

First Day Fairness

An agenda to build worker power and ensure job quality

By [Celine McNicholas](#), [Samantha Sanders](#), and [Heidi Shierholz](#) • August 22, 2018

The rules governing work in this country are rigged against working people from their first day on the job. The current legal and political framework favors corporate interests dedicated to rolling back worker protections and advancing business practices that leave fewer and fewer workers covered by existing laws. Those workers who remain covered by these protections are often required to sign away their labor and employment rights as a condition of employment. And, where workers *do* have protections on the job, the agencies responsible for enforcement lack the resources necessary to ensure that employers are playing by the rules. Most damaging to workers is the unrelenting attack on their ability to act collectively to improve their wages and working conditions. This assault on the right to collective action has stripped workers of meaningful leverage to change the system to ensure that working people have a voice in the workplace.

This rigged system has helped produce the inequality that characterizes the United States economy. For most of the last four decades, most working people in this country have seen their wages stagnate. However, those who *already* had very high wages are the exception—their wages have grown impressively. From 1979 to 2016, the wages of the top 1 percent grew nearly 150 percent, whereas the wages of the bottom 90 percent combined grew just 21.3 percent, roughly one-seventh as fast.¹ This means there was an enormous upward redistribution of earnings from the bottom 90 percent to those at the top.

The erosion of workers' bargaining power

There are many factors contributing to this economic inequality; however, the common thread that binds almost all of them is the erosion of the bargaining power of low- and middle-wage workers. This suppression of workers' bargaining power has been so profound that even today's 3.9 percent unemployment rate—quite low compared with historical averages—has not been enough to spur meaningful wage growth for most workers.

The situation of weak economic leverage for most workers is not the “unfortunate-but-inevitable” result of

natural trends in technology and global integration; it is instead the product of decades of attacks on workers' leverage. The laws designed to protect working people have been largely neglected by policymakers since they were passed—over 75 years ago in the case of our foundational statutes like the National Labor Relations Act (NLRA) and the Fair Labor Standards Act (FLSA). Meanwhile, corporate interests have succeeded in getting policymakers to roll back key worker protections, and they have advanced business practices that ensure that fewer and fewer workers benefit from existing laws. The result of these attacks is that low- and middle-wage workers have little bargaining power to demand their fair share of the growing economic pie.

What is 'First Day Fairness'?

First Day Fairness is the right of all workers to a fair system of work from their first day on the job. U.S. workers are essential contributors to economic growth in the U.S. and they deserve a fair share of that growth and a fair say in their working conditions. First Day Fairness requires a rebalancing of our current system to ensure that workers' interests and concerns are served. It means that from the first day on the job working people can have a union in order to collectively bargain for better wages and working conditions. It means that workers know from the start how much they will be paid and when they will be paid; they know who their legal employer is; they are in a safe workplace; they have a predictable schedule and access to paid sick time; they can go to court if they are discriminated against; and they are not afraid of retaliation if they report issues at work. It also means that they have confidence that the government will enforce their workplace protections.

A multifront assault on workers' rights requires a multifaceted response

There is an understandable desire among those seeking shared prosperity to agree on and advance one simple, bold, "big fix" to all our economic woes. What is the *one* way to reverse decades of widening economic inequality? What is the *one* way to restore workers' rights and leverage in the workplace? What is the *one* way to close race and gender economic gaps?

These questions are spurring the development of many innovative policy reforms that we support. However, there is no single reform that can reverse the trends that have done so much to harm working people. Multiple reforms are needed to meaningfully address the decades-long campaign to disempower America's workers. That campaign has been waged on multiple fronts, impacting federal and state policies, our judicial system, and our democracy itself. A systematic, wide-ranging policy agenda to shift economic leverage away from workers brought us into this current situation, and only an equally deliberate and expansive set of pro-worker policies will take us out.

