

**Testimony of  
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**United States House of Representatives Committee on Oversight and Government Reform  
December 10, 2019**

***Examining the Need for Comprehensive National Paid Family and Medical Leave***

Good morning, Chairwoman Maloney, Ranking Member Jordan and members of the committee. It is a pleasure to be before you today to discuss paid family and medical leave, an issue of significance for virtually every working person in this country, for large and small employers and entrepreneurs, and for our economy.

My name is Vicki Shabo and I am a senior fellow for paid leave policy and strategy at the Better Life Lab at New America, a think and action tank here in Washington, D.C. I have been focused for nearly a decade on helping to develop and win new policies that have provided paid family and medical leave and paid sick time to tens of millions of people, first at the National Partnership for Women & Families and now at New America. New paid leave programs and the culture change they hasten are transforming people's lives as well as our national conversation around work, dignity, and care.

People – the connections that bind us to our loved ones and to each other – are at the heart of why paid leave matters. A well-designed national paid family and medical leave program would provide a mom in Marion, Ohio the ability to take time away from her office assistant job to care for her new child – and the ability to travel to New York City to care for her father after a stroke – without falling behind on her student loan payments or her rent. It would have provided Dave, Joe, and Robert, three men who spoke on a panel I moderated last week in connection with the release of New America's report, *Lifting the Barriers to Paid Family and Medical Leave for Men in the United States*, the ability to take paid leave to bond with and care for their newborn infants when they each became fathers, and it would have helped Robert's newly-widowed father care for him when, as a boy, Robert sustained serious injuries in an auto accident.<sup>1</sup>

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<sup>1</sup> Lenhart, A., Swenson, H. and Schulte, B. (2019, December). *Lifting the Barriers to Paid Family and Medical Leave for Men in the United States*. New America publication. Retrieved 8 December 2019, from <https://www.newamerica.org/better-life-lab/reports/lifting-barriers-paid-family-and-medical-leave-men-united-states/>; New America Men and Paid Leave Event Livestream (2019, December 4), Retrieved 8 December 2019, from <https://www.newamerica.org/better-life-lab/events/men-and-paid-family-and-medical-leave-america/>

This hearing is well-timed to celebrate a paid leave victory. Chairwoman Maloney, I want to congratulate you on your longstanding advocacy for paid leave for new parents in the federal workforce, which is poised to soon become law as part of the 2020 National Defense Authorization Act. The next step, of course, will be to secure comprehensive paid leave – which includes caregiving for ill, injured or disabled loved ones, and military caregiving leave. As my testimony today will indicate, the flexibility to use paid family and medical leave for all of the well-established reasons set out in the Family and Medical Leave Act of 1993 (FMLA) is critically important if we are to maximize the value of a paid leave policy for workers and families, businesses and the economy. Nonetheless, your dedication, Chairman Smith’s – and the courage of Democratic leaders in the House and Senate – to fighting for paid parental leave for federal workers is impressive and will make a huge difference in their lives. Twelve weeks of new-parent leave will also make the federal government a leading large employer of choice.

But access to paid leave should not depend on one’s employer, job, or state of residence. And that’s why I am pleased to be here today to discuss my vision for a comprehensive national paid family and medical leave program that would promote gender, race, and economic equity and strengthen America’s competitiveness in a global economy. A well-constructed national paid family and medical law would provide every working person in this country with the security of being able to care for ourselves and for our loved ones while still having the ability to pay bills and feed our families – no matter where we live or where we work.

As excited as I am to see a growing recognition that passing a national paid leave policy is a question of “when” and not “if,” details matter tremendously. Who it covers, what benefits it provides, and how it is paid for are integrally important. To maximize the direct effects of a paid leave policy to workers and employers as well as the indirect effects to our country and economy, the program must be designed to be equitable, inclusive and sustainable. This requires developing a national program that provides for a meaningful period of family and medical leave with an adequate wage replacement rate and job protection. A national paid leave program must also be implemented to reach the most vulnerable workers while still serving everyone; leverage health systems, community-based organizations and trusted intermediaries to ensure effective outreach; and deliver benefits in a timely manner.

**I. Intervention is Required Because the Market Has Failed: Access to Paid Family Leave is Rare and the Consequences of Inaction Are Grave**

**A. The Family and Medical Leave Act has Substantial Gaps**

In 1993, Congress passed the FMLA to provide eligible workers in covered workplaces with up to 12 weeks of unpaid, job protected leave and a continuation of their health benefits to take leave to care for a new child, a seriously ill parent, spouse or child, or to address their own serious health condition.<sup>2</sup> A 2012 report commissioned by the Department of Labor found that the FMLA covers approximately 59 percent of the workforce, leaving the other 41 percent -- who are disproportionately lower-wage workers, people of color, and women -- behind.<sup>3</sup>

The FMLA was enacted after a nine-year battle in Congress. Opponents at the time – many of the same few constituencies who are standing in the way of progress to enact paid leave now – claimed that the FMLA would lead to unmanageable absenteeism in workplaces and impose costs on employers so large that layoffs and business closures would be inevitable.<sup>4</sup> Fortunately, they were wrong. And it has been heartening to see former Members of Congress and organizations that once opposed the law admit that the FMLA had no such effects and that it is time for paid leave.<sup>5</sup>

Since its enactment, the law has allowed millions of Americans to take necessary leave to care for themselves and their families. Workers who are able to use FMLA benefits do so most often to address their own serious health issue (55 percent), to care for a new child through birth, adoption or foster placement (21 percent), to care for a seriously ill, injured or disabled parent, spouse or child (18 percent), or for military care and deployment exigency purposes that Congress expanded the law to cover in 2008 and 2009 (2 percent).<sup>6</sup>

Unfortunately, the FMLA is not enough because the leave it provides even to those who are covered by its protections is not paid. Without access to paid leave, workers often forgo taking necessary leave – or face significant financial hardships while taking unpaid leave.<sup>7</sup> According to Pew Research Center, many workers who received little or no pay during a necessary period

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<sup>2</sup> The Family and Medical Leave Act of 1993. Retrieved 8 December 2019, from <https://www.dol.gov/agencies/whd/laws-and-regulations/laws/fmla>

<sup>3</sup> Klerman, J. A., Daley, K., & Pozniak, A. (2012, September 7). *Family and Medical Leave in 2012: Technical Report*. Abt Associates Publication. Retrieved 8 December 2019, from <http://www.dol.gov/asp/evaluation/fmla/fmla2012.htm>

<sup>4</sup> Elving, R. (1995). *Conflict & Compromise: How Congress Makes the Law*. New York, NY: Simon & Schuster.

<sup>5</sup> C-SPAN. (2018, July 28). *Bipartisan Policy Center Panel on Paid Family Leave*. Retrieved 8 December 2019, from <https://www.c-span.org/video/?4448613-1/ivanka-trump-discusses-paid-family-leave-proposal>; Santorum, R. (2018, November 26). Paid Family Leave Will Support Working Families. *National Review*. Retrieved 8 December 2019, from <https://www.nationalreview.com/2018/11/paid-family-leave-working-families-good-policy-good-politics/>

<sup>6</sup> See Klerman et al., note 3.

<sup>7</sup> Ibid.

of leave had no choice but to use a variety of methods to make due, including drawing on savings earmarked for another purpose (50 percent), taking on debt (37 percent), putting off paying bills (33 percent) or using public assistance programs (17 percent).<sup>8</sup>

Consideration of a comprehensive national paid leave program that builds on the FMLA's strong foundation is long overdue. The status quo is unsustainable, unaffordable and irresponsible. To build a robust 21<sup>st</sup> century economy, with a strong and vibrant workforce and healthy families, we must do better.

### **B. Most People Lack Paid Family and Medical Leave – and Disparities in Access are Growing**

Today, too few of us have the option to take paid leave to care for ourselves and our loved ones. Access to paid family and medical leave is all too rare – often provided as a benefit or perk, rather than being guaranteed as a matter of economic necessity.

As of March 2019, just 19 percent of the civilian workforce had access to paid family leave to care for a new child or a seriously ill loved one, and just 40 percent had access to employer-provided short-term disability insurance; access among private sector workers is slightly lower.<sup>9</sup> It is a welcome development that, over the past five years, access to employer-provided paid family leave has improved nationally by 6 percentage points, from 13 percent in 2014 to 19 percent in 2019.<sup>10</sup> But that aggregate statistic masks deep disparities, both in access to paid family leave and in changes over time. For example, in 2014, 22 percent of the highest-wage workers had access to employer-provided paid family leave; today 34 percent do. In 2014, 4 percent of the lowest-wage workers had access to employer-provided paid family leave. Today? Just 6 percent.<sup>11</sup> Let that sink in: a 12-percentage point increase among the highest wage

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<sup>8</sup> Stepler, R. (2017, March 23). *Key takeaways on Americans' views of and experiences with family and medical leave*. Pew Research Center Publication. Retrieved 8 December 2019, from [http://www.pewresearch.org/fact-tank/2017/03/23/key-takeaways-on-americans-views-of-and-experiences-with-family-and-medical-leave/ft\\_17-03-23\\_familyleavetakeaways\\_2/](http://www.pewresearch.org/fact-tank/2017/03/23/key-takeaways-on-americans-views-of-and-experiences-with-family-and-medical-leave/ft_17-03-23_familyleavetakeaways_2/)

<sup>9</sup> Bureau of Labor Statistics. (2019, September). *National Compensation Survey: Employee Benefits in the United States, March 2019* (Table 31 and 16). Retrieved 8 December 2019, from <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/civilian/table31a.pdf> and <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/civilian/table16a.pdf> (To access data for private sector workers, simply change “civilian” to “private” in the URLs provided here.)

<sup>10</sup> Bureau of Labor Statistics. (2014, September). *National Compensation Survey: Employee Benefits in the United States, March 2014* (Table 32). Retrieved 8 December 2019, from <https://www.bls.gov/ncs/ebs/benefits/2014/ownership/civilian/table32a.pdf>; see Bureau of Labor Statistics, note 9, Table 31.

