



**Written Statement of Victoria S. Shabo
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**Submitted to the U.S. House Committee on Education and the Workforce
Subcommittee on Workforce Protections
Hearing on H.R. 1180, the Working Families Flexibility Act**

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Good morning, Chairman Byrne, Ranking Member Takano, members of the Committee and my fellow panelists. I appreciate the opportunity to testify before you today on H.R. 1180.

I am Vicki Shabo, Vice President at the National Partnership for Women & Families, a nonprofit, nonpartisan advocacy organization. For more than 45 years, we have fought for every major federal policy advance that has helped women and families. We promote fairness in the workplace, access to quality, affordable health care, reproductive health and rights, and policies that help women and men meet the dual demands of work and family. 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 person has access to quality, affordable health care and real economic security.

The National Partnership is proud to have drafted the Family and Medical Leave Act (FMLA) and led the coalition that fought to make it law. Since the FMLA's adoption in 1993, women and men have used the law more than 200 million times to care for themselves or their loved ones. More recently, to build on the FMLA and expand economic opportunities for America's families more broadly, the National Partnership has helped win dozens of new federal, state and local workplace policies and private sector innovations to increase workers' access to paid sick days, paid family and medical leave and fair schedules, raise wages and advance fair pay. Experience shows that when working people can both care and provide for themselves and their families, everyone benefits.

H.R. 1180 Offers a False Choice between Time and Pay – Eroding Bedrock Protections at a Time When Congress Should Focus on Improving Them

I am here today to speak in opposition to H.R. 1180, the so-called Working Families Flexibility Act, which will harm rather than help America's working families. People today are struggling to meet their job and family obligations, to make ends meet and to save for the future. For most people, there is no "either-or choice" to be made between time and money. Both are absolutely critical to survival, security and the pursuit of better opportunities.

Most of us – women and men – hold jobs in order to make a living and support ourselves and our families, and many also provide needed care to loved ones. Nearly seventy percent of children live in households where all parents work.¹ Women make up nearly half of the U.S. workforce, and mothers are key breadwinners in nearly two-thirds of families.² Mothers of color play an especially critical role as breadwinners for their families.³ At the same time, women remain primary caregivers in most families, even as men – and especially younger men – want to and are taking on more caregiving responsibilities.

Work-family care obligations are not limited to parents of minor children. Between 2014 and 2015, an estimated 34.2 million adults provided informal care to adults age 50 and older, most commonly to relatives; most of these family caregivers held paying jobs, and more than half of those working family caregivers worked full time.⁴ Demographic trends show that care obligations will only increase in the years ahead.

Higher wages are also essential to families' economic security. Yet despite a slow, but steady increase in employment since the depths of the recession and a recent slight increase in average wages,⁵ too many of America's workers and families are struggling. Over the past four decades, workforce productivity has increased by 73.4 percent, but hourly compensation has increased by only 11.1 percent.⁶ Nearly half of

¹ U.S. Census Bureau. (2016). *American Community Survey 1-Year Estimates 2015, Table DP03: Selected Economic Characteristics*. Retrieved 31 March 2017, from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_1YR_DP03&prodType=table

² Glynn, S.J. (2014, June). *Breadwinning Mothers, Then and Now*. Center for American Progress Publication. Retrieved 31 March 2017, from <http://cdn.americanprogress.org/wp-content/uploads/2014/06/Glynn-Breadwinners-report-FINAL.pdf>

³ Anderson, J. (2016, September). *Breadwinner Mothers by Race/Ethnicity and State*. Institute for Women's Policy Research Publication. Retrieved 31 March 2017, from <https://iwpr.org/publications/breadwinner-mothers-by-raceethnicity-and-state/>

⁴ AARP Public Policy Institute and National Alliance for Caregiving. (2015, June). *Caregivers of Older Adults: A Focused Look at Those Caring for Someone 50+*. Retrieved 1 April 2017, from <http://www.aarp.org/content/dam/aarp/ppi/2015/caregivers-of-older-adults-focused-look.pdf>

⁵ Center on Budget and Policy Priorities. (2017, March). *Chart Book: The Legacy of the Great Recession*. Retrieved 31 March 2017, from <http://www.cbpp.org/research/economy/chart-book-the-legacy-of-the-great-recession>

⁶ Economic Policy Institute. (2016, August). *The Pay-Productivity Gap*. Retrieved 1 April 2017, from <http://www.epi.org/productivity-pay-gap/>

adults in 2015 said they would not be able to afford a \$400 emergency expense, according to the Federal Reserve.⁷

This means too many people are worried about their finances and have reason to fear that, when family challenges arise, they will be unable to hold on to their jobs, meet their financial obligations and maintain their economic independence. Many people also contend with work schedules that are unpredictable, inflexible and unstable – diminishing or eliminating their ability to find stable child care, further their education, or hold multiple jobs, and creating substantial uncertainty about their take-home pay on a week-to-week or month-to-month basis. While a growing share of workers can only find part-time work, others are forced into mandatory overtime.⁸ People who face mandatory overtime demands tend to have less flexibility to take time off during the work day or change their starting and ending times,⁹ which can make it difficult or impossible to meet personal or family obligations.

