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Testimony of David Madland
Center for American Progress Action Fund
Written testimony in support of House Bill 3838-3, Relating to the Home and Community-
Based Services Workforce Standards Board

Chair Bowman, Vice-Chairs Drazan and Pham, and Members of the Committee:

My name is David Madland. I am a senior fellow at the Center for American Progress Action Fund, a progressive education and advocacy organization dedicated to improving the lives of Americans.

I have researched and written extensively about labor and employment policies, including standards boards, a policy that is featured in my most recent book, *Re-Union: How Bold Labor Reforms Can Repair, Revitalize, and Reunite the United States*, published by Cornell University Press.

I want to explain why I believe that a workforce standards board could be a promising policy for homecare workers and employers in Oregon and help address some of the challenges the industry and workers face, including staffing shortages, low wages, and poor job quality.

Workforce standards boards are a type of standard-setting body that can go by a number of names, including industry councils, workers boards, and wage boards.¹ However, what unites them is that they bring together representatives from the workforce and their employers in an official capacity, along with government representatives, to help set and enforce workplace standards that cover all workers in a particular industry and geography—for example, domestic workers in Seattle or farm workers in New York.²

Standard-setting bodies can benefit both workers and employers, as well as the public.

These boards can help workers come together and gain a stronger voice to advocate for themselves and help push an industry forward. Nevada homecare worker Tracey Richards said a board helps workers “build a better base, be more legitimate, taken seriously, and ... helps people want to join together.”³

¹ Kate Andrias, David Madland, and Malkie Wall, “Workers’ Boards: A Brief Overview,” Center for American Progress, December 11, 2019, available at <https://www.americanprogress.org/article/workers-boards-brief-overview/>.

² Kate Andrias, David Madland, and Malkie Wall, “Workers’ Boards: Frequently Asked Questions,” Center for American Progress, December 11, 2019, available at <https://www.americanprogress.org/article/workers-boards-frequently-asked-questions/>.

³ David Madland and Sachin Shiva, “Industry Standards Boards Are Delivering Results for Workers, Employers, and Their Communities,” (Washington: Center for American Progress, 2024), available at <https://www.americanprogress.org/article/industry-standards-boards-are-delivering-results-for-workers-employers-and-their-communities/>

Employers, meanwhile, gain a forum to discuss issues with workers and other firms in their industry; and raising standards across an industry creates a level playing field for all firms in the industry. This ensures fair competition and makes it more likely that these gains for workers will be sustainable.

Maxine Hartranft, a home care employer and member of the Nevada Home Care Employment Standards Board, said the board process was a good way to encourage “a commitment from the state” to address severe staffing issues caused by low pay for workers and low state reimbursements for employers.⁴ Richard Reinis, California Fast Food Council member, former CEO and general counsel of one of the largest Krispy Kreme franchisees in the country, likes the standards board model because: “Workers and employers can come up with better answers than politicians.”⁵

These councils or boards create a forum for workers, employers and the government to discuss a range of workplace issues such as wages, working hours, and other working conditions. Workers have significant insights into working conditions, and standards boards take advantage of that expertise by giving them as strong a voice as employers. By engaging in discussions about overlapping issues, and their enforcement, workers, management, and the government can often arrive at holistic solutions more effectively than can legislation that targets single issues.

The process of workers exercising their rights and pushing for higher standards can help unify workers and drive the industry ahead. Engaged and organized workers are also critical to effectively enforcing minimum standards. Workers and their representatives know from their day-to-day experience whether the standards they establish are being upheld, helping improve compliance.⁶ Furthermore, empowered workers are essential to ensuring that workers are actually able to come forward to report violations and ensure compliance.

As standards boards raise wages and standards for all workers, they can also help close racial and gender pay gaps. Measurable standards that apply industrywide ensure that all workers, regardless of race, gender, or disability status, earn fair wages under better conditions, reducing opportunities for discrimination.⁷

Compared with setting standards on an employer-by-employer basis, worker standards boards promote similar compensation for similar work. This encourages firms to compete based on productivity and innovation rather than low compensation.⁸ It also creates a level playing field and

⁴ Ibid.

⁵ David Madland and Sachin Shiva, “Industry Standards Boards Are Delivering Results for Workers, Employers, and Their Communities,” (Washington: Center for American Progress, 2024), available at <https://www.americanprogress.org/article/industry-standards-boards-are-delivering-results-for-workers-employers-and-their-communities/>

⁶ Janice Fine and Jennifer Gordon, “Strengthening Labor Standards Enforcement through Partnerships with Workers’ Organization,” *Politics & Society* Vol. 38 (Issue 4) (2010): pp. 552 – 585, available at <https://journals.sagepub.com/doi/10.1177/0032329210381240>.

⁷ David Madland and Alex Rowell, “Combating Pay Gaps with Unions and Expanded Collective Bargaining” (Washington, DC: Center for American Progress Action Fund, 2018), available at <https://www.americanprogressaction.org/article/combating-pay-gaps-unions-expanded-collective-bargaining/>.