<sup>11</sup> See Bureau of Labor Statistics, note 9, Table 31.

workers, but only a 2-percentage point increase among the lowest. the 2019 It is unacceptable that our country allows more than 113 million workers and the loved ones who rely on them when they are in need of care to be left behind.<sup>12</sup>

What's more, even in workplaces where paid parental or family caregiving leave may be available to some workers, it is generally not available to most or all workers, according to the 2012 FMLA report commissioned by the Department of Labor.<sup>13</sup> Lower-wage, hourly workers – those who can least afford to take unpaid leave and may be most fearful about on-the-job consequences for taking leave at all – are those most often left behind. Even much-celebrated announcements about new paid leave benefits from companies like Wal-Mart include a catch: the parental leave benefit Wal-Mart announced in January 2018 only applies to full-time and salaried employees, which leaves out an estimated 60 percent of its associate workforce.<sup>14</sup>

The costs of America's paid leave gaps are substantial: nearly one-quarter of mothers (23 percent) return to work within two weeks of given birth while still recovering from childbirth;<sup>15</sup> most fathers do not have the opportunity to spend precious bonding time with their children or support their partners through recovery from childbirth because they take only short leaves or no leave at all;<sup>16</sup> children whose parents do not have access to paid leave are more likely to miss or be behind schedule in well-baby visits and immunizations;<sup>17</sup> and a lack of access to paid family and medical leave may be tied to maternal depression, high infant mortality rates and low birthweights.<sup>18</sup> Many people, particularly Generation Xers and older millennials, are torn

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<sup>12</sup> Bureau of Labor Statistics. (2019, September). *National Compensation Survey: Employee Benefits in the United States, March 2019* (Appendix Table 2). Retrieved 8 December 2019, from [https://www.bls.gov/ncs/ebs/benefits/2019/appendixtable2019\\_02.htm](https://www.bls.gov/ncs/ebs/benefits/2019/appendixtable2019_02.htm) (calculation of number of affected workers derived from paid family leave access rates reported in Table 31 multiplied by the number of civilian workers represented in the Employment Benefits Survey)

<sup>13</sup> See Klerman et al., note 3.

<sup>14</sup> Gale, R. (2018, January 12). Walmart Announces Incomplete Paid Leave Policy for Employees. *Slate*. Retrieved 8 December 2019, from <https://slate.com/human-interest/2018/01/wal-mart-announces-new-employee-paid-leave-policy-leaves-part-timers-out-in-the-cold.html>

<sup>15</sup> See Klerman et al., note 3.

<sup>16</sup> Heilman, B., Cole, G., Matos, K., Hassink, A., Mincy, R., & Barker, G. (2016). *State of America's Fathers*. A MenCare Advocacy Publication. Retrieved 8 December 2019, from [http://men-care.org/soaf/download/PRO16001\\_Americas\\_Father\\_web.pdf](http://men-care.org/soaf/download/PRO16001_Americas_Father_web.pdf); see Lenhart et al, note **Error! Bookmark not defined.**

<sup>17</sup> Choudhury, A. & Polachek S. (2019, July). *The Impact of Paid Family Leave on the Timing of Infant Vaccinations*. IZA Institute of Labor Economics. Retrieved 8 December 2019 from, <http://ftp.iza.org/dp12483.pdf>

<sup>18</sup> Rossin-Slater, M. & Uniat, L. (2019, March 28). Paid Family Leave Policies and Population Health. *Health Affairs Policy Brief*. Retrieved 8 December 2019, from [https://www.healthaffairs.org/doi/10.1377/hpb20190301.484936/full/HPB\\_2019\\_RWJF\\_09\\_W.pdf](https://www.healthaffairs.org/doi/10.1377/hpb20190301.484936/full/HPB_2019_RWJF_09_W.pdf)

between parenting a child and caring for an adult who needs help, which can require an employee to reduce their hours, miss opportunities for promotions or advancement, and experience untold stresses that show up as health care expenses down the road; paid leave is an intervention that can help.<sup>19</sup> And for people with serious health issues who themselves need care, the lack of support from a family caregiver can mean medical complications and higher nursing home utilization, which translate into unnecessary health care dollars borne by taxpayers.<sup>20</sup> Access to paid leave can also mean a more successful return to work after addressing a serious health issue,<sup>21</sup> but many workers, including those addressing a cancer diagnosis, do not even have paid sick time to use for treatment and recovery.<sup>22</sup>

Lack of access to paid family and medical leave affects nearly everyone. Strikingly, though, the very people who are least likely to have access to leave are also least likely to have savings and therefore face the greatest precarity. The inability to access paid leave also poses yet one more structural barrier for people who already face many others and has consequences for those workers and also for their loved ones. They are disproportionately the people who work in low wage jobs, with little job security and voice in their workplaces.<sup>23</sup> They are disproportionately people of color who, due to structural racism in housing, employment, and access to capital, tend to have lower levels of wealth, and experience greater challenges in the event of a job loss.<sup>24</sup> They are child care workers and elder care workers who cannot afford to take time away

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<sup>19</sup> National Alliance for Caregiving and Caring Across Generations. (2019, November). *Burning the Candle at Both Ends: Sandwich Generation Caregiving in the U.S.* Retrieved 8 December 2019, from [https://www.caregiving.org/wp-content/uploads/2019/11/NAC-CAG\\_SandwichCaregiving\\_Report\\_Digital-Nov-26-2019.pdf](https://www.caregiving.org/wp-content/uploads/2019/11/NAC-CAG_SandwichCaregiving_Report_Digital-Nov-26-2019.pdf)

<sup>20</sup> Arora, K., & Wolf, D. A. (2017, November 3). Does Paid Family Leave Reduce Nursing Home Use? The California Experience. *Journal of Policy Analysis and Management*, 37(1), 38-62. Retrieved 8 December 2019, from <http://onlinelibrary.wiley.com/doi/10.1002/pam.22038/full>

<sup>21</sup> WORLD Policy Analysis Center. (2018, February). *A Review of the Evidence on the Length of Paid Family and Medical Leave*. Retrieved 8 December 2019, from <https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>

<sup>22</sup> American Cancer Society Action Network. (2017, December 8). *Key Findings – National Surveys of Cancer Patients, Survivors, and Caregivers*. Retrieved 8 December 2019, from <https://www.acscan.org/sites/default/files/ACS%20CAN%20Paid%20Leave%20Surveys%20Key%20Findings%20Press%20Memo%20FINAL.pdf>

<sup>23</sup> Gupta, P., Goldman, T., Hernandez, E. & Rose, M. (2018, December). *Paid Family and Medical Leave is Critical for Low-wage Workers and Their Families*. CLASP publication. Retrieved 8 December 2019, from [https://www.clasp.org/sites/default/files/publications/2018/12/2018\\_pfmliscriticalfor\\_0.pdf](https://www.clasp.org/sites/default/files/publications/2018/12/2018_pfmliscriticalfor_0.pdf)

<sup>24</sup> National Partnership for Women & Families. (2018, August). *Paid Family and Medical Leave: A Racial Justice Issue – And Opportunity*. Retrieved 8 December 2019, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-family-and-medical-leave-racial-justice-issue-and-opportunity.pdf>

from their jobs to care for their own loved ones and cannot afford to pay others to provide care, either. For women of color, in particular, the intersecting effects of the gender-based wage gap, the racial wealth gap, and employment discrimination all contribute to a structurally unbalanced scale that is exacerbated by intergenerational family caregiving responsibilities that fall on them.<sup>25</sup> The lack of access to paid leave has dire consequences for the health, security, safety and dignity of people who are stretched, for their loved ones, and for the economy, which loses the value of their productive labor.

But this is not just a low-wage worker issue. Middle- and even higher-wage workers must also cobble together vacation, sick and personal time, navigate the requirements of applying for short-term disability benefits to supplement an unpaid FMLA leave, and face the scorn of supervisors who are not keen on providing the paid time off that a company touts access to on paper.

The costs of doing nothing – estimated to be \$20.6 billion to families in lost wages<sup>26</sup> with additional costs in the form of lost productivity, reduced retirement security and wealth, and higher public health and human services costs – are too high to continue down this road. And as colleagues and I showed last year in a National Partnership for Women & Families white paper, *An Unmet, Growing Need: The Case for Comprehensive Paid Family and Medical Leave in the United States*, certain key trends – in birth rates, the aging population, and patterns of job-sector growth – make the enactment of a national solution a demographic and economic imperative.<sup>27</sup>

## **II. The Way Forward: Policymakers, Businesses and Voters Coming Together for Change**

### **A. State Innovation Leads the Way**

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<sup>25</sup> Grant, K., Brumfield, C., Khan, S., Aderonmu, F. & Dutta-Gupta, I., (2019) *The Paid Family and Medical Leave Opportunity: What Research Tells Us About Designing a Paid Leave Program that Works for All*. Georgetown Center on Poverty & Inequality. Retrieved 8 December 2019, from [http://www.georgetownpoverty.org/wp-content/uploads/2019/08/Georgetown\\_PLUS-PaidFamilyMedicalLeaveOpportunity-20190804.pdf](http://www.georgetownpoverty.org/wp-content/uploads/2019/08/Georgetown_PLUS-PaidFamilyMedicalLeaveOpportunity-20190804.pdf)

<sup>26</sup> Glynn, S. J., & Corley, D. (2016, September). *The Cost of Work-Family Policy Inaction: Quantifying the Costs Families Currently Face as a Result of Lacking U.S. Work-Family Policies*. Center for American Progress Publication. Retrieved 8 December 2019, from <https://cdn.americanprogress.org/wp-content/uploads/2016/09/22060013/CostOfWorkFamilyPolicyInaction-report.pdf>

<sup>27</sup> Glynn, S.J., Eyster, K. & Shabo, V. (2018, July). *An Unmet, Growing Need: The Case for Comprehensive Paid Family and Medical Leave in the United States*. National Partnership for Women & Families White Paper. Retrieved 8 December 2019, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/an-unmet-growing-need-the-case-for-comprehensive-paid-leave-united-states.pdf>

The state paid leave landscape is changing rapidly, which is building momentum around addressing America's paid leave failures at the national level. There are now eight states that have implemented or will soon implement paid family and medical leave programs for the workers in their states: California (2002 enactment with multiple subsequent improvements), New Jersey (2008 enactment with 2019 improvement), Rhode Island (2013 enactment), New York (2016 enactment), Washington (2017 enactment), Massachusetts (2018 enactment), Connecticut (2019 enactment) and Oregon (2019 enactment), plus the District of Columbia (2017 enactment). Programs in the first four of these states are in operation; two will launch in 2020, and one each will launch in 2021, 2022 and 2023.<sup>28</sup> More than half of all U.S. states saw paid family and medical leave bills introduced in the most recent legislative sessions, with substantial progress toward enactment in at least four.