There is no question that America’s working people and families need updated workplace policies and higher wages. And, in some cities and states, successful policies are in place to offer just that. Unfortunately, H.R. 1180 would do the opposite. This legislation is based on smoke and mirrors. It pretends to offer the time off people need when they need it but, in fact, it offers a pay cut for workers without any attendant guarantee of time. It also sets up a dangerous, false dichotomy between time and money when, in fact, working families need both.

Quite simply, H.R. 1180 would be a step in the wrong direction for approximately 59 million hourly, full-time workers as well as for salaried, non-exempt workers who are eligible for overtime pay.¹⁰ Instead of providing working people and their families with the time off and the financial stability they need to care for themselves and their loved ones, this “flexibility” bill offers forced choices and false promises.

H.R. 1180 has been introduced multiple times, in virtually identical form, since the late 1990s. Fortunately for the nation’s workers, it has not become law. That is good news because this bill would undermine the very purposes of the Fair Labor Standards Act (FLSA), which for nearly 80 years has helped protect the working hours and paychecks of covered employees. The FLSA’s requirement that non-

⁷ Board of Governors of the Federal Reserve System. (2016, May). *Report on the Economic Well-Being of U.S. Households in 2015*. Retrieved 31 March 2017, from <https://www.federalreserve.gov/2015-report-economic-well-being-us-households-201605.pdf>

⁸ Golden, L. (2015, April). *Irregular Work Schedules and Its Consequences*. Economic Policy Institute Publication. Retrieved 1 April 2017, from <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/>

⁹ Ibid.

¹⁰ Shierholz, H. (2017, April. Personal communication. Senior Economist and Director of Policy, Economic Policy Institute)

exempt employees be paid time-and-a-half for every hour of work in excess of 40 hours per week was intended to spread job opportunities to more workers and create disincentives for overwork, giving working women and men the ability to spend time with their loved ones. For public sector workers – whose guaranteed right to overtime pay was eliminated in the 1980s as a way to conserve state and local revenues – comp time has been used as an excuse for underpayments and wage theft. We must not create those same challenges for private sector workers.

H.R. 1180 would provide workers with neither the pay nor the time they need to make their lives work. Let me tell you about a woman the National Partnership and our colleague organization, Family Values @ Work, met a few years ago.

Susannah, a clerical aide in Los Angeles, had a 20-year-old son, a 19-year-old daughter, a 5-year-old daughter and a 73-year-old mother with health problems.¹¹ She said her hours had been cut from 40 per week to 30, but her workload had not decreased. “We put in a lot of ‘voluntary’ time,” she explained. “We get told things like, ‘If you can’t handle it or it’s too much work for you, maybe we can find someone else.’” Despite family obligations that required her to be home in the evenings, Susannah felt constant pressure from her supervisor to work extra hours on short notice. “If I need to work overtime, I do it to keep my job,” she explained, even though those extra hours often created child- or elder-care problems and extra expenses. At the same time, Susannah said her employer treated her with suspicion when she needed to take a day off to care for her sick child. She said she sometimes went to work sick for fear that taking a day off would mean losing her job.

Susannah is just one of the many workers whose experiences put a face on data from the U.S. Bureau of Labor Statistics and major national surveys that show the tremendous control that employers exert over employees’ lives, including whether they are permitted to take time off for family and medical needs, whether and when workers must report to – or be available for – work, and fears of termination that prevent people from asserting their rights. It also illustrates the family demands that workers face, and how hard it can be to care for children and parents at the same time, especially without paid time off and enough income to cover unexpected expenses.

Susannah’s situation may be better now than when we met her because of new paid sick days laws and a higher minimum wage where she lives. But there are people with similar stories all over the country. Their experiences shine a bright light on why H.R. 1180 is so deeply flawed. It would give workers less control over both their

¹¹ National Partnership for Women & Families and Family Values @ Work. (2011, February). *Los Angeles Workers Speak: The Employee Case for Flexibility in Hourly, Lower-Wage Jobs*. Retrieved 31 March 2017, from http://www.nationalpartnership.org/site/DocServer/W_F_Workflex_LA_Workers_Voice.pdf?docID=8241

time and their paychecks. It fails to guarantee the time off that workers need, regardless of their opportunity or ability to work overtime hours. And for the growing segment of workers whose challenges stem from the opposite problem – working fewer hours than they would like with unpredictable schedules and little notice or control – this proposal would do absolutely nothing to assure access to the pay, stability or the paid time off they need to meet their family responsibilities or deal with medical needs.¹²

Comp time, accepted freely and fairly and available on demand for non-vulnerable workers, may have a place in a suite of policy solutions to help workers and families. But H.R. 1180's brand of comp time is designed to benefit employers who want to take a low road by providing them the option of interest-free loans at their employees' expense. It does not offer any greater flexibility to employers who genuinely want their employees to have time off. It does not offer any of the protections workers need. It is utterly tone-deaf to what people experience at their jobs.