Making the workplace fair for women and

people of color

Women and workers of color suffer not only from the broad loss of bargaining power affecting all working people over the last four decades; they also face discrimination, occupational segregation, and other inequities related to racial and gender biases, which diminish their leverage even further. Studies show that women workers tend to be paid less than similar male workers, and black and Hispanic workers tend to be paid less than similar white workers.² Women and racial and ethnic minority workers are also more likely to be concentrated in low-wage jobs with few benefits.³

As a result, people of color and women stand to gain more from policies that establish and maintain basic fairness from the first day on the job. Stronger minimum wages and other labor standards disproportionately affect women and racial and ethnic minorities. Unions help raise women's pay, and help to close racial and ethnic wage gaps.⁴ Strengthening fair employment laws and their enforcement will provide crucial leverage for workers who are discriminated against on the basis of gender, race, and ethnicity.

The 'First Day Fairness' agenda

This agenda outlines a series of initial reforms focused on labor and employment policies, one of EPI's core areas of focus for generating a fairer economy. These policies would ensure that the protections promised in our basic labor laws decades ago have been updated to meet the needs of workers in a modern context.

The best guarantee for a fair first day for workers is union representation and a collective bargaining agreement; consequently, much of what we advocate for in this agenda is designed to reverse decades of legal hostility aimed at unions and to boost union coverage. As a complement to these policies, we also propose a series of employment law reforms that will restore at least some of the lost bargaining power of workers.

Together these policies will help to unrig the system and ensure a fair first day for working people.

We must strengthen collective bargaining and grow workers' ability to join together to increase their power

A recent poll found that 60 percent of adults have a favorable view of labor unions. However, as of 2017, only 10.7 percent of wage and salary workers were union members.⁵ This disconnect is the result of decades of fierce opposition to unions and collective bargaining, with employers exploiting loopholes in outdated labor law to defeat workers' organizing efforts, while corporate lobbyists have blocked attempts at reform. We know unions are a significant force for a fair economy by examining the impact of their decline since the 1970s. As unions have declined, inequality between middle- and high-wage workers has grown: **Figure A** shows that as union membership has dropped, the top 10 percent's share of overall income has risen. The erosion of union coverage has also meant the erosion of the significant boost unions provide to the earnings of black and Hispanic workers and women—a boost that occurs directly through collective bargaining but also by helping combat discrimination through correcting for salary discrepancies and establishing clear and transparent terms for advancement.⁶

The following reforms aim to strengthen collective bargaining and increase worker power.

1

Workers should be able to form a union free from employer intimidation and retaliation

Problem Increasingly intense employer opposition to union organizing has contributed to the decline in union membership in recent decades.⁷ A study by Kate Bronfenbrenner of Cornell University found that roughly one-third of private-sector employers illegally fire workers who participate in a union-organizing effort and over half of employers threaten to close the worksite if workers unionize.⁸

Reform The law must (1) authorize meaningful penalties against employers who interfere with workers joining together to improve their wages and working conditions; (2) impose monetary penalties for violations in which a worker is illegally terminated; (3) impose liability on corporate directors and officers who participate in violations of workers' rights or have knowledge of and fail to prevent such violations; (4) prohibit employers from requiring that employees attend meetings designed to persuade them against voting in favor of a union; and (5) allow workers to bring a lawsuit to recover monetary damages and attorneys' fees (private right of action) when their employer acts unlawfully to oppose their right to join a union and collectively bargain.

2

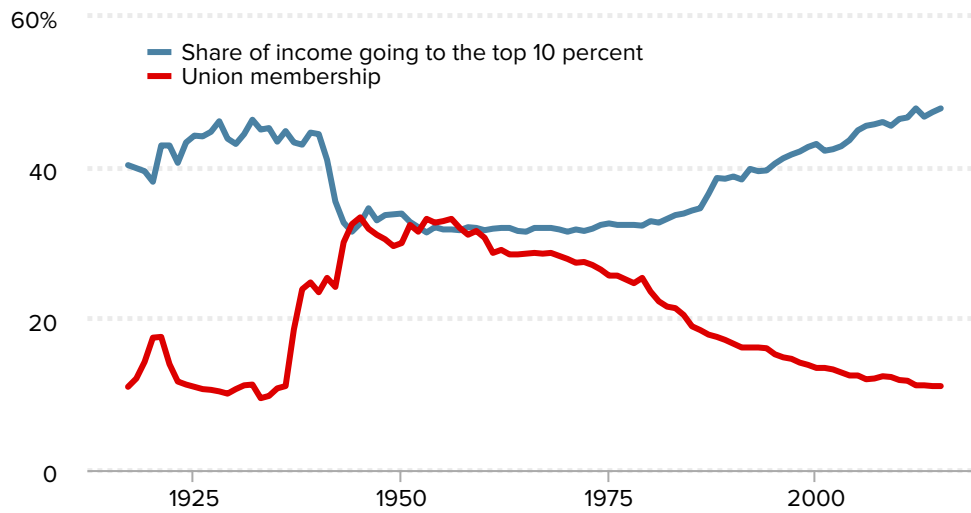
Workers who form a union should be able to reach a first contract in a timely manner

