeks to a few months.⁵⁵

These overall numbers mask dramatic disparities in access to paid family leave. Workers in the highest decile of earners (those earning \$49.04 per hour or more) are 7.6 times more likely to have paid family leave than those in the lowest decile (those earning less than \$11 per hour) (38 percent vs. 5 percent).

And while access to paid family leave has risen by 10 percentage points (from 10 percent to 20 percent of workers from 2010 to 2020), disparities are growing. Over the past 10 years, access for high wage workers climbed 20 percentage points, while for low wage workers,



it inched up by 2 points.⁵⁶ Importantly, disparities also exist within firms, where some or most workers are provided access to benefits but others are excluded, and by firm size.⁵⁷ Workers' access to employer-provided temporary disability insurance also differs dramatically by wage level (70 percent of the top decile of workers in 2020, compared to 8 percent of the workers in the lowest decile).⁵⁸ And the small amount of net growth in access over the past decade (3 percentage points) has been concentrated entirely among middle- and higher-wage workers, with those at the top seeing the biggest jumps (a 9-percentage point increase among the top-decile of wage earners).⁵⁹ In fact, access to temporary disability insurance *dropped by a net of 1 percentage point* (from 18 percent to 17 percent) among workers in the lowest quartile of earners and by a *whopping 6 points* among workers in the lowest decile (declining from 14 percent with access to just 8 percent).⁶⁰

The inability to access paid family and medical leave poses yet another structural barrier for people who already face many others. The very people who are least likely to have access to paid leave are also least likely to have savings or other resources to rely on. Workers who do not have access to paid leave are disproportionately people who work in low wage jobs and who have little job security.⁶¹ They are disproportionately people of color who, due to structural racism in housing, employment, and access to capital, tend to have lower levels of wealth, and experience greater challenges in the event of a job loss.⁶² They are child care and elder care workers who cannot afford to take time away from their jobs to care for their own loved ones – and who also may not be able to afford to pay others to provide care. For women of color, the intersecting effects of the gender-based wage gap, the racial wealth gap, and employment discrimination all contribute to an increased risk of financial insecurity that is exacerbated by the intergenerational family caregiving responsibilities that disproportionately fall on them.⁶³

This is not just a low-wage worker issue. Many middle- and even higher-wage workers must cobble together vacation, sick and personal time because they are among the 80 percent of workers without designated paid family leave, or the nearly 60 percent without temporary disability insurance. Those with temporary disability insurance must navigate the requirements of applying for benefits to supplement an unpaid FMLA leave, perhaps dealing with delays or questions from insurers and disability management administrators that take months to answer. And many face the scorn of supervisors who balk at providing the paid time off that a company touts access to on paper. National policy changes would tangibly improve their lives and change our country's culture.

In addition, as noted in the discussion above, Generation X, Millennials and Generation Z's caregiving responsibilities will become more acute. Already, as of 2020, 53 million people provided unpaid care to family members, and six in ten family caregivers also had paying jobs.⁶⁴ An estimated 36 million working age adults lived with a family member with a disability, as of 2017.⁶⁵ The majority of military family caregivers – and more than three-quarters of caregivers for post-9/11 wounded warriors – are also in the labor force.⁶⁶ Caregiving leave will become increasingly important with generational shifts as the large Baby Boomer population ages, because there are fewer younger people to care for them.⁶⁷

The country's failure to effectively address paid leave gaps has macro-economic consequences in terms of reduced GDP and lower labor force participation among women.⁶⁸ Prior to COVID-19, families lost an estimated \$22.5 billion in income each year due to inadequate or absent paid leave,⁶⁹ which means less money circulating in the economy.

Too often, critics ask how can we afford a national paid family and medical leave program, but the truth is that we're bearing enormous costs of the status quo, where more than 100 million workers – and the millions more who rely on them for financial and caregiving support – do not have paid family leave now.