The following are our specific concerns about H.R. 1180:

H.R. 1180 Magnifies the Power Imbalance between Employees and Employers

H.R. 1180 would place significant power in the hands of employers, while limiting the ability of employees to earn the wages they need to support their families. It would permit employers to offer comp time in lieu of overtime to one, some or all eligible workers. And although it requires an “agreement” between employers and employees, it does not give an employee wishing to remain in her or his employer's good graces any true “choice,” especially in fast-growing industries like food service and retail, where multiple workers may have the same job responsibilities and may be perceived by employers as interchangeable. As a Florida worker explained in a focus group commissioned by the National Council of La Raza, “[T]he employer can abuse you, can use you because you're scared to lose your job. You lose your job, they fire you, they'll get somebody else or two other people.”¹³

Their precarious position may force workers into accepting comp time instead of pay for fear of losing their livelihoods, even when overtime pay may mean the difference between “having rice and beans for dinner or having meatloaf,” as Allyson, a

¹² Golden, L. (2016, December). *Still falling short on hours and pay: Part-time work becoming new normal*. Economic Policy Institute Publication. Retrieved 31 March 2017, from <http://www.epi.org/files/pdf/114028.pdf>; Lambert, S. J., Fugiel, P. J., & Henly, J. R. (2014, August). *Precarious Work Schedules among Early-Career Employees in the US: A National Snapshot*. University of Chicago Employment Instability, Family Well-Being, and Social Policy Network Publication. Retrieved 31 March 2017, from https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly_precarious_work_schedules.august2014_0.pdf

¹³ Lake Research Partners. (21 September, 2012). *Focus Groups among Lower-Income Latinos in Florida*.

MomsRising member and mom from New Mexico, said recently.¹⁴ And, as I'll discuss in a moment, the comp time offered here may not even be available when workers need it, rendering this proposal a true wolf in sheep's clothing.

H.R. 1180 would put workers at very real risk. An employee who does not accept comp time could find herself penalized with fewer hours, non-preferred shifts and loss of overtime work. The employee's "choice," then, would be to accept comp time instead of needed pay or, if she reasonably asks for pay for overtime work and faces retaliation, to try to fight it in court. That is an unrealistic expectation for workers who fear losing their jobs and have no resources with which to litigate.

H.R. 1180 Would Mean Less Work for Some and More Work – and Extra Expenses – for Others

H.R. 1180 undermines the central tenets of Section 7 of the FLSA: creating reasonable work hours for all, and work and job opportunities for many. Because it is cheaper for employers to provide comp time than to pay overtime wages, there is a significant incentive for employers to hire fewer people and rely on overtime hours – paid for in future comp time – to get work done. H.R. 1180 could translate into fewer jobs at a time when millions of people are looking for work. And it would mean greater scheduling instability, uncertainty and unpredictability for workers who are asked to work overtime hours; potentially greater child care and transportation expenses; and, at the same time, fewer dollars in workers' pockets to meet the additional costs and inconveniences that more overtime work would bring.

H.R. 1180 Means Less Paycheck Security for Employees and an Interest-Free Loan for Employers

H.R. 1180 would permit employers to defer compensation – in money or time – to employees for as long as 13 months. In essence, comp time creates an interest-free loan for employers because employees who work overtime today may not see the value of that overtime for more than a year.

The legislation would allow employers to retain and earn interest on the wages they would otherwise have been obligated to pay. Although it is true that an employee can trade banked comp time for overtime pay, employers have 30 days to grant the request. That means that an employee who needs the overtime pay for an emergency expense may have to wait a full month for it.

¹⁴ Martin, R. (2017, March 31. Personal communication. National Director: Workplace Justice Campaigns, MomsRising.org)

H.R. 1180 Fails to Provide the Time that Working People Need

The worker flexibility offered by H.R. 1180 is nothing more than a mirage. That's because this proposal would give the employer, not the employee, the "flexibility" to decide when and even if comp time can be used. The plain language of the bill requires an employee to make a request in advance to use the comp time he or she has earned, gives the employer a "reasonable period" after the request is made to say yes or no, and permits the employer to deny the request entirely if the employee's use of comp time would "unduly disrupt" operations.

This means that a mother who asks to take comp time to stay home with her toddler because her child care provider is sick would have no guarantee that she'll be able to use the time she's earned and banked. And there is no guarantee that a son's request to use a week of comp time to help his aging parent relocate to a nursing home would be granted.