Problem When workers do overcome existing hurdles and successfully vote to form a union, loopholes in the law allow employers to cause unnecessary delays in the collective bargaining process. As a result, it can take years for a union to obtain a first contract. Bronfenbrenner's study found that two years after an election, more than one-third of newly formed private-sector unions—37 percent—still had no collective bargaining agreement. After three years, 30 percent still had no contract.⁹

Reform The law must ensure that workers in a union can reach a contract. Employers must not be allowed to delay the process and bargain in bad faith. The law should provide a mandatory mediation-and-arbitration process.¹⁰

Figure A

Union membership and share of income going to the top 10 percent, 1917–2015



Sources: Data on union density follows the composite series found in Historical Statistics of the United States; updated to 2015 from unionstats.com. Income inequality (share of income to top 10 percent) data are from Thomas Piketty and Emmanuel Saez, “Income Inequality in the United States, 1913–1998,” *Quarterly Journal of Economics* vol. 118, no. 1 (2003) and updated data from the Top Income Database, updated June 2016.

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3

Workers should be able to effectively finance worker organizations

Problem So-called “right-to-work” laws, passed in 27 states, have contributed to a reduction in union membership and are associated with a decline in wages and benefits for union and nonunion workers alike. RTW laws undermine the finances of private-sector unions by preventing them from being able to require that nonunion bargaining-unit members—people that unions are required by law to represent—pay their fair share of the cost of that representation.¹¹ Workers who want a union must be able to effectively finance the organization to ensure that they have a meaningful voice in the workplace.

Reform The NLRA should be amended to ban states from passing so-called “right-to-work” laws.

4

Workers should have the right to act in solidarity with other working people

Problem Under current law, workers may not be fired for engaging in a strike; however, they may be “permanently replaced.” Workers therefore have good reason to worry about losing their jobs if they strike. It is not surprising that the incidence of large-scale work stoppages has declined by more than 95 percent over the last half-century.¹² This loophole in the law has led to an erosion in workers’ ability to use one of their most powerful tools.

Reform The law should prohibit companies from permanently replacing striking workers. These protections should also be extended to include workers engaged in “secondary strikes” or other protest actions in solidarity with striking workers.

Related bills

The following bills introduced in the 115th Congress would enact some of our First Day Fairness policy recommendations to strengthen collective bargaining and grow workers’ ability to join together to increase their power.

- [S. 3064/H.R. 6080: Workers’ Freedom to Negotiate Act](#), introduced by [Sen. Murray](#) (D-Wash.) and [Rep. Scott](#) (D-Va.)
- [S. 2810/H.R. 5728: Workplace Democracy Act](#), introduced by [Sen. Sanders](#) (I-Vt.) and [Rep. Pocan](#) (D-Wis.)
- [S. 2143/H.R. 4548: Workplace Action for a Growing Economy \(WAGE\) Act](#), introduced by [Sen. Murray](#) (D-Wash.) and [Rep. Scott](#) (D-Va.)
- [S. 3151/H.R. 6238: Public Service Freedom to Negotiate Act](#), introduced by [Sen. Hirono](#) (D-Hawaii) and [Rep. Cartwright](#) (D-Pa.)