As I discuss in more detail below, each state paid leave program is structured as a universal social insurance fund, paid for through small payroll contributions (about 1 percent or less) from employers, employees, or both. Each program covers leave to address an employee's own serious health issue, to care for a seriously ill, injured or disabled loved one, to care for a newborn, adopted or newly-placed foster child, and some states cover leave for additional family and medical needs including military caregiving and qualifying exigency leaves or situations related to domestic violence, stalking and sexual assault. Each provides wage replacement based on prior earnings up to a cap; the five newest laws do so on a sliding scale, so that lower-wage workers receive a higher share of their typical wages,<sup>29</sup> which makes the program more accessible and affordable. And each covers caregiving for family members that extend beyond parents, spouses or children; the newest laws recognize that sometimes our closest loved ones are chosen family, siblings or grandchildren, and all recognize that our grandparents are worthy of care.<sup>30</sup> Some programs also incorporate critically-important employment protections that reach some or all of the 39 percent of workers who are not covered through Family and Medical Leave Act (FMLA) job protection and health insurance continuation provisions.<sup>31</sup>

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<sup>28</sup> New America. (2019, July). *Federal FMLA and State Paid Leave Program Usage and Coverage*. Retrieved 8 December 2019, from [https://newamericadotorg.s3.amazonaws.com/documents/Overview\\_of\\_FMLA\\_and\\_Paid\\_Leave\\_Use\\_and\\_Coverage.pdf](https://newamericadotorg.s3.amazonaws.com/documents/Overview_of_FMLA_and_Paid_Leave_Use_and_Coverage.pdf)

<sup>29</sup> National Partnership for Women & Families. (2019, August). *State Paid Family and Medical Leave Insurance Laws*. Retrieved 8 December 2019, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf>

<sup>30</sup> See New America, note 28.

<sup>31</sup> See National Partnership for Women & Families, note 29.



Advocacy for paid leave policies is no longer a project carried only by advocates for women, children, racial and economic justice, health care access, caregiver support, and stronger labor protections – though it is the hard work of organizations representing these groups and impacted people themselves that have been catalysts for change. Today, groups representing businesses, small business owners, and large companies are also speaking out about the benefits of paid leave, increasingly adopting policies of their own and calling on lawmakers to pass comprehensive policies.<sup>32</sup> Business groups were also instrumental in striking agreements with broad advocacy coalitions and lawmakers on both sides of the aisle in Washington State, Massachusetts and Oregon.<sup>33</sup>

### **B. Designing Policy to Optimize Outcomes for Working People, Families, Business and the Economy**

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

With every new study on paid leave, we are learning more about how to most effectively design programs and outreach activities that maximize positive impacts while minimizing the possibility of adverse consequences. Particularly important for this committee in its oversight role will be how a national program is implemented, promoted and enforced – and how

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<sup>32</sup> Businesses Advancing National Paid Leave. Retrieved 8 December 2019, from [www.advancingpaidleave.org](http://www.advancingpaidleave.org); Small Business for Paid Family and Medical Leave. Retrieved 9 December 2019, from <https://www.smallbusinessforpaidleave.org/>

<sup>33</sup> Washington Hospitality Association. (2017, June 30). *Businesses support bipartisan law creating statewide paid family and medical leave*. Retrieved 8 December 2019, from <https://wahospitality.org/blog/businesses-support-bipartisan-law-creating-statewide-paid-family-and-medical-leave/>; Leung, S. (2018, June 28). How progressives and businesses made an unlikely deal on family leave. *The Boston Globe*. Retrieved 8 December 2019, from <https://www.bostonglobe.com/business/other/2018/06/28/how-progressives-and-businesses-made-unlikely-deal-family-leave/7fRz5Pv0VCy8WDbEg32VeP/story.html?event=event25?event=event25>; Miller, M. (2019, June 14). Family leave bill inches through the legislature. *Mail Tribune (Oregon)*. Retrieved 7 December 2019, from <https://mailtribune.com/news/state-news/family-leave-bill-inches-through-legislature>

partnerships among government, the private sector, community-based organizations and trusted intermediaries can help promote appropriate program use.<sup>34</sup>

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

- **Improved labor force attachment and increased earnings for women.** California's paid family leave program was enacted in 2002, started paying benefits in 2004, and has been expanded multiple times since. Multiple studies of California's program suggest that women's labor force attachment, hours worked, and earnings increase when paid family leave is available for the arrival of a child<sup>35</sup> and for family caregiving.<sup>36</sup> The effects are most pronounced for lower-wage women and women of color,<sup>37</sup> with the possibility of helping to close the wage gap and promote women's workplace advancement over time.

This is consistent with earlier studies of the effects of paid leave offered through employers and through state temporary disability insurance programs, which found that women who took paid leave were more likely to be working and to have higher earnings in the year after their child's birth than women who did not.<sup>38</sup> Nationally, it is

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<sup>34</sup> Mason, J. (2019). *Meeting the Promise of Paid Leave: Best Practices in State Paid Leave Implementation*. National Partnership for Women & Families. Retrieved 8 December 2019, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/meeting-the-promise-of-paid-leave.pdf>

<sup>35</sup> Rossin-Slater, M., Ruhm, C. & Waldfogel, J. (2013). The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes. *J. Policy Anal Manage* 32(2): 224-245. Retrieved 8 December 2019, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3701456/>

<sup>36</sup> Saad-Lessler, J. & Bahn, K. (2017, September). *The Importance of Paid Leave for Caregivers: Labor Force Participation Effects of California's Comprehensive Paid Family and Medical Leave*. Center for American Progress. Retrieved 8 December 2019, from <https://www.americanprogress.org/issues/women/reports/2017/09/27/439684/importance-paid-leave-caregivers/>

<sup>37</sup> See Rossin-Slater et al., note 35; Saad-Lessler et al., note 36.

<sup>38</sup> Houser, L., & Vartanian, T. P. (2012, January). *Pay Matters: The Positive Impacts of Paid Family Leave for Families, Businesses and the Public*. Rutgers, the State University of New Jersey Center for Women and Work Publication. Retrieved 8 December 2019, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/other/pay-matters.pdf>; Houser, L., & Vartanian, T. P. (2012, April). *Policy Matters: Public Policy, Paid Leave for New Parents, and Economic Security for U.S. Workers*. Rutgers, the State University of New Jersey Center for Women and Work Publication. Retrieved 8 December 2019, from [http://go.nationalpartnership.org/site/DocServer/RutgersCWW\\_Policy\\_Matters\\_April2012.pdf](http://go.nationalpartnership.org/site/DocServer/RutgersCWW_Policy_Matters_April2012.pdf)

estimated that policies like paid leave, which would improve women's labor force participation rates, could add \$500 billion to the United States economy.<sup>39</sup>

However, one very new, limited, study sounds a note of potential caution. It underscores that policy and culture must be encourage leave-taking among men to help ensure that caregiving does not continue to be viewed by women, men and employers as predominantly women's work; this study also suggests the importance of improving access to quality, affordable early child care and the need for parity in pay and benefits for workers who scale back work hours after a child's birth, so that their longer term earnings prospects are not diminished by the time they have taken to provide care.<sup>40</sup>

- **Better health and health care utilization for children.** A recent study found that the implementation of paid family leave in California resulted in a significant reduction in late vaccinations among children, particularly among children from low-income families.<sup>41</sup> This new study adds to a body of research about the effects of paid leave on health outcomes. Other studies have focused on the relationship between California's paid leave implementation and the reduced risk of head trauma for infants (likely due to reduced parental stress)<sup>42</sup> as well as the general role of paid leave in reducing the length of hospital stays for critically ill older children.<sup>43</sup> Parents who take paid leave are also more attuned to their child's cues, which improves children's neurological development, self-regulation and behavior over time.<sup>44</sup> But in order to make the most of the bonding

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<sup>39</sup> U.S. Department of Labor. (2015, September). *The Cost of Doing Nothing: The Price We All Pay Without Paid Leave Policies to Support America's 21st Century Working Families*. Retrieved 8 December 2019, from <https://www.dol.gov/wb/resources/cost-of-doing-nothing.pdf>

<sup>40</sup> Bailey, M., Byker, T., Patel, E. & Ramnath, S. (2019, October). *The Long-Term Effects of California's 2004 Paid Family Leave Act on Women's Careers: Evidence from U.S. Tax Data*. NBER Working Paper. Retrieved 8 December 2019, from [http://www-personal.umich.edu/~baileymj/Bailey\\_Byker\\_Patel\\_Ramnath.pdf](http://www-personal.umich.edu/~baileymj/Bailey_Byker_Patel_Ramnath.pdf). It is important to note this study's limitations. It focused only on the very first cohort of women eligible for California's paid family leave benefit as an add-on to longstanding temporary disability insurance benefits; at that time and for the first year of California's program, men were less than 15 percent of leave-takers under the state's new program. Now, men comprise more than one-third of leave-takers and men's utilization of leave in California may be more widely accepted and encouraged. In addition, the study did not include earnings from self-employment, yet the authors hypothesize that the women in the cohort they studied may have moved from traditional employment to entrepreneurial self-employment. Therefore, this study should be viewed with caution while further research is conducted.