If an employee's request is arbitrarily or unfairly delayed or denied, H.R. 1180 provides no recourse. There is no remedy under this proposal for an employee who is unable to use accrued comp time, except to ask that the time be cashed out. This is far from the kind of family friendly policies workers need.

H.R. 1180 Jeopardizes Employees' Wages When Firms Die or Go Bankrupt

All of this assumes the employer remains in business and employees can eventually use the time they've banked, or receive the cash equivalent when banked time is paid out. But H.R. 1180 would provide no protections to employees when firms collapse or go bankrupt. Between January 2013 and January 2016, 2.3 million workers lost their jobs when their employer closed or moved.¹⁵ In the third quarter of 2015 alone, 704,000 jobs were lost at 207,000 establishments that experienced firm deaths.¹⁶

Firm death or bankruptcy means workers could lose the value of unused comp time – up to 160 hours per employee, or nearly \$2,400 for a typical hourly worker.¹⁷ Imagine that sum aggregated across an entire workforce or a community where a large employer goes bankrupt or a factory closes. Workers deprived of unpaid wages they have earned would have less to spend and some would be forced to rely more

¹⁵ U.S. Bureau of Labor Statistics. (2016, August). *Worker Displacement, 2013-2015* (Table 8). Retrieved 1 April 2017, from <https://www.bls.gov/news.release/pdf/disp.pdf>

¹⁶ U.S. Bureau of Labor Statistics. (2017, January). *Business Employment Dynamics—Second Quarter 2016, Revised* (Table 8). Retrieved 1 April 2017, from <https://www.bls.gov/news.release/pdf/cewbd.pdf>

¹⁷ Based on the median hourly wage of \$14.91 for an hourly worker aged 25+ in 2015, as reported in U.S. Bureau of Labor Statistics. (2016, November). *Highlights of Women's Earnings in 2015*. Retrieved 31 March 2017, from <https://www.bls.gov/opub/reports/womens-earnings/2015/pdf/home.pdf>

on public services and supports to get by. Unpaid comp time could also impair workers' eligibility for unemployment compensation.

H.R. 1180 Fails to Provide Affordable Remedies to Workers or Resources to the U.S. Department of Labor (DOL)

Even under current wage and overtime law, unscrupulous employers regularly violate employees' rights to earn overtime payments because the benefits of non-compliance outweigh the financial liabilities. H.R. 1180 would increase employers' incentives to ignore the FLSA's wage and overtime provisions. It does not provide administrative remedies for employees who have been coerced into accepting comp time or whose rights to freely choose comp time versus overtime payments have been violated. Instead, employees' only recourse would be through the courts. But few low-wage workers have the resources to sue. And, as noted above, employees would have no right at all to use accrued comp time when they need it.

In addition, H.R. 1180 would add significant new provisions to the FLSA and create a new imperative for employee and employer outreach while providing no additional funds for the education and enforcement efforts its new provisions require. The U.S. Department of Labor's Wage and Hour Division already struggles to enforce the FLSA with too few investigators and too small a budget. If the president's proposed budget is enacted, DOL's resources will be even more substantially diminished.

For each of these reasons – and because employees simply should not have to put in extra time beyond a 40-hour week *and* forgo pay in order to scrape together self-funded paid sick days, paid family and medical leave or other personal time off – we ask you to reject H.R. 1180. It is a deeply flawed proposal that would cause massive harm to workers. It offers a false, flawed choice that would make times even tougher for working people and their families. It would be a giant step in the wrong direction for the country. We can – we must – do better.

Toward a More Family Friendly and Prosperous Nation: Public Policy Solutions that Workers and Families Need

What the United States needs is a suite of policies that will raise wages, promote fair pay, improve access to paid time to care for loved ones and ensure more predictable work schedules. Our progress and prosperity are stymied by the status quo and changes are long overdue.

Widely Discredited Myths Impede Our Progress

For too long, a number of widely discredited myths have stood in the way of progress. The organized business lobby and other opponents have perpetuated the unsupportable falsehoods that fair wage laws and family friendly policies are zero-sum, expensive and marginal to working families' economic stability and well-being. A growing body of evidence demonstrates that the opposite is true. Employees, families, businesses, taxpayers and governments all have a stake in creating more family friendly workplaces and increasing the economic security of working families.