We must ensure basic job quality

Labor and employment standards set the minimum obligations that employers have to their workers. In recent decades there has been a concerted, cynical effort by corporate interests to convince lawmakers that these standards strangle economic growth and cost jobs. As a result, lawmakers have allowed these standards to erode dramatically—both through a failure to update existing standards so that they continue to provide a robust floor for job quality and through a failure to implement new standards to counteract evolving employer practices that wrest leverage from workers. As mentioned above, this erosion disproportionately impacts women and racial and ethnic minorities, who are more concentrated in low-wage jobs with few benefits. Further, this erosion harms collective bargaining efforts among unionized workers because it lowers the floor from which bargaining takes place.

5

Workers should earn at least a fair minimum wage

Problem At \$7.25 per hour, the federal minimum wage is now more than 25 percent below where it was in real terms half a century ago. Further, the federal “tipped minimum wage,” at \$2.13 per hour, has not been increased for more than a quarter-century. The erosion of the real value of the minimum wage lowers the wage floor for those workers with the least bargaining power and has been a substantial drag on wage growth for low-wage workers. Furthermore, this erosion in the real value of the minimum wage has occurred despite substantial productivity growth over this period that created room for the minimum wage to be substantially *higher* in real terms.¹³

Reform Congress should pass the Raise the Wage Act, raising the federal minimum wage to \$15 per hour by 2024, indexing it to the national median wage thereafter, and phasing out the tipped minimum wage and other subminimum wages.¹⁴ Given inflation expectations, \$15 in 2024 would be around \$13.00 in 2018 dollars,¹⁵ an appropriate level for the federal floor. In addition, states and localities with higher costs of living should legislate higher minimum wages.¹⁶

6

Workers should be fairly compensated for long hours

Problem Over the past four decades, overtime pay protections have eroded dramatically. Under federal law, almost all hourly workers are automatically eligible for overtime pay—1.5 times the regular rate of pay for any hours over 40 hours in a week—but workers who are paid on a salary basis are only automatically eligible if their earnings fall below a certain salary threshold. Salaried workers who earn above the threshold are eligible for overtime protections only if they are *not* a manager, supervisor, or highly trained professional. The salary threshold has been allowed to erode so dramatically in real terms that now—at \$455 per week, or \$23,660 for a full-time, full-year worker—it is lower than the poverty threshold for a family of four.¹⁷ If the threshold had simply been adjusted for inflation since the 1970s, it would be well over \$50,000.¹⁸

Reform The overtime salary threshold should be raised to a meaningful level. A 2016 federal rule, abandoned by the Trump administration, would have raised the salary threshold to \$47,476 per year for a full-year worker, with automatic updating thereafter.¹⁹ The overtime salary threshold should be set to *at least* this level.

7

Workers should be able to expect predictable schedules or be fairly compensated for unpredictable hours

Problem Many workers—particularly in the retail and fast-food industries—are subject to irregular and unpredictable work schedules. Unpredictable schedules complicate the daily lives of affected workers, particularly those trying to balance multiple jobs, arrange child care, and/or continue their education or training. Unpredictable work hours also lead to irregular and unpredictable earnings.²⁰

Reform Unpredictable scheduling can be addressed by federal law that includes the following: (1) a protected “right to request,” i.e., giving employees the right to make scheduling requests without retaliation; (2) a requirement that employees receive advance notice of their schedules; and (3) a provision that employees receive extra pay for on-call scheduling or other schedule changes that occur without sufficient warning, or shifts that are less than a minimum number of hours. Similar to time-and-a-half compensation for overtime hours, a standard of extra pay when workers’ schedules are changed without reasonable lead time or for short shifts would mean both that employers have skin in the game when they make decisions that add chaos to workers’ lives, and that workers receive extra compensation to help defray the impact.²¹

8

Workers should have access to paid sick time

Problem In 2017, nearly one in three private-sector workers—32 percent—did not have access to even one paid sick day through their employer, and that share was much higher—44 percent—for workers in the bottom half of the wage distribution.²² For these workers, the decision to take time off from work to recover from an illness or to care for a sick family member can be a choice between their financial security and their (or their family’s) health.²³

Reform A national paid sick days standard should be established that gives workers the economic security to be able to stay home when sick, when they need to see a doctor, or when a family member needs medical attention.