B. Evidence that Paid Leave Works

State policymakers, advocates, businesses and workers recognize the harm caused by the status quo and the value of a comprehensive, sustainable baseline paid leave program. As a result, the state paid leave landscape is changing rapidly. There are now nine states and the District of Columbia that have implemented or will soon implement paid family and medical leave programs for the workers in their states,⁷⁰ which collectively house an estimated one-quarter of the U.S. population. These are:

- California (2002 enactment, 2004 implementation; multiple subsequent legislatively-adopted improvements)
- New Jersey (2008 enactment, 2009 implementation, with 2019 legislative improvements implemented in 2019 and 2020)
- Rhode Island (2013 enactment, 2014 implementation)
- New York (2016 enactment, 2018-2021 phased-in implementation to ramp up benefit levels and duration)
- Washington (2017 enactment, January 2020 implementation of benefit payments)
- District of Columbia (2017 enactment, July 2020 implementation of benefit payments)
- Massachusetts (2018 enactment, 2021 implementation of benefit payments in two phases)
- Connecticut (2019 enactment, 2022 implementation of benefit payments)
- Oregon (2019 enactment, 2023 implementation of benefit payments)
- Colorado (2020 enactment by ballot initiative, 2024 implementation of benefit payments)

Notably, paid leave innovation has continued throughout the pandemic. Washington's program, which began delivering benefits in January 2020 just before Washington state became an early COVID-19 epicenter, had a successful first year.⁷¹ The District of Columbia and Massachusetts each implemented their programs on time, in July 2020 and January 2021, respectively; Massachusetts' implementation will be complete on July 1, 2021 when family caregiving benefits becomes available on schedule. Connecticut and Oregon are on track to implement their programs in 2022 and 2023, respectively. And, in November of last year, Colorado became the first state to pass a paid family and medical leave program by ballot

measure, with 57 percent of Colorado voters approving a new statewide paid leave program that will begin to collect revenue in 2023 and pay benefits to eligible workers with qualifying needs in 2024.⁷² Several other states, including Delaware and Virginia, are actively considering new paid leave programs.

An important element of passing several of these laws is the cooperation among unusual allies on both policy development and passage. Tireless years of advocacy by organizations representing women and children, advocates seeking racial and economic justice, health care access, caregiver support, and stronger labor protections, and the incredible testimonies of workers who had themselves been affected by lack of access to paid leave created ripe moments for change. Small business voices were critical in helping to show the value of paid leave as a workforce benefit and as a financial stabilizer. When progress began to look inevitable in Washington, Massachusetts and Oregon, traditionally-opposed business groups were instrumental in striking agreements with broad advocacy coalitions and lawmakers on both sides of the aisle to develop bills that passed with bipartisan support.⁷³ Federal policy could follow the same path.

1. State Policy Design – and Implications for Federal Policy

State paid family and medical programs provide a basic construct or roadmap for federal policy – the creation of a comprehensive paid family and medical leave program that is administered by a public agency, funded with tax dollars, and offers adequate wage replacement for a meaningful period of time to workers with a serious family or personal health or caregiving need. State experience also reveals the importance of elements that improve the effectiveness of policies in meeting the needs of workers across the wage spectrum, such as sliding scale wage replacement and job protection. They also dispel concerns about the impact of paid family and medical leave policies on businesses and show the value of public paid leave benefits, especially for smaller enterprises.

Existing state paid leave programs cover leave to address an employee’s own serious health issue, to care for a seriously ill, injured or disabled loved one, and to care for a newborn, adopted, or newly-placed foster child; some states cover leave for additional family and medical needs, including military caregiving and qualifying exigency leaves or situations related to domestic violence, stalking and sexual assault. Each program provides wage replacement based on prior earnings up to a cap; the six newest laws do so on a sliding scale, so that lower-wage workers receive a higher share of their typical wages. Sliding scale replacement rates make these programs more accessible and affordable. Each state program also covers caregiving for family members beyond parents, spouses and children such as grandparents, while the newest laws also recognize that sometimes our closest loved ones are chosen family, siblings, and grandchildren.⁷⁴