<sup>41</sup> See Choudhury, note 17.

<sup>42</sup> Klevens, J., Luo, F., Xu, L., Peterson, C. & Latzman, N. (2016, December). Paid family leave's effect on hospital admissions for pediatric abusive head trauma. *Injury Prevention* 22:442-445. Retrieved 8 December 2019, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4981551/>

<sup>43</sup> Heymann, J. (2001, October 15). *The Widening Gap: Why America's Working Families Are in Jeopardy—and What Can Be Done About It*. New York, NY: Basic Books.

<sup>44</sup> Zero to Three. (2018, February). Paid Family Leave Talking Points. Retrieved 8 December 2019, from <https://www.zerotothree.org/resources/2157-paid-family-leave-talking-points>

time that a paid leave law makes available, or to make the use of paid leave for family care more accessible for working parents, programs must offer wage replacement that allows workers to meet their basic expenses – and job protections so that the use of benefits from a public paid leave fund does not come at the expense of losing a job.

- **More engagement from men in the lives of their children and families.** California’s paid family leave program, now in its 16<sup>th</sup> year, shows how policy and culture change can reinforce one another. When California’s program was first implemented, men comprised less than one-sixth of claimants. By 2016, they were more than one-third of paid leave users in the state. In Rhode Island, too, men are approximately one-third of paid leave users.<sup>45</sup>

Policy changes help drive cultural changes, according to experts. As state laws have created paid leave benefits for people of all genders, some employers’ practices in other jurisdictions have followed suit. A national standard would continue that trend, with benefits for men and their children, a better gender balance of household duties within homes, diminished workplace stereotypes, and improvements in women’s earnings and opportunities.<sup>46</sup> Public opinion studies shows that men want and expect to care for their children and older loved ones to the same extent as women do, but that financial constraints, fears about work-related backlash and societal perceptions often hold them back.<sup>47</sup> A well-designed national paid family and medical leave law could help to shift those barriers.

- **Better outcomes and reduced health care costs for ill, injured or disabled loved ones and more economic security for their caregivers.** California’s paid family leave program has been shown to reduce nursing home utilization by 11 percent, in part because family caregivers are more available to provide care.<sup>48</sup> Access to paid leave in California also shows labor force participation benefits for caregivers.<sup>49</sup> While there are

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<sup>45</sup> See Glynn et al., note 27.

<sup>46</sup> Bartel, A., Rossin-Slater, M., Ruhm, C. Stearns, J. & Waldfogel, J. (2015, November). Paid Family Leave, Fathers’ Leave-Taking, and Leave-Sharing in Dual-Earner Households. Retrieved 8 December 2019, from <https://www.dol.gov/agencies/oasp/evaluation/WorkerLeaveStudy/WL-Father-Leave-Taking-and-Leave-Sharing-in-Dual-Earner-Households>; Glynn, S.J. (2018, May 18). *An Unequal Division of Labor: How Equitable Workplace Policies Would Benefit Working Mothers*. Center for American Progress. Retrieved 8 December 2019, from <https://www.americanprogress.org/issues/women/reports/2018/05/18/450972/unequal-division-labor/>; see Heilman, et al., note 16

<sup>47</sup> See Lenhart et al., note 1.

<sup>48</sup> See Arora et al., note 20.

<sup>49</sup> See Saad-Lessler, note 36.

many unanswered research questions with respect to caregiving and personal medical leave,<sup>50</sup> the need for relief is clear.

Caregiving leave will become increasingly important with generational shifts as the large Baby Boomer population ages, because there are fewer younger people to care for them.<sup>51</sup> Already, 43.5 million people provide unpaid care to family members, and most family caregivers also have full-time jobs.<sup>52</sup> An estimated 36 million working age adults live with a family member with a disability.<sup>53</sup> In addition, the majority of military caregivers – and more than three-quarters of caregivers for post-9/11 wounded warriors – are also in the labor force.<sup>54</sup>

New research released just last month by the National Alliance for Caregiving and Caring Across Generations chronicles the challenges facing 11 million “sandwich” generation caregivers, half of whom (49 percent) are millennials caring for a young child as well for an older child with special needs or an older loved one.<sup>55</sup> This study finds that, although most millennial caregivers work, they are unlikely to have workplace benefits like paid leave or flexible hours. Most report at least one work effect, such as

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<sup>50</sup> Jacobs, E., (2018, October 22). *Paid Family and Medical Leave in the United States: A Research Agenda*. Washington Center for Equitable Growth. Retrieved 8 December 2019, from

<https://equitablegrowth.org/research-paper/paid-family-and-medical-leave-in-the-united-states/>

<sup>51</sup> Redfoot, D., Feinberg, L., & Houser, A. (2013, August). *The Aging of the Baby Boom and the Growing Care Gap: A Look at Future Declines in the Availability of Family Caregivers*. AARP Public Policy Institute Publication. Retrieved 8 December 2019, from

[http://www.aarp.org/content/dam/aarp/research/public\\_policy\\_institute/ltc/2013/baby-boom-and-the-growing-care-gap-insight-AARP-ppi-ltc.pdf](http://www.aarp.org/content/dam/aarp/research/public_policy_institute/ltc/2013/baby-boom-and-the-growing-care-gap-insight-AARP-ppi-ltc.pdf)

<sup>52</sup> National Alliance for Caregiving. (2015, June). *Caregiving in the U.S. 2015*. National Alliance for Caregiving and AARP Public Policy Institute Publication. Retrieved 8 December 2019, from

<http://www.aarp.org/content/dam/aarp/ppi/2015/caregiving-in-the-united-states-2015-report-revised.pdf>

<sup>53</sup> Grant, K., Sutcliffe, T. J., Dutta-Gupta, I., & Goldvale, C. (2017, October 1). *Security & Stability: Paid Family and Medical Leave and its Importance to People with Disabilities and their Families*. Georgetown Center on Poverty and Inequality Publication. Retrieved 8 December 2019, from

[http://www.georgetownpoverty.org/wp-content/uploads/2017/10/Georgetown\\_PFML-report-hi-res.pdf](http://www.georgetownpoverty.org/wp-content/uploads/2017/10/Georgetown_PFML-report-hi-res.pdf)

<sup>54</sup> Ramchand, R., Tanielian, T., Fisher, M. P., Vaughan, C. A., Trail, T. E., Epley, C., Voorhies, P., Robbins, M. W., Robinson, E., & Ghosh-Dastidar, B. (2014). *Hidden Heroes: America's Military Caregivers* (see Figure 3.8). RAND Corporation Publication. Retrieved 9 December 2019, from

<http://www.rand.org/health/projects/military-caregivers.html>

<sup>55</sup> See National Alliance for Caregiving, note 19; see also Parker, K., & Patten, E. (2013, January). *The Sandwich Generation: Rising Financial Burdens for Middle-Aged Americans*. Pew Research Center Publication. Retrieved 8 December 2019, from <http://www.pewsocialtrends.org/2013/01/30/the-sandwich-generation/>; Institute for Women's Policy Research, & IMPAQ International. (2017, January 19). *Family and Medical Leave-Taking among Older Workers*. Retrieved 8 December 2019, from <https://iwpr.org/publications/family-medical-leave-taking-among-older-workers/>

needing to go in late or leave early, taking a leave of absence to care for a loved one, cutting back on hours, or turning down a promotion.<sup>56</sup> The care needs that most sandwich generation caregivers describe are long-term conditions (55 percent); their care recipients are most often in their 60s and are likely to require care for many years.<sup>57</sup>

These data are deeply concerning. Combined with older research from AARP and the Met Life Mature Market Institute, which shows that adults 50+ take a \$303,000+ average hit in lifetime earnings and retirement security when they leave a job to care for an aging parent,<sup>58</sup> it suggests that we must focus on creating policies that support working family caregivers in order to help them create economic security for themselves over the long term. Research on the difficulties caregivers may have with stress, burnout and inflexible workplaces in the absence of policy and culture changes could mean that long-term family caregivers will increasingly find it difficult to continue to work and be unable to seize opportunities for advancement, leading to substantially diminished financial security when the caregivers themselves reach retirement age.

- **Savings to other programs funded through general revenues.** Too often, critics of new spending focus on what paid family and medical leave will cost, rather than on the costs already borne by workers and society as a result of the status quo. As noted above, paid leave can reduce nursing home costs, which are often paid for by Medicaid. Earlier research shows a relationship between access to paid family leave in early paid leave states and reduced use of SNAP and other forms of public assistance,<sup>59</sup> and generally between access to paid family and medical leave and use of other public assistance programs.<sup>60</sup>
- **Benefits for businesses, especially small businesses.** In California, New Jersey, and Rhode Island, the three states with the longest-standing paid family leave programs, researchers have consistently found that the concerns business representatives expressed prior to the laws' passage were unfounded. Research shows that employers have not been unduly challenged or harmed by the policies adopted in states. In fact, businesses in California, New Jersey, and Rhode Island are generally supportive of those states'

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<sup>56</sup> See National Alliance for Caregiving et al., note 19.

<sup>57</sup> Ibid.

<sup>58</sup> 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 8 December 2019, from <https://www.caregiving.org/wp-content/uploads/2011/06/mmi-caregiving-costs-working-caregivers.pdf>

<sup>59</sup> See *Policy Matters*, note 38.