9

Workers should be provided transparent information about the terms of their employment

Problem Many workers begin work not knowing the basic terms of their employment, which makes it more difficult for them to recognize a violation of their rights. They may not know who their legal employer is, which also makes it difficult to address concerns. They may not know whether they are covered by overtime protections (that is, whether they are classified as “exempt” or “nonexempt” employees). When employers are required to provide workers with written notice of their terms of employment, it helps reduce worker misclassification and other violations of labor standards by reducing the noncompliance that results from employers being able to easily hide violations. It also increases worker leverage by providing employees with necessary documentation to pursue a claim in the event of a violation.

Reform All employers should be required by law to provide workers with a statement of pay that includes worker status (including whether the worker is an employee or an independent contractor and, if an employee, whether he or she is exempt or nonexempt from the overtime protections of the FLSA), a clear rationale for the worker classification, the name of the employee’s legal employer(s), rate of pay, hours worked, and all deductions from pay.

10

Workers should be able to hold all firms that have control over the terms and conditions of their employment accountable

Problem As employers outsource various functions to contractors and subcontractors, the workplace has become increasingly “fissured”—meaning that two or more firms control the terms and conditions of employment (such as pay, schedules, and job duties).²⁴ These arrangements enable employers to limit and evade liability for labor standards violations and to avoid the bargaining table—making it nearly impossible for workers to enforce their rights and for unions to negotiate for better working conditions.²⁵

Reform All firms that share control over a worker’s terms of employment should be considered to be employers of that worker, or “joint employers.” A federal joint employer standard should be the default for both collective bargaining and for responsibility for compliance with basic labor standards.

11

Workers should be protected against arbitrary or unfair termination or workplace discipline

Problem The U.S. has an at-will employment system, in which most nonunionized workers can be fired without warning for almost any reason (with few exceptions—e.g., discrimination on the basis of race, gender, national origin, disability, religion, age, or being pregnant, or as retaliation for whistleblowing or union-organizing activities). Workers covered by a collective bargaining agreement, on the other hand, often have standard “just cause” protections in their contracts, so that they know they cannot be fired without a legitimate reason—and that they have recourse if their employer attempts to do so. And while just cause would protect workers from arbitrary or unfair firing, it could also protect them from being fired for illegal reasons—for example, it would provide additional protections for workers whose employer might try to fire them for union-organizing activities but claim it is for another reason.

Reform The law should end at-will employment and establish just cause protections.

Related bills

The following bills introduced in the 115th Congress would enact some of our First Day Fairness policy recommendations to ensure basic job quality.

- [S. 1242/H.R. 15: Raise the Wage Act](#) , introduced by Sen. Sanders (I-Vt.) and Rep. Scott (D-Va.)
- [S. 2177/H.R. 4505: Restoring Overtime Pay Act](#), introduced by Sen. Brown (D-Ohio) and Rep. Takano (D-Calif.)
- [S. 1386/H.R. 2942: Schedules That Work Act](#), introduced by Sen. Warren (D-Mass.) and Rep. DeLauro (D-Conn.)
- [S. 636/H.R. 1516: Healthy Families Act](#), introduced by Sen. Murray (D-Wash.) and Rep. DeLauro (D-Conn.)
- [S. 1652/H.R. 3467: Wage Theft Prevention and Wage Recovery Act](#), introduced by Sen. Murray (D-Wash.) and Rep. DeLauro (D-Conn.)
- [S. 3064/H.R. 6080: Workers' Freedom to Negotiate Act](#), introduced by Sen. Murray (D-Wash.) and Rep. Scott (D-Va.)
- [S. 2143/H.R. 4548: Workplace Action for a Growing Economy \(WAGE\) Act](#), introduced by Sen. Murray (D-Wash.) and Rep. Scott (D-Va.)

We must protect workers from being forced to sign away their rights

In today's labor market, more and more workers are being told by potential employers that if they want a job, they have to sign away important rights that help level the playing field between workers and employers. The proliferating employer practice of requiring workers to waive their rights as a condition of employment shifts even more economic leverage from workers to employers.