Some state paid leave programs also incorporate critically-important employment protections that expand beyond the 56 percent of the workforce covered by and eligible for the FMLA’s job

and health insurance continuation protections.⁷⁵ These laws seek to reach the state's share of the 44 percent of workers nationwide who are not covered by the FMLA because of the law's small business carve out and its tenure- and hours-worked requirements, which collectively disproportionately exclude Black and Latinx workers, lower-wage workers and single parents.⁷⁶ In light of the unprecedented work interruptions the pandemic has wrought, FMLA coverage now and for some time to come will be even more limited for these same constituencies and for women. Employment protections that run concurrently with paid leave benefits or are part of a paid leave program promote the flexibility and utility of paid leave benefits for workers across gender, race, job and income, and contribute to employee retention.

2. Paid Leave Policy Outcomes

State paid leave programs, along with private sector practice, provide important insights on the policy outcomes paid leave can provide. With each new study on paid leave, we are learning more about how to most effectively design programs and outreach activities that maximize a policy's positive impacts while minimizing the possibility of unintended consequences. Equally important as program design is implementation, promotion and enforcement – and how partnerships among government, the private sector, community-based organizations and trusted intermediaries can help promote appropriate program use.⁷⁷

The positive outcomes we can expect to see from a well-designed, sustainably funded and appropriately implemented national paid family and medical leave program include, but are not limited to:

- 1) **Improved labor force attachment and increased earnings for women.** California's paid family leave program was enacted in 2002, started paying benefits in 2004, and has been expanded multiple times since. Numerous studies of California's program suggest that women's labor force attachment, hours worked and earnings increase when paid family leave is available for the arrival of a child⁷⁸ and for family caregiving.⁷⁹ The effects on workers' duration of leave-taking are most pronounced for lower-wage women and women of color,⁸⁰ contributing to the possibility of helping to close the wage gap and promoting women's workplace advancement over time. Some longer-term labor force outcomes for new mothers may be skewed toward higher-income women, but these can be smoothed over time with policy updates.⁸¹

Findings on workforce attachment improvements and earnings from California are consistent with studies that find that women who took paid leave through state TDI programs or employer policies were more likely to be working and to have higher earnings in the year after their child's birth than women who did not.⁸² Nationally, it is estimated that policies like paid leave, which would improve women's labor force participation rates, could add \$500 billion to the United States economy.⁸³

- 2) **Better health and health care utilization for children.** A recent study found that the implementation of paid family leave in California resulted in a significant reduction in late vaccinations among children, particularly among children from low-income families.⁸⁴ This adds to a body of research about the effects of paid leave on health outcomes. Other studies have found a relationship between California's paid leave implementation and reduced risk of head trauma for infants (likely due to reduced parental stress)⁸⁵ as well as the role generally of paid leave in reducing the length of hospital stays for critically ill older children.⁸⁶ Parents who take paid leave are also more attuned to their child's cues, which improves children's neurological development and behavior over time.⁸⁷ But in order to make the most of the bonding time that a paid leave program makes available, or to make the use of paid leave for family care more accessible for working parents, programs must offer wage replacement that allows workers to meet their basic expenses and job protections so that the use of benefits from a public paid leave fund does not come at the expense of losing a job.
- 3) **More engagement from men in the lives of their children and families.** California's paid family leave program, now in its 17th year, shows how policy and culture change can reinforce one another. When California's program was first implemented, men comprised less than one-sixth of parental leave claimants. By 2016, they comprised 37.5 percent of paid leave users in the state. In Rhode Island, too, men are just over one-third of paid parental leave users (36.7 percent).⁸⁸ It will be interesting to see how the pandemic affects the gendered patterns of leave-taking going forward.

Policy changes help drive cultural changes, according to experts. As state laws have created paid leave benefits for people of all genders, some employers' practices in other jurisdictions have followed suit. A national standard would continue this trend, with benefits for men and their children, a more gender-equal division of household duties, diminished workplace stereotypes, and improvements in women's earnings and opportunities.⁸⁹ Public opinion studies show that men want and expect to need to be able to care for their children and older loved ones to the same extent as women do, but that financial constraints, fears about work-related backlash and societal perceptions often hold them back.⁹⁰ A well-designed national paid family and medical leave program could help to remove those barriers.