The most egregious myth is that fair pay and expanded work-family policies harm employers. In reality, these policies benefit business through improved retention, reduced turnover costs and a consumer base with more income to spend.¹⁸ In fact, studies show that businesses support these policies. Even the Council of State Chambers, a national association of state chambers of commerce CEOs and executive leaders, has found that members and prospective members of state chambers are overwhelmingly supportive of a suite of policies, including a higher minimum wage (80 percent), increased maternity leave and mandated or increased paternity leave (72 and 82 percent, respectively), fair work schedules (78 percent) and paid sick time (73 percent).¹⁹

A second, related myth is that fair pay and expanded work-family policies are too costly for taxpayers. In reality, these policies provide cost-savings to governments – and, without question, the status quo carries terrible costs – to workers, families, the public health, businesses, our economy and our country. In fact, workers' lack of access to paid family and medical leave deprives America's families of nearly \$21 billion each year.²⁰ A study released by Pew Research Center last month found that, among workers who received no pay or insufficient pay during a recent family or medical leave, 17 percent used public assistance programs and one-third or more took on debt (37 percent) or put off paying their bills (33 percent); among low-wage workers who took an unpaid or insufficiently paid parental leave, a whopping 48 percent turned to public assistance.²¹ The status quo not only robs people of their

¹⁸ National Partnership for Women & Families. (2015, March). *Paid Family and Medical Leave: Good for Business*. Retrieved 31 March 2017, from <http://www.nationalpartnership.org/research-library/work-family/paid-leave/paid-leave-good-for-business.pdf>

¹⁹ Luntz Global. (2016, January). Survey of 1,000 business executives commissioned by the Council of State Chambers, December 29, 2015. Retrieved 31 March 2017, from <https://www.scribd.com/doc/306913089/Council-of-State-Chambers-Topline>

²⁰ Glynn, S. J., & Corley, D. (2016, September). *The Cost of Work-Family Policy Inaction*. Center for American Progress Publication. Retrieved 31 March 2017, from <https://www.americanprogress.org/issues/women/reports/2016/09/22/143877/the-cost-of-inaction/>

²¹ Horowitz, J., Parker, K., Graf, N., & Livingston, G. (2017, March). *Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies*. Pew Research Center Publication. Retrieved 31 March 2017, from <http://assets.pewresearch.org/wp-content/uploads/sites/3/2017/03/22152556/Paid-Leave-Report-3-17-17-FINAL.pdf>

financial security and economic autonomy, but shifts costs to others, including to government and taxpayers.

In contrast, common-sense leave policies will benefit us all. If all workers had paid sick days, 1.3 million emergency room visits could be prevented each year in the United States, saving \$1.1 billion annually. More than half of these savings – \$517 million – would accrue to taxpayer-funded health insurance programs such as Medicare and the State Children’s Health Insurance Program.²² In addition, both women and men who take paid leave after a child’s birth are significantly less likely to use public assistance or Supplemental Nutrition Assistance Program (SNAP) benefits in the following year.²³ And women who take paid leave are more likely to be working nine to 12 months after a child’s birth and to have higher earnings than women without leave.²⁴ Like other policies that promote higher wages and economic opportunity, paid leave helps grow the economy and the tax base while reducing reliance on public services.

It is time to reject these absurd myths, which have been disproven time and again, and instead work together to adopt innovations that are long overdue. We do not need to require workers to forgo wages to subsidize their own time off, as H.R.1180 proposes. Instead, we need to adopt national policy solutions patterned on those working well in states and cities across the country that guarantee fairer wages and adequate time to care for serious personal and family needs.

The policies I’ll discuss have strong popular support across the political spectrum. In a poll commissioned by the National Partnership last November, 82 percent of voters said it is important for Congress and the president to consider new laws to help keep working families economically secure, including ensuring workers the right to earn paid sick days and creating a system of paid family and medical leave insurance.²⁵ Policies that would provide wage protections in the form of a higher minimum wage and fair pay for women have similarly strong support.

²² Miller, K., Williams, C., & Yi, Y. (2011, October 31). *Paid Sick Days and Health: Cost Savings from Reduced Emergency Department Visits*. Institute for Women’s Policy Research Publication. Retrieved 31 March 2017, from <http://www.iwpr.org/publications/pubs/paid-sick-days-and-health-cost-savings-from-reduced-emergency-department-visits>

²³ Houser, L., & Varatanian, T. (2012, January). *Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public*. Rutgers Center for Women and Work Publication. Retrieved 31 March 2017, from <http://www.nationalpartnership.org/research-library/work-family/other/pay-matters.pdf>

²⁴ Ibid.

²⁵ National survey of 1,200 voters conducted November 6-8, 2016 by Lake Research Partners and The Tarrance Group on behalf of the National Partnership for Women & Families. Retrieved 1 April 2017, from <http://www.nationalpartnership.org/research-library/work-family/lake-research-partners-election-eve-night-omnibus-survey-results-on-issues-of-importance-to-working-families.pdf>

Families, Businesses and the Economy Will Benefit When Workers Are Paid Fair Wages

It is a huge problem for our country that the value of workers' wages has not kept pace with the cost of living. That makes overtime pay even more important for workers who are able to work overtime. As Janice Stanton, a MomsRising member from Oregon with more than 25 years of experience as a registered nurse, put it recently, "My income and benefits have progressively declined.... As a single adult who lives alone, it is often a challenge to meet my increasing expenses. Anything extra has to be paid for mostly via overtime labor. Allowing [employers] to short-change their underpaid employees further, by denying them overtime pay simply makes a vastly unjust system even more so. If an employee is choosing to work overtime, s/he wants that extra money."²⁶

H.R. 1180 would literally take money out of workers' paychecks at a time when Janice and millions of working women and men like her need common-sense policies to improve their financial security through higher, fairer wages.