<sup>60</sup> Menasce Horowitz, J., Parker, K., & Graf, N. (2017, March 23). *Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies*. Pew Research Center Publication. Retrieved 8 December 2019, from <http://www.pewsocialtrends.org/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/> (unpublished calculation). See also *Pay Matters*, note 38.

laws. In California, researchers found that the vast majority of employers have seen a positive effect or no effect on employee productivity, profitability and performance – and smaller businesses see even more positive or neutral effects of the law than larger businesses.<sup>61</sup> Many may even have experienced cost-savings by coordinating their benefits with the state plan.<sup>62</sup>

Even the Society for Human Resource Management (SHRM), one of the chief opponents of paid family leave before it was passed in California, issued a report finding that employers' concerns about the program had "not been realized" and that the law created "relatively few" new burdens for employers.<sup>63</sup> A report prepared on behalf of the New Jersey Business and Industry Association found that the majority of both small and large New Jersey businesses adjusted easily to the state's law and experienced no effects on business profitability, performance or employee productivity.<sup>64</sup> This finding is consistent with qualitative research conducted among a cross-section of New Jersey employers.<sup>65</sup>

In Rhode Island, business supporters were important allies in passing the paid leave law, and early research suggests that businesses in key industries have adjusted easily. A study of small- and medium-sized food service and manufacturing employers in Rhode Island by researchers at Columbia Business School reports no negative effects on employee workflow, productivity or attendance, and finds that 61 percent of employers surveyed support the law.<sup>66</sup>

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<sup>61</sup> Milkman, R., & Appelbaum, E. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy* (pp. 67-68). Ithaca, NY: Cornell University Press; Bartel, A., Baum, C., Rossin-Slater, M., Ruhm, C. & Waldfogel, J. (2014, June 23). *California's Paid Family Leave Law: Lessons from the First Decade*. U.S. Department of Labor Publication. Retrieved 8 December 2019, from <http://www.dol.gov/asp/evaluation/reports/paidleavedeliverable.pdf>

<sup>62</sup> See Milkman, note 61.

<sup>63</sup> Redmond, J., & Fkiaras, E. (2010, January). *Legal Report: California's Paid Family Leave Act Is Less Onerous than Predicted*. Society for Human Resource Management Publication. Retrieved 8 December 2019, from [https://www.sheppardmullin.com/media/article/809\\_CA%20Paid%20Family%20Leave%20Act%20Is%20Less%20Onerous%20Than%20Predicted.pdf](https://www.sheppardmullin.com/media/article/809_CA%20Paid%20Family%20Leave%20Act%20Is%20Less%20Onerous%20Than%20Predicted.pdf)

<sup>64</sup> Ramirez, M. (2012). *The Impact of Paid Family Leave on New Jersey Businesses*. New Jersey Business and Industry Association and Rutgers University, The State University of New Jersey Presentation. Retrieved 8 December 2019, from <http://bloustein.rutgers.edu/wp-content/uploads/2012/03/Ramirez.pdf>

<sup>65</sup> Lerner, S., & Appelbaum, E. (2014, June). *Business As Usual: New Jersey Employers' Experiences with Family Leave Insurance*. Center for Economic and Policy Research Publication. Retrieved 8 December 2019, from <http://www.demos.org/sites/default/files/publications/nj-fli-2014-06.pdf>

<sup>66</sup> Bartel, A., Rossin-Slater, M., Ruhm, C. & Waldfogel, J. (2016, January). *Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights from a Survey of Employers*. U.S. Department of Labor

### **III. It is Time for A Comprehensive, Inclusive and Sustainable National Paid Leave Policy – Inaction is No Longer An Option and Half-Measures Could Be Harmful**

Thus far, there is just one bill introduced in Congress that reflects the lessons of state policy and the needs of working people, their families and their employers. That proposal is the Family And Medical Insurance Leave (FAMILY) Act (H.R. 1185/S. 463).

#### **A. The FAMILY Act**

The FAMILY Act would create a national paid family and medical leave fund grounded in the same principles as Social Security – universality, sustainability and inclusiveness. It would cover eligible individuals across the country, no matter where they live, their employer or their job, and it would apply whether they are caring for a new child, a seriously ill or injured loved one, their own serious health condition, or dealing with a family member’s call to military duty or a service member’s health issue. It would do so by creating a new fund from which working people would receive paid leave for up to 12 weeks. Workers who typically earn low and even mid-level wages would receive two-thirds of their typical wages for that time. And people who need to take time away from their jobs would be protected from retaliation when they do.

The FAMILY Act fund would be self-sustaining and deficit-neutral, just like the state programs that have paved the way. Small payroll deductions from both employees and employers and contributions from self-employed workers would fund both the benefits and the administrative costs of the program. The program would be administered through a new Office of Paid Family and Medical Leave within the Social Security Administration (SSA) to help create an efficient, uniform standard. Program integrity measures would help to ensure appropriate use, as has worked in the states. And employers that seek competitive advantages over competitors or have a particular desire to attract talent could offer benefits that go beyond the leave provided through the FAMILY Act.

This legislation has record levels of co-sponsorship in both chambers of Congress, including bipartisan support and more than 200 cosponsors in this chamber.<sup>67</sup> More than 700

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Publication. Retrieved 8 December 2019, from [http://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct\\_InsightsFromSurveyOfEmployers.pdf](http://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf)

<sup>67</sup> The Family And Medical Insurance Leave Act, H.R. 1185. Retrieved 8 December 2019, from <https://www.congress.gov/bill/116th-congress/house-bill/1185/>



organizations across the country,<sup>68</sup> child development experts,<sup>69</sup> business and management experts,<sup>70</sup> medical providers, and experts in social work and gerontology<sup>71</sup> are calling on Congress to address America's paid leave crisis with a comprehensive, national paid family and medical leave program like the FAMILY Act.

The popularity of comprehensive, inclusive and sustainable paid family and medical leave is indisputable. The vast majority of voters and the public want a national paid family and medical leave plan that covers all working people and that allows leave taking for all of the reasons for which FMLA leave can be taken. They also prefer such a program over other, less inclusive policy solutions.<sup>72</sup> Contrary to portrayals of paid leave as a primarily a "moms and babies" issue in the media and among some lawmakers, most people understand the value of paid family and medical leave in their own lives on different terms. They believe such a program will help them most for the family caregiving leave it will provide, because most people expect they will need to care for a loved one at some point in their working lives.<sup>73</sup> They also recognize the possibility that a personal medical issue could surface. And, of course, for people of reproductive age of all genders, parental leave is critical; the consulting firm EY reports that 40 percent of millennials would even consider moving to another country for paid parental leave.<sup>74</sup> Voters in survey after survey also say they are willing to pay for a paid leave

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<sup>68</sup> *FAMILY Act Coalition Letter to Congress*. (2019, November 13). Retrieved 8 December 2019, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/coalition/family-act-coalition-letter.pdf>

<sup>69</sup> Divecha, D., & Stern, R. (2015, February 10). Give our children a strong start. *The Hill*. Retrieved 8 December 2019, from <http://thehill.com/blogs/congress-blog/healthcare/232214-give-our-children-a-strong-start>

<sup>70</sup> *Letter from Business School Faculty to Congress in Support of National Paid Leave and the FAMILY Act*. (2015, September 15). Retrieved 8 December 2019, from <http://worklife.wharton.upenn.edu/wp-content/uploads/2012/11/Final-Business-School-Professors-Letter-to-Congress-in-Support-of-the-FAMILY-Act-September-15-2015.pdf>

<sup>71</sup> *Aging and Social Work Experts' Letter to Congress in Support of Strong National Paid Family and Medical Leave*. (2017, November 1). Retrieved 8 December 2019, from [http://www.bc.edu/content/dam/files/research\\_sites/agingandwork/pdf/documents/Caregiving\\_letter\\_10\\_30\\_2017.pdf](http://www.bc.edu/content/dam/files/research_sites/agingandwork/pdf/documents/Caregiving_letter_10_30_2017.pdf)

<sup>72</sup> Perry Udem Research and Bellwether Consulting. (2018, October). Voters' Views on Paid Family + Medical Leave. Retrieved 8 December 2019, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/voters-views-on-paid-family-medical-leave-survey-findings-august-2018.pdf>; Data for Progress and YouGov Blue. (2019, October). Polling on Paid Family Leave. Retrieved 8 December 2019, from [http://filesforprogress.org/memos/family\\_leave\\_polling.pdf](http://filesforprogress.org/memos/family_leave_polling.pdf)

<sup>73</sup> See Perry Udem, note 72, and Lenhart, et al, note **Error! Bookmark not defined.**

<sup>74</sup> See Perry Udem, note 72; EY. (2015, May 5). *Global generations: A global study on work-life challenges across generations*. Retrieved 8 December 2019, from [https://www.ey.com/Publication/vwLUAssets/Global\\_generations\\_study/\\$FILE/EY-global-generations-a-global-study-on-work-life-challenges-across-generations.pdf](https://www.ey.com/Publication/vwLUAssets/Global_generations_study/$FILE/EY-global-generations-a-global-study-on-work-life-challenges-across-generations.pdf)

program, and survey data show they would even be willing to contribute more than a program like the FAMILY Act would cost.<sup>75</sup>

Surveys show that seven in 10 small businesses, too, support the FAMILY Act model of shared employee-employer contributions because it helps them ensure their workers have access to leave while making the costs predictable and affordable.<sup>76</sup> As Sarah Piepenburg, the owner of a local small retail business in Minnesota recently explained in an op-ed in her hometown paper, she much prefers the predictable, affordable contributions that would be required by a paid family and medical leave program over spending thousands of dollars out of pocket at unexpected times, like when one of her employees broke both arms and when another needed a hip replacement. Providing paid leave to her employees on her own has meant falling behind on her commercial lease and home mortgage. She also explained that market-based solutions, like private temporary disability insurance policies, are cost-prohibitive for small businesses.<sup>77</sup>

I also find it a welcome sign of progress that representatives of larger national business organizations, which traditionally oppose government intervention in the provision of paid leave, are signaling a willingness to engage in discussions about the scope of a national paid family and medical leave plan. A representative of the U.S. Chamber of Commerce commented recently that a plan covering only the arrival of new children rather than a more inclusive