- 4) **Better outcomes and reduced health care costs for ill, injured or disabled loved ones and more economic security for their caregivers.** California's paid family leave program has been shown to reduce nursing home utilization by 11 percent, in part because family caregivers are more available to provide care.⁹¹ Access to paid leave in California also shows labor force participation benefits for caregivers.⁹² For workers themselves, access to paid medical leave may hasten a return to work, depending on the individual's condition, especially when paid leave benefits are supplemented by assistance in return to work strategies.⁹³

- 5) **Savings to other programs funded through general revenues.** Too often, critics of new spending focus on what paid family and medical leave will cost, rather than on the costs already borne by workers and society as a result of the status quo. Among the potential for direct savings to other programs, paid leave can reduce nursing home costs as noted above, which are often borne by Medicaid. Research also shows a relationship between access to paid family and medical leave and reduced use of SNAP and other forms of public assistance.⁹⁴ Promoting financial independence for workers and families, using government resources efficiently and reducing direct and indirect costs to taxpayers are all essential reasons to invest in paid leave.
- 6) **Benefits for businesses, especially small businesses.** In California, New Jersey and Rhode Island, the three states with the longest-standing paid family leave programs, researchers have consistently found that the concerns business representatives expressed prior to the laws' passage were unfounded. When the U.S. Department of Labor issued a Request for Information (RFI) on paid family and medical leave in 2020, the submissions from businesses and business interests were overwhelmingly positive.⁹⁵

Research shows that employers have not been unduly challenged or harmed by the policies adopted in states. In fact, small businesses are generally supportive of those states' laws. In California, researchers found that the vast majority of employers have seen a positive effect or no effect on employee productivity, profitability and performance – and smaller businesses report even more positive or neutral effects of the program than larger businesses.⁹⁶ Many businesses reported cost-savings, likely by coordinating their benefits with the state plan.⁹⁷

Even the Society for Human Resource Management (SHRM), a chief opponent of paid family leave before it was passed in California, issued a report finding that employers' concerns about the program had "not been realized" and that the law created "relatively few" new burdens for employers.⁹⁸ A report prepared on behalf of the New Jersey Business and Industry Association also found that the majority of both small and large New Jersey businesses adjusted easily to the state's law and experienced no effects on business profitability, performance or employee productivity.⁹⁹ This is consistent with additional qualitative research conducted among a cross-section of New Jersey employers.¹⁰⁰

In Rhode Island, where business supporters were important allies in passing the paid leave program, research shows that businesses in key industries have adjusted easily. A study of small- and medium-sized food service and manufacturing employers in Rhode Island by researchers at Columbia Business School found no negative effects on employee workflow, productivity or attendance, and that 61 percent of employers surveyed supported the law.¹⁰¹

In New York, a new study on businesses with fewer than 100 employees shows that the state's paid leave program boosted leave-taking among both women and men, enabled businesses to better able to handle longer employee absences, is supported by a majority of employers, and did not have any negative effects on employee quits, unscheduled absences, productivity, cooperation, commitment or teamwork.¹⁰²

Notably, there is no evidence of harm or hardship caused by employment protections that extend beyond the FMLA in Rhode Island and New York, which have programs that have now been in operation for several years. Massachusetts also has near-universal job protection built into its paid family and leave program, which launched earlier this year, as will Connecticut, Oregon and Colorado when their programs begin to provide benefits in 2022, 2023 and 2024, respectively; other states have expanded their state version of the FMLA to be more inclusive,¹⁰³ again with no showing of harm or hardship. If anything, access to FMLA protection is associated with employee retention; for example, a new study just demonstrated a higher incidence of caregivers returning to work after caring for a spouse with a disability, illness or chronic condition when they could access state paid leave and job-protected leave.¹⁰⁴