First, the recent **modernization of the overtime eligibility threshold** for non-exempt salaried workers must be sustained. The updated rule – raising the salary threshold from \$455 to \$913 per week (in 2015 dollars) – would improve economic security and/or restore reasonable work hours to an estimated 12.5 million workers, more than half of whom are women and one-third of whom are parents of minor children.²⁷

In addition, gradually **raising the minimum wage to \$15.00** and eliminating the tipped minimum wage would mean increased wages for tens of millions of workers, nearly 55 percent of whom are women and more than one-third of whom are Black or Latino.²⁸ A rise in the minimum wage to \$15.00 would provide food security for an estimated 1.2 million people, increase consumer spending and stimulate the economy.²⁹

It is also imperative that we ensure **fair pay for women**. Yesterday was Equal Pay Day, a symbolic day that marks how far into the year women who hold full-time, year-round jobs must work to catch up to what men were paid in the prior year. The

²⁶ Martin, R. (2017, March). Personal communication. National Director: Workplace Justice Campaigns, MomsRising.org).

²⁷ Eisenbrey, R. & Kimball, W. (2016, May 17). *The new overtime rule will directly benefit 12.5 million working people*. Economic Policy Institute Publication. Retrieved 1 April 2017, from <http://www.epi.org/publication/who-benefits-from-new-overtime-threshold/>

²⁸ Huizar, L. & Gebreselassie, T. (2016, December). *What a \$15 Minimum Wage Means for Women and Workers of Color*. National Employment Law Project Publication. Retrieved 1 April 2017, from <http://www.nelp.org/content/uploads/Policy-Brief-15-Minimum-Wage-Women-Workers-of-Color.pdf>

²⁹ Ibid: Rodgers III, W. (2016). *The Impact of a \$15 Minimum Wage on Hunger in America*. The Century Foundation Publication. Retrieved 1 April 2017, from <https://tcf.org/content/report/the-impact-of-a-15-minimum-wage-on-hunger-in-america/>

gender-based wage gap is pervasive and unrelenting. Over the course of a year, women who work full time, year-round are paid just 80 cents for every dollar paid to men, amounting to a typical annual gap of \$10,470. That money could buy 78 weeks of food or cover nearly a year of rent.³⁰ There is an even larger disparity in the wages paid to Black women, Latinas, white women and some ethnic subgroups of Asian women when compared not to men overall, but to white, non-Hispanic men.

For many women who experience gender discrimination in wages, overtime pay can help bolster financial stability, but H.R. 1180 would threaten their ability to receive pay for the overtime work they do. In contrast, the **Paycheck Fairness Act** would increase women's financial stability by promoting fair pay practices. It would help women challenge and eliminate discriminatory pay practices, limit employers' use of prior salary history in hiring and compensation decisions, help train women and girls in salary negotiation, support government collection of critical wage data and reward employers that have good pay practices.

Employees Must be Able to Earn Paid Sick Days to Protect Their Health and Economic Security

Everyone gets sick and needs medical care for themselves or their families at some point. While H.R. 1180 would do nothing to assure that workers have the paid sick days they need, the **Healthy Families Act (H.R. 1516/S. 636)** would ensure that most of the 41 million workers who do not have any paid sick time could start to earn it.³¹ The Healthy Families Act would allow workers to earn up to seven paid sick days annually to use to recover from short-term illness, care for a sick family member, seek routine medical care or obtain assistance related to domestic violence, sexual assault or stalking. Employers that already provide this type of leave would not have to provide additional paid sick time.

The Healthy Families Act is a much more effective solution than H.R. 1180 in providing workers with the time they need to care for their loved ones and themselves. It guarantees employees the ability to use the sick time they have earned and builds on best practices from laws that are now or will soon be in place in seven U.S. states and 32 localities.³² At a time when more than half of parents do not have even a few paid sick days they can use to care for an ill child³³ and tens of

³⁰ National Partnership for Women & Families. (2017, April). *America's Women and the Wage Gap*. Retrieved 31 March 2017, from <http://www.nationalpartnership.org/research-library/workplace-fairness/fair-pay/americas-women-and-the-wage-gap.pdf>

³¹ U.S. Bureau of Labor Statistics. (2016, March). *Leave benefits: Access, private industry workers, National Compensation Survey* (Table 32). Retrieved 31 March 2017, from <https://www.bls.gov/ncs/ebs/benefits/2016/ebbl0059.pdf>

³² National Partnership for Women & Families. (2016, November). *Current Paid Sick Days Laws*. Retrieved 1 April 2017, from www.nationalpartnership.org/psdlaws

³³ Smith, K., & Schaefer, A. (2012, June). *Who Cares for the Sick Kids? Parents' Access to Paid Time to Care for a Sick Child*. Carsey Institute at the University of New Hampshire publication. Retrieved 31 March 2017, from <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1170&context=carsey>

millions of workers have elder care responsibilities,³⁴ working families need the paid sick time the Healthy Families Act would provide and not the false, elusive promise of comp time offered by the Working Families Flexibility Act.