12

Workers should be able to access the courts to enforce their rights

Problem The use of mandatory arbitration clauses and collective and class action waivers in employment agreements makes it more difficult for workers to enforce their rights. Mandatory arbitration forces workers to resolve workplace disputes in an individual arbitration process that overwhelmingly favors the employer, while collective and class action waivers prohibit workers from joining together to act collectively when workplace violations are widespread. Both agreements bar access to the courts for all types of employment-related claims, including those based on the Fair Labor Standards Act, Title VII of the Civil Rights Act, and the Family Medical Leave Act. Among private-sector nonunion employees, 56.2 percent are subject to mandatory employment arbitration procedures. This means that 60.1 million American workers no longer have access to the courts to protect their legal employment rights.²⁶

Reform The law must be changed to ban mandatory arbitration agreements and class and collective action waivers in employment agreements.

13

Workers should not have their job opportunities restricted by noncompete agreements

Problem Noncompete agreements—which block employees from working for a competitor for a set period of time if they leave their current job—severely restrict the most important point of leverage nonunionized workers have: the fact that they can quit and work somewhere else. Recent studies find that nearly one in five U.S. workers are bound by noncompete agreements,²⁷ and it's not just highly paid workers with access to trade secrets who are required to sign—14.3 percent of workers without a four-year college degree and 13.5 percent of workers earning less than \$40,000 a year have noncompetes.²⁸

Reform The use of noncompete agreements should be banned, with very limited carveouts.

Related bills

The following bills introduced in the 115th Congress would enact some of our First Day Fairness policy recommendations to protect workers from being forced to sign away their rights.

- [S. 3064/H.R. 6080: Workers' Freedom to Negotiate Act](#), introduced by Sen. Murray (D-Wash.) and Rep. Scott (D-Va.)
- [S. 2782/H.R. 5631 Workforce Mobility Act](#) introduced by Sen. Murphy (D-Conn.) and Rep. Crowley (D-N.Y.)

We must boost enforcement of all labor and employment standards

Employers steal billions from workers' paychecks each year by misclassifying workers, paying less than legally mandated minimums, failing to pay for all hours worked, stealing tips from tipped workers, and not paying overtime premiums.²⁹ Further, many employers fail to provide safe work environments: more than 5,000 fatal injuries and nearly 3 million nonfatal injuries and illnesses occur in the workplace each year.³⁰ Additionally, discriminatory hiring, firing, harassment, promotions, and pay systematically disadvantage racial and ethnic minorities, women, people with disabilities, LGBTQ workers, and workers from other marginalized groups.

14

Workers should have their rights adequately protected and be able to work free from discrimination and harassment

Problem Labor standards—such as the minimum wage, safety regulations, and fair employment laws (which prohibit employers from discriminating on the basis of certain traits such as race, religion, national origin, sex, or disability)—are only as strong as their enforcement. However, because of budget and policy choices, enforcement of labor standards has become so inadequate that it provides little deterrence against violations: penalties are either nonexistent or insufficient; workers have few protections against employer retaliation when they assert their rights; and finally, funding for enforcement is a fraction of what is needed.³¹ Further, fair employment laws do not currently protect many groups that experience discrimination and harassment in the workplace.

Reform The law should (1) increase penalties and remedies for violations of labor standards, including fair employment laws; (2) strengthen protections against employer retaliation for workers who assert their rights by, for example, filing a claim against their employer; (3) devote additional resources and funding to enforcement efforts and the recovery of wages and damages owed to workers; (4) collect and analyze data to better identify gaps and strategically target enforcement efforts; and (5) expand fair employment laws to ban employment discrimination and harassment based on more individual traits (for example, sexual orientation and gender identity or expression).

15

Workers should not be forced to subsidize employers who violate workers' rights

Problem Every year, the federal government spends hundreds of billions of taxpayer dollars on contracts for everything from building interstate highways to serving concessions at national parks. Unfortunately, many of these contracts are awarded to companies that bring in the lowest bid by cutting corners with workers' pay, health, and safety. This creates a race to the bottom on labor standards and puts responsible firms at a competitive disadvantage. Currently, there is no effective system to ensure that taxpayer dollars are not awarded to contractors who are chronic violators of labor and employment laws.

Reform The law should require companies competing for federal contracts to disclose previous workplace violations, with the applicable government agencies independently confirming that all violations have been disclosed, and those violations should be considered when new contracts are being awarded. Further, preference in awarding contracts should be given to unionized firms.