- 7) **Importance of clear communications, outreach and engagement.** Newer research is demonstrating not just the importance of policy design, but also the importance of how government communicates with workers and employers about the programs that exist. Washington state's program was implemented over a swift 18-month period from scratch. The state first prioritized communications with employers about their obligations under the program and the benefits it might provide to them, and then shifted its attention to workers. The program began paying benefits less than two months before Washington became the first epicenter of the coronavirus pandemic. The Washington State Employment Security Department's report to the state legislature on the program's first year identified key insights regarding outreach and communications to both businesses and workers; the report concluded that "it is clear from the immediate and high demand for the program that our goals to raise awareness about the program statewide and provide an accessible benefit had a significant impact," as the program served workers across the state across gender, age, occupation, wage level and region.¹⁰⁵ States with older programs are also looking closely at how well their programs serve populations most in need. A study of New Jersey's paid family leave program conducted by my colleagues at New America revealed important lessons about needed improvements in benefits delivery, program application processes, consumer and business outreach and customer service, as well as aspects of program design like wage replacement and job protection.¹⁰⁶

C. Federal Policy Opportunity – Enacting a National Program to Make Paid Leave Available and Accessible for All

Congressional action to create a national paid leave program would ensure that the country never again faces a major national emergency like a pandemic without a paid leave standard in place, and that families do not face routine emergencies and serious personal and family care needs without paid family and medical leave. Hundreds of businesses,¹⁰⁷ business experts,¹⁰⁸ and organizations¹⁰⁹ are calling on Congress to act swiftly.

Congress has taken greater steps to expand access to paid leave over the last few years than ever before. Paid parental leave for federal employees, the Families First Coronavirus Response Act's paid leave requirements with reimbursement that covered some workers and employers, and the American Rescue Plan's guaranteed COVID-related paid leave for federal workers in are important achievements to learn from and build upon.

1. Voluntary Incentives are Insufficient

Congress enacted a voluntary paid leave tax credit for employers as part of the 2017 tax law. The 2017 tax reform paid leave provision sought to incentivize companies to provide paid leave to their middle- and lower-wage workers. Unfortunately, as the trends in paid family leave access show, that attempt appears to have been ineffective at expanding access among intended beneficiaries. While access did increase for workers across all wage levels between 2018 and 2020, increases in access for workers in each wage quartile are linear, with the greatest increases in access at the top of the wage ladder. There was a 7 percentage point jump in access for workers in the top decile of earners, whose employers could not have received a tax credit for providing paid leave. Conversely, there was only a 1 percentage point increase for the lowest wage workers. This is clearly insufficient and has not mitigated pervasive inequality or filled access gaps in any meaningful way.

2. Elements of a National Paid Leave Program to Meet the Needs of All

The comprehensive paid family and medical leave proposal in the President's American Families Plan and other legislative proposals like the *FAMILY Act* and House Ways and Means Committee Chairman Richard Neal's new proposal, the *Building an Economy for Families Act*, all reflect state, international and private sector best practices. These proposals represent a commitment to invest in paid family and medical leave for all working people, no matter where they live or work, their job, or their serious personal or family care need.

A well-designed paid family and medical leave program can help to build a workforce characterized by greater gender, economic and racial justice; a country where children are healthier and have greater opportunities for success; a culture where workplaces honor workers' commitments to their families without adverse effects on labor force participation, wages or opportunities for advancement; communities where older and ill people and people with disabilities receive the care they need; and a business environment where businesses of all sizes can thrive. A well-designed paid leave program can also help catalyze a more vibrant and competitive national economy in which traditional work, entrepreneurship, gig work and

unpaid care work are equally valued. To meet the promise of the policy and deliver security to working people, a national paid leave program must include:

- **Eligibility that rewards work, but also recognizes that workers may endure hardships that lead to work interruptions.** Eligibility for paid leave should depend on one's work history and attachment to the workforce, while providing flexibility for workers who may have recently lost a job just as a caregiving need became acute or imminent as well as for younger workers whose work history may be short. A tenure or hours-worked requirement with a particular employer should not be an eligibility condition so that workers affected by recessions, hours cuts or part-time work are eligible.
- **Comprehensive 12-week paid family and medical leave.** Congress should replicate state models by creating a universal national program that guarantees paid leave for at least 12 weeks to all working people and covers at least the full range of reasons included in the FMLA, so that serious personal and family health and care needs as well as leave to care for new children and wounded servicemembers are included. The president has proposed an approach to phase in benefits over a 10-year period, and his proposal includes two other uses for paid leave as well ("safe leave" and a few days of bereavement leave). The Neal proposal and the *FAMILY Act* would get to 12 weeks for all reasons in the first year of a program. Duration hinges on the level of public investment Congress deems it appropriate to make and acting swiftly to get to 12 weeks would be helpful in creating certainty for workers and businesses alike – but not at the cost of eliminating or paring back other program features.
- **Meaningful wage replacement.** The wage replacement provided to low- and middle-wage workers receive should be as close to their usual earnings as possible. This is a central lesson of state programs, a finding from forthcoming research among service sector workers in Washington state, and a key finding of new research based on national modeling with an eye toward racial equity.¹¹⁰ It is also an anecdotal finding from the country's experiment with the FFCRA emergency paid sick and family leave, which provided two-thirds of a worker's typical wages for COVID-related family care during quarantine or isolation and for child care leave. With respect to FFCRA leave, Dreama James, a fast food worker from Georgia, recently said she was grateful for the FFCRA child care leave, but that it was hard to get by on two-thirds of pay.¹¹¹ A mother interviewed for a recent feature story noted that, with only two-thirds of her husband's pay coming in when both she and her husband took leave to care for their two special-needs children as they navigated virtual school, the family had to budget "even harder" and needed food stamps and food assistance to get through the winter.¹¹² The President's plan and the Neal plan would provide 80 and 85 percent of a low-wage worker's typical wages, respectively, up to a cap of \$4,000 per month. Sliding scale wage replacement should be incorporated into any federal proposal.

- **Inclusive range of family members.** The range of family members for whom one can provide care should be broader than FMLA’s designation of parents, spouses and children to include extended and chosen family. This reflects state practice, and it would make a federal program more responsive to the disproportionate needs of communities of color, people with disabilities, older people and LGBTQ communities. Congress could also consider whether to allow a second adult to provide care for a newly born or adopted child in circumstances where a second parent is unavailable to provide care.
- **Employment protections.** Expanded protections should accompany wage replacement to help ensure that workers are not dissuaded from using paid leave benefits for fear of losing their jobs or facing retaliation. New employment protections should be provided to include people who are excluded from the FMLA by virtue of its business size carve out, tenure and hours-worked requirements and limited definition of family members for whom one can provide care.¹¹³
- **Worker and employer outreach and education, and the efficient delivery of benefits.** A paid leave benefit will only be useful if workers know about the program and employers encourage workers to use it. In addition, the program will be most useful, especially to low-wage workers, if application processes are clear and claims and benefits are processed in a timely way. A program must be resourced well enough to ensure these elements of the program are achieved.

III. Concluding Thoughts

As Congress evaluates priorities to build a more robust, inclusive and vibrant economy, paid family and medical leave must be made accessible to all working people, no matter where they live, work, their job or their serious care or health need.

Workers and families across the country in every community, no matter their circumstances are struggling in one or more ways with work, family and care. The care needs people face have implications that reach far beyond the four walls of one’s home, to include community- and country-wide effects on health and the economy. The individual solutions we have patched together for too long are insufficient.

It is past time for public investments in policies and systems that support the financial security of workers and businesses, and to invest in ways that make a tangible, meaningful difference in people’s lives. I urge you to be bold and responsive, and to examine the costs of the status quo and the benefits of taking action on the paid leave policies that working families have needed for decades.

I urge you not to enact half-measures or to constrain policy interventions in ways that exacerbate inequality and diminish public trust. Strong comprehensive policies that are implemented effectively will show your constituents, especially those who are among the 100

million workers without paid family leave now and the loved ones who rely on them, that federal policies can touch and improve their lives in very direct and personal ways.

Thank you.

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