Workers Need Paid Family and Medical Leave and Expanded FMLA Protections during the Best and Worst of Times

In addition to paid sick days to cover short-term needs, nearly all working men and women will need time away from their jobs at some point to care for a new child, a seriously ill loved one or to address their own serious health condition. Despite this universal need, only 14 percent of U.S. workers have designated paid family leave through their employers and less than 40 percent have personal short-term disability insurance through an employer-sponsored plan.³⁵ For lower-wage workers, access to paid family and medical leave is even more rare.

Tens of millions of workers cannot afford to take the time they need without some wage replacement,³⁶ and H.R. 1180 would do nothing to address this pervasive problem. It does not offer a guarantee that an expecting parent who planned carefully for time away from work to welcome a new child to the family – or a sister who wants to help a sibling through cancer treatment – would be able to take banked comp time to meet those needs. Despite rhetoric to the contrary, H.R. 1180 would not even guarantee that a parent who wanted to use banked comp time to attend a parent-teacher conference would have that leave request granted.

It is time for the United States to adopt a national system of paid family and medical leave insurance and to expand unpaid, job-protected FMLA leave to cover more workers who need leave for more reasons.

The **Family And Medical Insurance Leave (FAMILY) Act (H.R. 947/S. 337)** would create a national paid family and medical leave insurance program, modeled on successful programs in California, New Jersey, Rhode Island and, soon, New York and the District of Columbia. The FAMILY Act would create a self-sustaining program that would provide up to 12 weeks of paid leave to workers welcoming a new child, caring for a seriously ill or injured close relative, addressing their own serious

³⁴ MetLife Mature Market Institute. (2011, June). *MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents*. Retrieved 31 March 2017, from <https://www.metlife.com/assets/cao/mmi/publications/studies/2011/Caregiving-Costs-to-Working-Caregivers.pdf>

³⁵ U.S. Bureau of Labor Statistics. (2016, March). *Leave benefits: Access, private industry workers, National Compensation Survey* (Tables 16 & 32). Retrieved 31 March 2017, from <https://www.bls.gov/ncs/ebs/benefits/2016/ebbl0059.pdf>

³⁶ Horowitz, J., Parker, K., Graf, N., & Livingston, G. (2017, March). *Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies*. Pew Research Center Publication. Retrieved 31 March 2017, from <http://assets.pewresearch.org/wp-content/uploads/sites/3/2017/03/22152556/Paid-Leave-Report-3-17-17-FINAL.pdf>; Abt Associates Inc. (2012, September 6). *Family and Medical Leave in 2012: Technical Report*. Retrieved 31 March 2017, from <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>

health condition or dealing with certain circumstances of a military service member's deployment. The FAMILY Act has the support of 78 percent of voters, including 66 percent of Republicans and 77 percent of independents.³⁷ It also has the support of 70 percent of small businesses surveyed nationwide,³⁸ and it is the recommended approach of a working group of small business owners convened last year.³⁹

Paid leave has been shown to increase families' financial stability; promote better health outcomes for children, older adults and caregivers; generate new tax revenues; and reduce burdens on the social safety net. In the year following a birth, new mothers who take paid leave are 54 percent more likely to report wage increases and 39 percent less likely to need public assistance than mothers who do not. Fathers who take paid leave are also less likely to need public assistance.⁴⁰ Paid leave safeguards the income and retirement security of workers with elder care responsibilities who might otherwise have to drop out of the workforce. On average, a worker who is 50 years of age or older who leaves the workforce to take care of a parent will lose more than \$300,000 in wages and retirement income.⁴¹

In addition to paid leave, the **FMLA should be updated**. America's workers need better access to job-protected leave in a broader range of circumstances. According to the most recent Department of Labor data, slightly less than 60 percent of the workforce is eligible for FMLA leave, leaving tens of millions of workers vulnerable to job loss when family or personal needs arise.⁴² The comp time offered by H.R. 1180 would not fill this gap.