Related bills

The following bills introduced in the 115th Congress would enact some of our First Day Fairness policy recommendations to boost enforcement of labor and employment standards.

- [S. 1652/H.R. 3467: Wage Theft Prevention and Wage Recovery Act](#), introduced by Sen. Murray (D-Wash.) and Rep. DeLauro (D-Conn.)
- [S. 819/H.R. 1869: Paycheck Fairness Act](#), introduced by Sen. Murray (D-Wash.) and Rep. DeLauro (D-Conn.)
- [S. 3077: Fair Pay and Safe Workplaces Act](#), introduced by Sen. Smith (D-Minn.)
- [S. 2810/H.R. 5728: Workplace Democracy Act](#), introduced by Sen. Sanders (I-Vt.) and Rep. Pocan (D-Wis.)

Endnotes

1. Lawrence Mishel and Julia Wolfe, “Wages Rose for the Bottom 90 Percent in 2016 as Those for Top 1 Percent Fell,” *Working Economics* (Economic Policy Institute blog), October 31, 2017.
2. Elise Gould, Jessica Schieder, and Kathleen Geier, *What Is the Gender Pay Gap and Is It Real?* Economic Policy Institute, October 2016; Economic Policy Institute, *State of Working America Data Library*, “Gender wage gap,” “Black–white wage gap,” and “Hispanic–white wage gap,” 2018.
3. Economic Policy Institute, *State of Working America Data Library*, “Wages by percentile,” “Health insurance coverage,” and “Pension coverage,” 2018.
4. Josh Bivens et al., *How Today’s Unions Help Working People: Giving Workers the Power to Improve Their Jobs and Unrig the Economy*, Economic Policy Institute, August 24, 2017.
5. Poll results come from Shiva Maniam, “Most Americans See Labor Unions, Corporations Favorably,” *Fact Tank* (Pew Research Center), January 30, 2017. The union membership rate comes from Bureau of Labor Statistics, “Union Membership (Annual) News Release,” January 19, 2018.
6. Josh Bivens et al., *How Today’s Unions Help Working People: Giving Workers the Power to Improve Their Jobs and Unrig the Economy*, Economic Policy Institute, August 24, 2017.
7. Josh Bivens et al., *How Today’s Unions Help Working People: Giving Workers the Power to Improve Their Jobs and Unrig the Economy*, Economic Policy Institute, August 24, 2017.
8. Kate Bronfenbrenner, *No Holds Barred: The Intensification of Employer Opposition to Organizing*, Economic Policy Institute, May 2009. See also John Schmitt and Ben Zipperer, *Dropping the Ax: Illegal Firings during Union Election Campaigns*, Center for Economic and Policy Research (CEPR), March 2009.
9. Kate Bronfenbrenner, *No Holds Barred: The Intensification of Employer Opposition to Organizing*, Economic Policy Institute, May 2009. See also Figure 1 of John-Paul Ferguson, “The Eyes of the Needles: A Sequential Model of Union Organizing Drives, 1999–2004.” *Industrial and Labor Relations Review* 62, no. 1 (October 2008): 1–18.
10. In this process, union and employer work with a mediator to arrive at contract terms; if they are unable to do so before the established deadline (e.g., within one year of the date the union is recognized), or if at any time in the process the mediator judges that one side is not acting in good faith, the contract terms are determined through binding arbitration.
11. Janelle Jones and Heidi Shierholz, *Right-to-Work Is Wrong for Missouri: A Breadth of National Evidence Shows Why Missouri Voters Should Reject RTW Law*, Economic Policy Institute, July 10, 2018.