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<sup>75</sup> See Perry Udem, note 72; Data for Progress, note 72; National Partnership for Women & Families. (2016, September 29). *Voters' Willingness to Pay for a National Paid Leave Fund*. Retrieved 8 December 2019, from <http://www.nationalpartnership.org/research-library/work-family/paid-leave/memo-voters-willingness-to-pay-for-a-national-paid-leave-fund.pdf>

<sup>76</sup> Lake Research Partners. (2017, February). Polling commissioned by Small Business Majority and Center for American Progress. Retrieved 8 December 2019, from <http://www.smallbusinessmajority.org/sites/default/files/research-reports/033017-paid-leave-poll.pdf>, Main Street Alliance. (2017). *National Paid Family and Medical Leave: A Proposal for Small Business Success*. Retrieved 8 December 2019, from

[https://d3n8a8pro7vhmx.cloudfront.net/mainstreetalliance/pages/10/attachments/original/1486411533/PF\\_ML\\_2017\\_Report.pdf?1486411533](https://d3n8a8pro7vhmx.cloudfront.net/mainstreetalliance/pages/10/attachments/original/1486411533/PF_ML_2017_Report.pdf?1486411533). See also Mason, J. note 34 (citing Main Street Alliance survey of 1,120 small businesses in California, Connecticut, Florida, Iowa, Maine, Massachusetts, Minnesota, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Vermont, Washington and West Virginia, conducted from January to October 2018)

<sup>77</sup> Piepenburg, S. (2019, April 26). The cost of inaction on paid family and medical leave. *MinnPost*. Retrieved 8 December 2019, from <https://www.minnpost.com/community-voices/2019/04/the-cost-of-inaction-on-paid-family-and-medical-leave/>

FMLA approach would be a sticking point,<sup>78</sup> and signaled that a California-style paid family and medical leave program could be a good national option.<sup>79</sup>

As drafted, the FAMILY Act would have dramatic effects, reducing the percentage of families that face significant economic insecurity by a whopping 81 percent nationwide.<sup>80</sup> Moreover, state programs – both their pathways to enactment and the lessons learned through their program designs, outreach and implementation practices – provide us with important evidence about necessary policy parameters and a roadmap regarding political feasibility at the national level.

The following are key components of the FAMILY Act as drafted as compared to state policies. (See also attachments to this testimony with summaries of state law parameters produced by New America and the National Partnership for Women & Families.) The comparison demonstrates that the FAMILY Act is a common-sense, middle-ground approach as is – and that, with respect to some elements of policy design – there are improvements that could be made to bring this important national legislation closer to the innovations embedded in state programs:

- **Comprehensive of all FMLA-covered events and gender-equal.** The FAMILY Act would provide paid leave to people equally, no matter their gender, for each FMLA-covered event – caring for a family member with a serious health condition, one’s own serious health condition, military family care needs and care for a new child. In every state that has adopted a paid leave plan so far – and in the vast majority of the bills introduced in more than half of all states in the most recent legislative sessions – paid leave would be available for new parents, people caring for seriously ill or injured

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<sup>78</sup> Bryant, M. (2019, October 28). The US doesn’t offer paid family leave – but will that change in 2020? *The Guardian*. Retrieved 8 December 2019, from <https://www.theguardian.com/us-news/2019/oct/28/us-paid-family-leave-2020-election> (quoting Marc Freedman, vice president for workplace policy at the U.S. Chamber of Commerce: “We need to find something that will allow employers to operate on a national platform and we think in order to get there, the leave benefit must be more comprehensive than just strictly for new children.”)

<sup>79</sup> Douglas, G. (2019, September 26). *Chris Dodd, FMLA Champion, Sees Window for Paid Leave*. Bloomberg Law. Retrieved 8 December 2019, from <https://news.bloomberglaw.com/daily-labor-report/chris-dodd-fmla-champion-sees-window-for-paid-family-leave-1>

<sup>80</sup> diversitydatakids.org. (2018). *Full-Year Working Adults Ages 21-64 Living in Families Estimated to be Below 200% of the Federal Poverty Line After Wage Loss Due to 12 Weeks of Paid/Unpaid Family or Medical Leave (Share)*. Brandeis University, The Heller School, Institute for Child, Youth and Family Policy Publication. Retrieved 8 December 2019, from <http://www.diversitydatakids.org/data/ranking/670/full-year-working-adults-ages-21-64-living-in-families-estimated-to-be-below-200/#loct=2&cat=54,25&tf=21&ch=132,133,134> (unpublished calculation by the National Partnership for Women & Families)

family members and people's own serious illnesses. Some go further to include military caregiving and leave for survivors of domestic abuse and sexual violence.

- **Provide adequate wage replacement.** The FAMILY Act offers a 66 percent wage replacement rate, up to a \$4,000 monthly cap. Wage replacement is a critical component of designing an equitable and usable paid leave program. Early research on California indicated that California's original wage replacement rate of 55 percent was too low for low-wage workers to be able to make maximum use of leave, even as its weekly cap (\$1,252 in 2019, around \$1,000 in 2013) was high enough for middle-income workers.<sup>81</sup> As a result of early studies and a market research report conducted by the California Employment Development Department,<sup>82</sup> the California legislature updated the state's paid family leave program in 2016 to increase the wage replacement rate up to 70 percent for very low-wage workers and 60 percent for others. Rhode Island's plan offers approximately 60 percent of a worker's wages (up to just over \$800 per week); New York's plan will offer a two-thirds wage replacement rate when the program is fully phased in in 2021 (with a maximum weekly benefit capped at \$1,000); and Washington, the District of Columbia and Massachusetts have each included higher wage replacement rates of 80 to 90 percent for lower-wage workers so they can afford to take leave, with reduced wage replacement rates for higher-income workers (still averaging around two-thirds wage replacement for median-wage workers, with weekly caps of \$850-1,000 per week). The two newest plans in Oregon and Connecticut – and updates in New Jersey – provide 85 percent (New Jersey, increased from 66 percent), 95 percent (Connecticut) and 100 percent (Oregon) wage replacement for some workers.<sup>83</sup>
- **Ensure a meaningful duration of leave.** The FAMILY Act offers a combined 12 weeks of leave annually for all FMLA purposes to create consistency with the FMLA, reflect the minimum amount of leave needed for maternal and child health and provide adequate paid time off for people dealing with personal or family care needs.<sup>84</sup> States' TDI

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<sup>81</sup> Bana, S., Bedard, K., & Rossin-Slater, M. (2018, May). Trends and Disparities in Leave Use under California's Paid Family Leave Program: New Evidence from Administrative Data. *AEA Papers and Proceedings*, 108, 388-391. Retrieved 8 December 2019, from <https://www.aeaweb.org/articles?id=10.1257/pandp.20181113>; State of California Employment Development Department. (2015, December 14). *Paid Family Leave Market Research*. Retrieved 8 December 2019, from [https://www.edd.ca.gov/Disability/pdf/Paid\\_Family\\_Leave\\_Market\\_Research\\_Report\\_2015.pdf](https://www.edd.ca.gov/Disability/pdf/Paid_Family_Leave_Market_Research_Report_2015.pdf); see also Milkman, note 61.

<sup>82</sup> See State of California Employment Development Department, note 81.

<sup>83</sup> See National Partnership for Women & Families, note 29.

<sup>84</sup> WORLD Policy Analysis Center. (2018, February). *A Review of the Evidence on the Length of Paid Family and Medical Leave*. Retrieved 8 December 2019, from

programs and some newer paid family leave programs go further. Analyses show that people only use the leave they need, rather than the maximum amount available;<sup>85</sup> after all, with replacement of only a portion of one's typical wages, people have an incentive to get back to work when their need to provide or receive care is over. Moreover, some research suggests that six months is the optimal duration for paid family and medical leave to improve outcomes for maternal health and child development, as well as for personal and family medical issues.<sup>86</sup>

The duration of leave in the FAMILY Act is modest compared to many state plans. California provides six weeks of paid leave for family caregiving, including caring for a new child, and 52 weeks of leave to recover from a temporary disability;<sup>87</sup> according to an analysis conducted in 2018, average utilization was 5.4 weeks for paid family leave and 16 weeks for TDI (people who give birth typically take 12 weeks).<sup>88</sup> As originally constructed, New Jersey allowed six weeks for family leave and 26 weeks for temporary disability;<sup>89</sup> as of 2018, average program utilization was 5.2 weeks for paid family leave and 71 days for TDI (again, people who give birth combine the two types of leave).<sup>90</sup> Rhode Island provides four weeks of family leave and 30 weeks of leave for temporary disability, up to a combined total of 30 weeks per year;<sup>91</sup> as of 2018, average utilization was 3.6 weeks for paid family leave and 10.4 weeks for TDI.<sup>92</sup>

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<https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>

<sup>85</sup> See Glynn et al., note 27 and Bana et al., note 81.

<sup>86</sup> See Grant et al., note 25.

<sup>87</sup> Cal. Unemp. Ins. Code §§ 3301(c), 2653.

<sup>88</sup> State of California Employment Development Department. (2018, June 12). *Disability Insurance (DI) – Monthly Data*. Retrieved 2 July 2018, from <https://data.edd.ca.gov/Disability-Insurance/Disability-Insurance-DI-Monthly-Data/29jg-ip7e/data>; State of California Employment Development Department. (2018, June 12). *Paid Family Leave (PFL) – Monthly Data*. Retrieved 2 July 2018, from <https://data.edd.ca.gov/Disability-Insurance/Paid-Family-Leave-PFL-Monthly-Data/r95e-fvkm>

<sup>89</sup> N.J. Stat. § 43:21-39(b).