Complaints that most small businesses cannot handle job-protected leave are baseless. It's past time we extend FMLA protections to employees in smaller businesses. Indeed, new Small Business Majority data shows that 71 percent of

³⁷ National survey of 1,200 voters conducted November 6-8, 2016 by Lake Research Partners and The Tarrance Group on behalf of the National Partnership for Women & Families. Retrieved 1 April 2017, from <http://www.nationalpartnership.org/research-library/work-family/lake-research-partners-election-eve-night-omnibus-survey-results-on-issues-of-importance-to-working-families.pdf>

³⁸ Small Business Majority and Center for American Progress. (2017, March). *Opinion Poll: Small Businesses Support Paid Leave Programs*. Retrieved 31 March 2017, from <http://www.smallbusinessmajority.org/sites/default/files/research-reports/033017-paid-leave-poll.pdf>

³⁹ Main Street Alliance. (2017). *Paid Family and Medical Leave: A Proposal for Small Business Success*. Retrieved 31 March 2017, from http://www.mainstreetalliance.org/small_business_owners_support_family_act

⁴⁰ Houser, L., & Varatanian, T. (2012, January). *Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public*. Rutgers Center for Women and Work Publication. Retrieved 31 March 2017, from <http://www.nationalpartnership.org/research-library/work-family/other/pay-matters.pdf>

⁴¹ MetLife Mature Market Institute. (2011, June). *The MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents*. Retrieved 31 March 2017, from <https://www.metlife.com/assets/cao/mmi/publications/studies/2011/Caregiving-Costs-to-Working-Caregivers.pdf>

⁴² Abt Associates Inc. (2012, September 6). *Family and Medical Leave in 2012: Technical Report*. Retrieved 31 March 2017, from <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>

small business owners surveyed nationwide would support dropping the FMLA business size threshold to 20 employees from its current level of 50.⁴³

The definition of “family member” should be updated beyond parents, spouses and minor children to allow workers to take FMLA leave to care for a domestic partner, parent-in-law, adult child, sibling, grandchild or grandparent.

The FMLA’s promise of job protection should also be extended to include part-time workers and to address more circumstances. We commend members of the House in both parties for supporting an FMLA expansion for certain bereavement leaves (H.R. 1560/S. 528), but believe that proposal should also extend to grieving spouses as well as adult children grieving the death of a parent. The death of a close relative often comes with substantial legal and practical challenges as well as emotional strain, and too often people are forced to return to their jobs in the midst of the turmoil created by a loved one’s death.

In addition, H.R. 1180’s lead sponsor and others have talked about comp time as the solution to a parent’s need to attend a parent-teacher conference. A much more useful policy solution, and one that would help many more parents and children, is a “small necessities” expansion of the FMLA, which would allow workers to take up to 24 hours per year to attend school meetings, parent-teacher conferences and other essential educational activities. Finally, survivors of domestic violence and sexual assault should be able to use FMLA leave to seek legal, medical and relocation services.

True Flexibility Would Reflect Employees’ Needs for Predictability, Notice and Fluidity in Scheduling

H.R. 1180 has the word “flexibility” in its title, but the flexibility it offers workers is an empty promise. A growing body of research shows that true flexibility and predictability – the ability to vary work schedules and to have advance notice of scheduling, for example – provide benefits for workers and cost-savings for employers. Nothing in the FLSA prohibits these best practices.

The **Schedules That Work Act** would create a right for workers to request schedule adjustments and incentives for employers to implement fair scheduling practices. This would limit the use of “just in time” scheduling and call-in shifts, which hold workers back, impede their productivity on the job, interfere with their caregiving

⁴³ Small Business Majority and Center for American Progress. (2017, March). *Opinion Poll: Small Businesses Support Paid Leave Programs*. Retrieved 31 March 2017, from <http://www.smallbusinessmajority.org/sites/default/files/research-reports/033017-paid-leave-poll.pdf>

responsibilities at home and create extra child care and transportation expenses. In addition, DOL should be funded adequately to allow it to educate employers about the flexibility available under the FLSA and the benefits that flexibility provides.

Conclusion

At a time when our nation's working families urgently need public policies that make our workplaces more fair and family friendly, H.R. 1180 is an empty promise – a cruel hoax that would take the country in the wrong direction. It would make life appreciably harder for families that are already struggling. No amount of misleading or deceptive rhetoric can soften the blow. For many workers, H.R. 1180 would bring less pay, less flexibility and workplaces that are even less family friendly.

Instead of wasting time on smoke and mirrors to try to hide the real impact of this bill – which will cause grievous injury to the millions of people across the country who are looking for hope and opportunity, economic security and higher wages – I urge you instead to support updates to the minimum wage and overtime protections for eligible workers, promote fair pay through the Paycheck Fairness Act, extend access to time to care through the Healthy Families Act, the FAMILY Act and FMLA expansions, and promote scheduling predictability through the Schedules That Work Act. These are the advances the nation needs and the public wants. These are the initiatives that would help our nation's workers and their families, employers, communities and our economy.

Chairman Byrne, Ranking Member Takano and members of the Committee, thank you for the opportunity to testify here today. With our many allies, and on behalf of America's workers, the National Partnership for Women & Families hopes to work with you to advance policies that are truly fair and family friendly.