⁸ David Madland, “How to Promote Sectoral Bargaining in the United States” (Washington, DC: Center for American Progress Action Fund, 2019), available at <https://www.americanprogressaction.org/article/promote-sectoral-bargaining-united-states/>.

ensures that high-road firms that provide good wages and benefits are not undercut by low-road companies.

Standards boards have proven successful in cities and states throughout the country. The original federal Fair Labor Standards Act established industry committees of unions, business associations, and the public to set wages on an industry-by-industry basis.⁹ A handful of states—most notably, New York and California—have had wage board laws on their books for nearly a century.¹⁰ In fact, in 2015, the state of New York used its law to convene a board to raise wages for fast-food workers.¹¹

Since 2018, six states and three local governments have enacted new standards board laws – Minnesota (Nursing Home Workforce Standards Board), Michigan (Nursing Home Workforce Stabilization Council), Colorado (Agricultural Work Advisory Committee), Nevada (Home Care Employment Standards Board), California (Fast Food Council), New York state (Farm Laborers Wage Board), Seattle (Domestic Workers Standards Board), Philadelphia (Domestic Workers Standards and Implementation Task Force), and Detroit (Industry Standards Board).¹² The bodies have successfully raised wages and improved access to overtime, paid time off, and training.¹³ The

⁹ Kate Andrias, “An American Approach to Social Democracy: The Forgotten Promise of the Fair Labor Standards Act,” *Yale Law Journal*, Vol.128 (Issue 3) (2019), available at <https://www.yalelawjournal.org/issue/issue/volume-128-issue-3-january-2019>

¹⁰ New York Labor Law, §655, available at <https://law.justia.com/codes/new-york/2012/lab/article-19/655/>; California Labor Code, §§1171-1207, available at https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=4.&chapter=1.&article.

¹¹ Order of New York Labor Commissioner on the Report and Recommendations of the 2015 Fast Food Wage Board, September 2015, available at <https://www.governor.ny.gov/sites/default/files/atoms/files/FastFood-Wage-Order.pdf>. See also David Cooper, “Raising the New York state minimum wage to \$15 by July 2021 would lift wages for 3.2 million workers” (Washington, DC: Economic Policy Institute, 2016), available at <https://www.epi.org/publication/raising-new-york-state-minimum-wage-to-15/>.

¹² New York State Department of Labor, “Farm Laborers Wage Board,” available at <https://dol.ny.gov/farm-laborers-wage-board> (last accessed September 2022); State of Michigan Office of the Governor, “Gov. Whitmer Signs Executive Order Establishing Nursing Home Workforce Stabilization Council,” Press Release, December 14, 2021, available at <https://www.michigan.gov/whitmer/news/press-releases/2021/12/14/gov--whitmer-signs-executive-order-establishing-nursing-home-workforce-stabilization-council>; Colorado Agricultural Workers’ Rights Act of 2021, SB 21-087, 2021 Reg. sess. (June 25, 2021), available at https://leg.colorado.gov/sites/default/files/2021a_087_signed.pdf; State of Nevada Department of Health and Human Services, “Home Care Employment Standards Board,” available at https://dhhs.nv.gov/Programs/HCESB/HCESB_Home/ (last accessed September 2022); FAST Recovery Act of 2022, AB 257, 2021-2022 sess. (September 9, 2022), available at https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB257; City of Seattle, “Domestic Workers Standards Board,” available at <https://www.seattle.gov/domestic-workers-standards-board> (last accessed September 2022); Philadelphia City Council, “Calling for the creation of a Domestic Workers Standards and Implementation Task Force and appointing a (9) Person Task Force to consider, analyze, make recommendations to City Council’s Committee of Law and Government and the Mayor’s Office of Labor, for the City on the legal protections, benefits, and working conditions for domestic workers,” available at <https://phlcouncil.com/wp-content/uploads/2019/10/Domestic-Workers-Standards-and-Implementation-Task-Force-1.pdf> (last accessed September 2022); David Madland, “City poised to set labor standards by sector,” Center for American Progress, November 28, 2021, available at <https://www.americanprogress.org/article/city-poised-to-set-labor-standards-by-sector/>.

¹³ *Ibid.*

wage increases from the Nevada Home Care Employment Standards Board helped reduce turnover in the industry.¹⁴

This type of model has also been successfully used in many other countries including those most similar to the U.S., such as Britain, Australia, and New Zealand.¹⁵

Ultimately, an industry standards board could help build a new participatory model that improves homecare in Oregon. I urge the committee to support HB 3838-3.

¹⁴ Andrea Hsu, "A wage hike for home health care workers in Nevada is proving game-changing," *NPR All Things Considered*, January 9, 2025, available at <https://www.npr.org/2025/01/09/nx-s1-5230816-e1/a-wage-hike-for-home-health-care-workers-in-nevada-is-proving-game-changing>

¹⁵ David Madland, *Re-Union: How Bold Labor Reforms Can Repair, Revitalize, and Reunite the United States*, Cornell University Press, 2021