<sup>90</sup> New Jersey Department of Labor and Workforce Development. (2017, August). *Temporary Disability Insurance Workload in 2016: Summary Report*. Retrieved 2 July 2018, from [https://www.nj.gov/labor/forms\\_pdfs/tdi/TDI%20Report%20for%202016.pdf](https://www.nj.gov/labor/forms_pdfs/tdi/TDI%20Report%20for%202016.pdf); New Jersey Department of Labor and Workforce Development. (2017, August). *Family Leave Insurance Workload in 2016: Summary Report*. Retrieved 2 July 2018, from [https://www.nj.gov/labor/forms\\_pdfs/tdi/FLI%20Summary%20Report%20for%202016.pdf](https://www.nj.gov/labor/forms_pdfs/tdi/FLI%20Summary%20Report%20for%202016.pdf). Beginning in July 2020, New Jersey's family leave duration will extend to 12 weeks, up from the original six.

<sup>91</sup> R.I. Gen. Laws §§ 28-41-7 28-41-35(d)(1), (f).

<sup>92</sup> Rhode Island Department of Labor and training. (2017). *2016 Annual Report*. Retrieved 3 July 2018, from <http://www.dlt.ri.gov/pdf/2016AnnualRpt.pdf>

Newer state laws incorporate longer family leave durations. New York will eventually offer 12 weeks of family leave when the law is fully implemented in 2021, and has long provided 26 weeks of temporary disability leave.<sup>93</sup> Washington state will soon offer 12 weeks of family leave and 12 to 14 weeks of personal medical leave, up to a combined total of 16 to 18 weeks per year.<sup>94</sup> Massachusetts' law will provide 12 weeks of family leave and 20 weeks of medical leave, up to a combined total of 26 weeks annually.<sup>95</sup> Oregon and Connecticut each will offer 12 weeks of paid family and medical leave, with an option of two additional weeks for a parent who has given birth and suffered complications.<sup>96</sup>

- **Be inclusive with family definitions.** The FAMILY Act incorporates the FMLA's definition of family members (parents, children under 18, adult children incapable of self-care, spouses) and domestic partners. Each state paid leave law includes those covered in this definition but is also substantially more expansive, recognizing that families come in many forms.<sup>97</sup> For example, in 2013, California amended its law to allow family caregiving for grandparents, grandchildren, siblings and parent-in-law, and now every state paid leave program includes caring for a grandparent in addition to a parent, spouse, partner or child. Seven states permit family care leave to be used for siblings, grandchildren, or parents-in-law. The two newest laws, in Connecticut and Oregon, as well as the updated law in New Jersey, recognize "chosen family" – where familial relationship is based on affinity rather than bloodlines. Families in the United States are diverse, and federal law should recognize different ways that families manage the care needs of their loved ones.
- **Funded in an affordable, sustainable way.** The FAMILY Act would be funded through small payroll deductions shared equally by employers and employees, or paid in full by independent contractors who receive 1099 forms. This is consistent with state financing of paid leave: Each state plan is funded through payroll deductions that are either paid by employers, employees or shared in some proportion by each. In no state are payroll deductions onerous, ranging from a workers' share of 0.17 percent in New Jersey for TDI (worker share) and 0.08 percent for paid family leave (taxed on only the first \$34,400 in wages) and between 0.1 percent and 0.75 percent for employers, to 0.5 percent in New York for 10 weeks of family leave (taxed on the first \$70,570 in wages), to up to 1 percent

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<sup>93</sup> N.Y. Workers' Comp. Law §§ 204(2)(A), 205(1).

<sup>94</sup> S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017).

<sup>95</sup> H. 4640, 190th Gen. Court, Reg. Sess. (Mass. 2018).

<sup>96</sup> Connecticut Public Act 19-25 (June 2019); H.B. 2005, 80<sup>th</sup> Oregon Legislative Assembly, 2019 Regular Session.

<sup>97</sup> See New America, note 28.

of wages in California (taxed on employees' first \$118,371 in wages), which funds a statewide program offering 52 weeks of TDI and six weeks of family care and parental leave, to 1.1 percent in Rhode Island (taxed on employees' first \$71,000 in wages), which funds a state program offering 30 weeks of disability and four weeks of family care and parental leave. The programs that have passed, but are not yet implemented contemplate payroll taxes of 0.4 percent (Washington), 0.5 percent (Connecticut), just over 0.6 percent (the District of Columbia and Massachusetts), and no more than 1 percent (Oregon) on wages up to the Social Security wage base.<sup>98</sup>

To my knowledge, there has not been any backlash in states on these payroll deduction rates nor does the literature reflect any indication of pushback on these rates as too high or too onerous for either low-wage workers or, where applicable, employers. Researchers have modeled the costs of paid leave programs in states across the country and at the federal level and routinely estimate payroll deductions at or below 1 percent – most within the 0.35 to 0.6 range – depending on the duration of leave and the wage replacement rate.<sup>99</sup> There is one dramatic and absurdly high outlier among cost estimates, but it is premised on the calculation that people in the United States will take 16 million parental leaves each year (notwithstanding the fact that fewer than 4 million U.S. babies are born each year and many children do not have two parents available to take leave); it should be discounted, as it is based on a faulty public opinion poll of

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<sup>98</sup> See National Partnership for Women & Families, note 29; A Better Balance. (2019, October 23). Comparative Chart of Paid Family and Medical Leave Laws. Retrieved 8 December 2019, from <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>

<sup>99</sup> Hayes, J., & Hartmann, H. (2018, February 2). *Paid Family and Medical Leave Insurance: Modest Costs are a Good investment in America's Economy*. Institute for Women's Policy Research Publication. Retrieved 8 December 2019, from [https://iwpr.org/wp-content/uploads/2018/02/B368\\_Paid-Leave-Fact-Sheet-1.pdf](https://iwpr.org/wp-content/uploads/2018/02/B368_Paid-Leave-Fact-Sheet-1.pdf); Pennsylvania Department of Labor & Industry. (2017, November 14). *Paid Family and Medical Leave in Pennsylvania: Research Findings Report* (p. 16). Retrieved 8 December 2019, from [https://www.dol.gov/wb/media/Pennsylvania\\_Final\\_Report.pdf](https://www.dol.gov/wb/media/Pennsylvania_Final_Report.pdf); Montana Budget & Policy Center. (2016, May). *Helping People Balance Work and Family: It's Within Montana's Reach* (Table 2). Retrieved 8 December 2019, from <http://www.mbadmin.jaunt.cloud/wp-content/uploads/2016/07/Paid-Leave-Updated-Report-3.pdf>; Glynn, S. J., Goldin, G., & Hayes, J. (2016). *Implementing Paid Family and Medical Leave Insurance Connecticut* (pp. 17-21). Institute for Women's Policy Research Publication. Retrieved 8 December 2019, from <https://www.ctdol.state.ct.us/FMLI%20report%20for%20CT.pdf>; University of Minnesota (2016, February). *Paid Family & Medical Leave Insurance: Options for Designing and Implementing a Minnesota Program* (Table 63). Retrieved 8 December 2019, from [https://mn.gov/deed/assets/paid-family-medical\\_tcm1045-300604.pdf](https://mn.gov/deed/assets/paid-family-medical_tcm1045-300604.pdf); Albelda, R., & Clayton-Matthews, A. (2016, July 18). *Cost, Leave and Length Estimates Using Eight Different Leave Program Schemes for Washington* (Table 2). Retrieved 8 December 2019, from [http://governor.wa.gov/sites/default/files/documents/2016-11-22\\_WAPaidLeave\\_modeling\\_final\\_report.pdf](http://governor.wa.gov/sites/default/files/documents/2016-11-22_WAPaidLeave_modeling_final_report.pdf)

voters (rather than workers) and acknowledges substantial flaws in the survey question that led to completely unrealistic take-up assumptions.<sup>100</sup>

- **Include employment protections.** The FAMILY Act would offer anti-retaliation protections to the 41 percent of workers who are not covered by the federal FMLA.<sup>101</sup> This is critical because research on California’s and New Jersey’s programs have shown that workers without FMLA job protection, particularly low-income workers, often fear repercussions for taking leave and therefore forgo the paid leave that the state plan makes available.<sup>102</sup> Newer state laws address this critical need for employment security, with Massachusetts, Connecticut and Oregon offering full job protection – reinstatement to the same or an equivalent job after returning from leave – for family and medical leave, and New York and Rhode Island offering job protection for family leave. The state FMLA law in California was recently amended to offer job protection to new parents in smaller businesses so that these paid leave-takers are protected; New Jersey recently also amended its FMLA law to be more inclusive for all workers. FMLA and anti-discrimination laws are also more expansive in Washington, D.C. and Washington state and will protect some paid-leave takers that are not covered by the federal FMLA.<sup>103</sup>
- **Embed IT, worker and employer outreach and education funding to ensure effective implementation and use.** Laws, regulations and programs only work if systems are designed and resources allocated to allow for effective implementation. Some state programs have suffered from workers’ and employers’ lack of awareness and confusion, as well as from delays in eligibility determinations and benefit payments.<sup>104</sup> Newer state policies provide for outreach and education resources, and states have begun to partner with private, nonprofit and public sector stakeholders to facilitate information-sharing and workers’ and employers’ understanding of how the programs function and who they serve. Nonprofit organizations and state agencies have also worked to develop educational campaigns, know-your-rights materials, and innovative medical-legal

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<sup>100</sup> Gitis, B. (2019, March 2019). *The Fiscal Implications of the FAMILY Act*. American Action Forum. Retrieved 8 December 2019, from <https://www.americanactionforum.org/research/the-fiscal-implications-of-the-family-act-how-new-paid-leave-benefits-increase-leave-taking-and-drive-up-estimated-program-costs/>

<sup>101</sup> See Klerman et al., note 3.