12. Data from the Bureau of Labor Statistics, Work Stoppages Program (WSP), public data series accessed August 15, 2018, through the [WSP Databases](#).
13. David Cooper, *Raising the Minimum Wage to \$15 by 2024 Would Lift Wages for 41 Million American Workers*, Economic Policy Institute, April 26, 2017.
14. H.R. 15, 115th Congress (2017).
15. EPI calculations based on the Congressional Budget Office's [10-Year Economic Projections](#) (published August 2018) of the Consumer Price Index (CPI-U).
16. Currently, 29 states and D.C. have a minimum wage higher than the federal minimum wage. In addition, 42 localities have adopted minimum wages above their state minimum wage. For more information about current minimum wage levels across the states, see EPI's [Minimum Wage Tracker](#) (interactive map; last updated July 2018).
17. As an example, a worker earning these poverty-level wages can be classified as a “manager” and be required to work 60 hours per week without receiving any additional pay over the \$455 weekly salary.
18. Celine McNicholas, Samantha Sanders, and Heidi Shierholz, *What's at Stake in the States if the 2016 Federal Raise to the Overtime Pay Threshold Is Not Preserved—and What States Can Do about It*, Economic Policy Institute, November 2017.
19. Celine McNicholas, Samantha Sanders, and Heidi Shierholz, *What's at Stake in the States if the 2016 Federal Raise to the Overtime Pay Threshold Is Not Preserved—and What States Can Do about It*, Economic Policy Institute, November 2017.
20. Center for Popular Democracy, *A Fair Workweek: Good for Businesses and Workers* (fact sheet), March 2018; Lonnie Golden, *Still Falling Short on Hours and Pay: Part-Time Work Becoming New Normal*, Economic Policy Institute, December 5, 2016.
21. For examples of “fair workweek” laws passed at the state and local levels, see Julia Wolfe, Janelle Jones, and David Cooper, *'Fair Workweek' Laws Help More Than 1.8 Million Workers: Laws Promote Workplace Flexibility and Protect against Unfair Scheduling Practices*, Economic Policy Institute, July 19, 2018.
22. Bureau of Labor Statistics, “[Table 32. Leave Benefits: Access, Private Industry Workers, March 2017](#),” *National Compensation Survey – Benefits*.
23. Elise Gould and Jessica Schieder, *Work Sick or Lose Pay? The High Cost of Being Sick When You Don't Get Paid Sick Days*, Economic Policy Institute, June 28, 2017.
24. David Weil, *The Fissured Workplace: Why Work Became So Bad and What Can Be Done to Improve It* (Cambridge, Mass.: Harvard Univ. Press, 2014).
25. Celine McNicholas and Marni von Wilpert, *The Joint Employer Standard and the National Labor Relations Board: What Is at Stake for Workers?*, Economic Policy Institute, May 2017.

26. Alexander J.S. Colvin, *The Growing Use of Mandatory Arbitration: Access to the Courts Is Now Barred for More Than 60 Million American Workers*, Economic Policy Institute, September 27, 2017.
27. Office of Economic Policy, U.S. Department of the Treasury, *Non-Compete Contracts: Economic Effects and Policy Implications*, March 2016.
28. Evan Starr, J.J. Prescott, and Norman Bishara, “Noncompetes in the U.S. Labor Force,” University of Michigan Law School, Law and Economics Research Paper Series no. 18-013, May 2018. <http://dx.doi.org/10.2139/ssrn.2625714>.
29. Celine McNicholas, Zane Mokhiber, and Adam Chaikof. 2017. *Two Billion Dollars in Stolen Wages Were Recovered for Workers in 2015 and 2016—and That’s Just a Drop in the Bucket*. Economic Policy Institute, December 2017.
30. Data are 2016 data from the Bureau of Labor Statistics, Injuries, Illnesses, and Fatalities (IIF) program, public data series accessed August 15, 2018, through the [IIF Databases](#).
31. In 2017, the Wage and Hour Division (WHD) of the U.S. Department of Labor employed 912 investigators around the country to enforce wage and hour laws like the minimum wage, overtime protections, and the job protections of the Family and Medical Leave Act (FMLA) in 9.85 million covered business establishments. That means that even if each WHD investigator went to one establishment *every day* (taking no days off except for weekends and federal holidays), it would still take well over 40 years for them to visit all covered establishments. (Data on the number of investigators obtained by phone from the U.S. Department of Labor, Wage and Hour Division, July 16, 2018. Data on the number of covered establishments are 2017 data from the Bureau of Labor Statistics, Quarterly Census of Employment and Wages (BLS-QCEW), public data series accessed August 14, 2018, through the [QCEW databases](#) and through [series reports](#).)