<sup>102</sup> See California Employment Development Department, note 81, and Mason, note 34; see also Setty, S., Skinner, C., & Wilson-Simmons, R. (2016, March). *Protecting Workers, Nurturing Families: Building an Inclusive Family Leave Insurance Program Findings and Recommendations from the New Jersey Parenting Project*. National Center for Children in Poverty Publication. Retrieved 8 December 2019, from [http://www.nccp.org/publications/pub\\_1152.html](http://www.nccp.org/publications/pub_1152.html)

<sup>103</sup> See National Partnership for Women & Families, note 29.

<sup>104</sup> See Mason, note 34.



partnerships in order to increase awareness among vulnerable workers. IT system upgrades may help with the timely payment of claims and claims determinations. These lessons and the best practices that states have developed and will continue to develop are critically important for the success of a federal program.

## **B. Unacceptable, Harmful Half-Measures**

Congress' search for common-ground solutions is exciting and long overdue. However, "bipartisan" efforts should not translate into "watered down" legislation. Paid leave policies that force workers to choose between necessary leave and future earnings or that force other trade-offs are not what voters want.<sup>105</sup> It is imperative that we not define down the realm of the possible and inadvertently create a national policy that would be insufficient at best and actively harmful at worst.

Thus far, instead of looking to the states as a model for federal policy, some lawmakers have put forward proposals that: (1) incentivize employers to provide paid leave at taxpayers' expense, but without any guaranteed expansions in coverage; (2) pull from other existing programs and force individuals to choose a tradeoff between their current self and their future self; or (3) expect workers who do not have paid leave to save for their own income replacement in order to take leave to care for a new child.

National polling shows that none of these policies are as popular as the FAMILY Act. Public opinion on two of the proposals discussed below, the Social Security pull-forward and the child-tax credit advance, is strongly net negative and evenly split, respectively. And voters overwhelmingly say that these are not the approaches that would help their own families.<sup>106</sup>

It is also important to note that most of these limited proposals would cover only new parents, which would leave behind the nearly 75 percent of workers of all ages who use the FMLA to care for their own serious health issue or a seriously ill or injured loved one.<sup>107</sup> Indeed, most of these proposals are not paid leave proposals at all, as they do not require a worker to take leave from work, or provide employment protections if they do take workplace leave. In sum, all involve hidden costs, and all would exacerbate existing inequalities by doing great harm to women, people of color, and lower-wage workers. For example:

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<sup>105</sup> See Perry Udem, note 72, and Data for Progress, note 72.

<sup>106</sup> Ibid.

<sup>107</sup> See Klerman, note 3.

- **Trump Budget Proposal.** The president has included a paid leave line item in his budget for each of the past three years. This is a welcome indication of just how mainstream paid leave has come. However, this plan, like several others, would provide paid leave only to new parents and only allow for up to six weeks of leave. It also proposes wage replacement rates that are low in most states and eligibility rules that disproportionately exclude workers of color – hence risking inaccessibility to people who need it most, and likely dooming the program to be a safety net program only for poor women. As a result, the program would exacerbate traditional gender norms that could increase workplace discrimination against women. It would also require states to run programs through their already stretched unemployment insurance funds using largely outdated unemployment insurance information technology (IT) systems – without providing sufficient federal funding to support the infrastructure that would be required to run such programs. When the proposal was first announced in 2017, unemployment insurance experts worried that most states’ unemployment coffers were not secure enough to withstand the next recession, much less take on payments of a new benefit.<sup>108</sup> The result, they posited, would either be cuts in benefits to unemployed individuals or new, experience-rated taxes on employers.
- **Extension of the Paid Leave Tax Credit in the JCTA.** The 2017 tax bill included a pilot program to provide tax credits to employers that offer at least a minimum amount of paid family or medical leave to workers earning \$72,000 per year or less. The regulations accompanying the law did not require that employers adopt new or more expansive benefits. Although there is no formal analysis yet of the impacts of the pilot program, anecdotal evidence of companies’ policy announcements and the latest paid leave access data from the Bureau of Labor Statistics suggest this program did not have any significant impact on increasing workers’ access to paid family or medical leave. Rather than expanding the availability of paid leave, extending this tax break is more likely to subsidize large companies for leave that they have already determined is in their interest to provide.
- **New Parents’ Savings Accounts.** Two House lawmakers have proposed tax-free savings accounts that workers would be able to use to save for their own parental leave. Low- and middle-wage younger workers often have little or no money to save; most do not

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<sup>108</sup> National Employment Law Project. (2017). *Trump Parental Leave Proposal Fails Working Families: Plan Would Further Damage an Already Weakened Unemployment Insurance Program*. Retrieved 8 December 2019, from <https://s27147.pcdn.co/wp-content/uploads/Trump-Parental-Leave-Proposal-Fails-Working-Families.pdf>; Center for Law and Social Policy. (2017, June). *Trump’s Parental Leave Plan: Pitting the Unemployed Against Working Families*. Retrieved 8 December 2019, from <https://www.clasp.org/sites/default/files/publications/2017/08/Trumps-Parental-Leave-Plan.pdf>

even contribute to retirement accounts.<sup>109</sup> In effect this – like most tax-preferred savings accounts – would be a tax shelter for wealthier people who are also more likely to have employer-provided paid leave. This policy also fails to cover people who need income replacement during a personal medical leave or a family caregiving leave, and it does not include employment protections for workers who are fortunate enough to have saved enough to fund their own paid parental leave.

- **Social Security Pull-Forward Proposals.** One proposal in the House and two in the Senate would offer new parents the ability to draw Social Security benefits when a new child is born or adopted as income replacement during a workplace leave; in exchange, anyone who used this benefit would be required to work past the normal retirement age or take a reduced monthly benefit for a number of years. Urban Institute analysts have concluded that each 12-week delay in receiving Social Security benefits amounts to a 3 percent lifetime benefit cut.<sup>110</sup> This entire scheme would have disproportionately negative effects on women, people of color, and lower-wage workers, each of whom are less likely to have access to paid leave benefits and more likely to rely disproportionately on Social Security retirement benefits.<sup>111</sup> In addition, as with several of the proposals above, the needs of family caregivers and seriously ill or injured workers are not addressed in this proposal, and there are no additional employment protections to secure the jobs of workers who are not already covered by the FMLA.
- **Child Tax Credit Advance Loan.** A new bicameral proposal was unveiled last week that would give new parents the option to take an interest-free loan of \$5,000 to be paid back over 10 years in the form of a reduced Child Tax Credit. This is not a paid leave

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<sup>109</sup> Bureau of Labor Statistics. (2019, September). *National Compensation Survey – Employee Benefits in the United States* (Table 2). Retrieved 8 December 2019, from <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/civilian/table02a.pdf>

<sup>110</sup> Johnson, R. & Favreault, M. (2018, August 30). *How Much Would Senator Rubio's Paid Leave Program Help New Parents*. Urban Institute. Retrieved 8 December 2019, from <https://www.urban.org/research/publication/how-much-would-senator-rubios-paid-leave-program-help-new-parents>; Favreault, M. M., & Johnson, R. W. (2018, April). *Paying for Parental Leave with Future Social Security Benefits*. Urban Institute Publication. Retrieved 8 December 2019, from [https://www.urban.org/sites/default/files/publication/98101/paying\\_for\\_parental\\_leave\\_with\\_future\\_social\\_security\\_benefits\\_0.pdf](https://www.urban.org/sites/default/files/publication/98101/paying_for_parental_leave_with_future_social_security_benefits_0.pdf)

<sup>111</sup> McCulloch, H. (2017, January). *Closing the Women's Wealth Gap: What It Is, Why It Matters, and What Can Be Done About It*. Closing the Women's Wealth Gap Initiative Publication. Retrieved 8 December 2019, from <https://womenswealthgap.org/wp-content/uploads/2017/06/Closing-the-Womens-Wealth-Gap-Report-Jan2017.pdf>; see also Richard, K. (2014, October). *The Wealth Gap for Women of Color*. Center for Global Policy Solutions Publication. Retrieved 8 December 2019, from <http://www.globalpolicysolutions.org/wp-content/uploads/2014/10/Wealth-Gap-for-Women-of-Color.pdf>; National Academy of Social Insurance. (n.d.). *Social Security and People of Color*. Retrieved 8 December 2019, from <https://www.nasi.org/learn/socialsecurity/people-of-color>

proposal, although some lawmakers and the media may conflate it with one. There is no requirement that new parents take leave in order to claim the tax credit, nor any employment protections for them if they do so. This proposal – similar to the Social Security pull-forward – requires people to make a calculation about the direness of their current need against the projected direness of their future need. However, here, the future harm is even more immediate; without improved access to quality affordable childcare, after school care, and family-sustaining wages, it is unlikely that any family who needs \$5000 at the time a new child joins their family will be able to do so without the full value of their child tax credit over the subsequent decade; this is especially true for middle-income families whose net child-related tax benefits did not see a significant increase as a result of the 2017 tax bill.<sup>112</sup> In addition, this proposal fails to meet the needs of family caregivers and workers with their own serious health issues.

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It is well past time for the United States to enact a national paid family and medical leave program. I urge you to craft a plan that is inclusive of all FMLA care needs as states have done, with adequate wage replacement and a steady funding stream, and not to settle for a proposal that only affects a small share of people who use the FMLA each year or that forces false tradeoffs.

I urge you to see paid leave as a policy that can bring generations together, rather than one that pits them against each other.

I urge you not to legislate from a place of austerity, which forces people to make a calculation between their current dire straits and their future financial security, but rather to create a new, workable and cost-effective program that enables every working person and business to participate and to benefit and that will help promote gender, race and economic equity.

The costs of the status quo are great. The benefits of the future we can create together are much more substantial. States show us that a plan like the FAMILY Act can work for the country. It's time for paid leave for all.

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<sup>112</sup> Romig, K. (2019, December 6). *"Paid Family Leave" Bill Offers a Loan, Not Leave*. Center on Budget and Policy Priorities. Retrieved 8 December 2019, from <https://www.cbpp.org/research/federal-tax/paid-family-leave-bill-offers-loan-not-leave>