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ECONOMIC SECURITY FOR WORKING WOMEN: A ROUNDTABLE DISCUSSION

HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

ON

EXAMINING ECONOMIC SECURITY FOR WORKING WOMEN

MAY 20, 2014

Printed for the use of the Committee on Health, Education, Labor, and Pensions

Available via the World Wide Web: http://www.gpo.gov/fdsys/

U.S. GOVERNMENT PUBLISHING OFFICE

22–615 PDF WASHINGTON : 2017

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
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ECONOMIC SECURITY FOR WORKING WOMEN: A ROUNDTABLE DISCUSSION

TUESDAY, MAY 20, 2014

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The committee met, pursuant to notice, at 2:34 p.m., in room SD–430, Dirksen Senate Office Building, Hon. Tom Harkin, chairman of the committee, presiding.

Present: Senators Harkin, Alexander, Mikulski, Murray, Casey, Franken, Baldwin, Murphy, and Warren.

OPENING STATEMENT OF SENATOR HARKIN

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will please come to order. Today's hearing is on Economic Security for Working Women, and we're having sort of a roundtable. It doesn't look round. But if we set it up that way, we wouldn't have any room for the audience. So we decided to go ahead and set it up like a normal hearing, although I want it more like a roundtable discussion.

If anyone asks a question of the group, and if you want to answer, just turn your name thing on edge or something like that so—you know, we may have a question and just throw it out, and whoever wants to answer it just put your name thing up.

America's working women have made incredible strides in the workplace. As women succeed, America succeeds, and our economy succeeds. But huge challenges remain. Too many working women are stuck in poor quality and low-wage jobs living at or near poverty and struggling to make ends meet.

In addition, even as women have entered the workforce, they're still usually the primary caregivers for children and elders. Yet our workplaces have not kept up with the changing times. Most women do not have access to the supports they need to be successful workers and caregivers.

Here I'll diverge a little bit. When my wife and I, right after she got elected—my wife was elected before I was. She was elected as a district attorney in Iowa and went over to the courthouse. We had a child not long after that—Amy. I was here in Washington. I had been elected to Congress. And Ruth had to go—my wife had to go to the courthouse every day, of course, where she worked in the courthouse.

Two things happened. The first time that she showed up pregnant, the judge asked her who was going to try her cases. Pregnant

women didn't appear in courtrooms. That was forbidden. Anyway, she got over that, and we had Amy.

She cleaned out a broom closet in her office to make a place for a crib, a little bassinet and that kind of thing, and took her to work with her every day and nursed. We believed very strongly in nursing. That raised a lot of eyebrows and a lot of questions in the courthouse in Nevada, IA, about someone bringing a baby to work and nursing—heaven forbid—when you come to work.

We've often thought about that. But, of course, my wife could do that. She was an elected official. But we often thought, "What if she worked for somebody else and tried to do that?" So I often think of my wife as a trail blazer in that regard, because ever since then, women who work in the courthouse and who have children are more than welcome to bring their kids to work and nurse, with nursing facilities and pump rooms and refrigeration. That's what it ought to be like all over America. These are just the kinds of support systems we need all over America.

As I continue on that line, pregnancy presents many challenges. More and more pregnant women must work throughout their pregnancies, and sometimes they risk losing their jobs despite existing legal protections, or they face problems of basic accommodations. Someone standing on her feet all day, sometimes at a minimum wage job, might need a stool to sit on for a little while, or maybe more frequent bathroom breaks, things like that.

They are denied such accommodations, and it forces a woman to choose between her health and her comfort on her job. Again, many women working have no access to any caregiving leave, like maternity leave, at all. Most lack access to any kind of paid leave.

Forty percent of workers still are not covered by the Family and Medical Leave Act. A women who gives birth or needs to care for a parent and has no FMLA protections can lose her job for missing work. Even women who are fortunate enough to be covered by the FMLA are often forced to return to work too soon, because they simply can't afford to take the unpaid leave that the Family and Medical Leave Act provides. I may be mistaken on this, but I think we're one of the few industrialized countries that don't have paid maternity leave.

We have some real problems out there we need to address, and especially as it concerns women in the workplace. And, as I said, this is not just a thing where women say, "Well, I just want to go to work." People have to work, and we have so many single mothers out there that have to work and care for children.

It seems to me that we ought to be about trying to change and make accommodations to make this possible. It's not impossible. It's not a stretch. It doesn't cost a lot of money. But it makes life tolerable and it makes it possible for women to both be caregivers and to work.

That's what this hearing is about. We know that there have been successful policies around the country to help do this, and the businesses that I've come across that do these things have more loyal workers. People tend to stay there longer, because they know that they'll have the ability to take leave for a child, either for birth or for sickness or illness.

Today's roundtable will begin with a lot of distinguished panelists to tell us about the experiences of today's working women and what we need to do to help working women achieve more economic security and stability in our society.

With that, I'll turn to Senator Alexander.

OPENING STATEMENT OF SENATOR ALEXANDER

Senator ALEXANDER. Thank you, Senator Harkin. I welcome those of you who have come today. Mr. Chairman and Senator Mikulski, I've said that I used to sit down there when I was education secretary, and I thought the Senators played a big trick on the witnesses by sitting them in low chairs and all of us in high chairs up here to make us appear more imposing. We're looking forward to hearing what you have to say.

The subject of the hearing is working women, and I think the more accurate way to say it is women who not only work at home but work outside the home. I would like to suggest that the two things that we should address are, No. 1, more jobs for women who want to work outside the home; and, No. 2, more flexibility for women who work outside the home, because, most likely, they're doing quite a bit of work at home as well.

On the first point, without reciting the statistics, we've had a tough 4 or 5 years in terms of jobs. The great recession, unemployment rates still 6.3 percent—that's 10 million people. More than a third of those are longtime unemployed, many of them women. And the unemployment situation is worse when you consider that 7.3 million Americans who want to work full-time have had to take part-time jobs. Workforce participation is at the lowest rate in 35 years.

I hope during the hearing we'll talk about ways to create more jobs. For example, one way to create more jobs would be to give the President more trade authority so we could ship more goods from Tennessee and Iowa and Maryland and Pennsylvania overseas and create more jobs at home. The President has asked for that, but the Democratic Majority Leader won't bring it up.

Another way we could create more jobs is to approve the Keystone Pipeline. There are a whole series of proposals that would create an environment in the United States that would liberate the free enterprise system to create more jobs.

A recent example of that was something that had a lot of bipartisan support. It was called the Jobs Act. It provided regulatory relief for new startup companies. I helped start a company myself one time that made its way to the NASDAQ stock exchange. It's a treacherous time, those first few years of a startup, and you don't need extra obstacles.

What happened, according to AOL co-founder, Steve Case, was that the Jobs Act provided relief for companies that enabled a 70 percent increase in initial public offerings this year. Mr. Case said Congress should be reducing more regulatory red tape and moving on to other laws to encourage business growth, like immigration reform.

There are many things we could do to create more jobs. Sometimes the debate here in this committee and in the Congress is between what I would call the mandaters, those who see a need and

say, "Well, we can tell you what to do," and those who see a need and say, "Well, we will empower or enable you to do those things."

Anyone who's been in business or is in business—and we'll hear from some today—knows that there are plenty of mandates already. I talked to a franchisee group that owns 20 fast food restaurants in this area. They employ more than 500 people. Of course, they start out paying 6.2 percent FICA taxes. That's social security and Medicare.

Then they have a menu labeling mandate—sounds like a good thing, but it costs each restaurant $1,000. Those in DC have paid sick leave mandates—sounds like a good thing. That's a DC requirement. That costs them another $600,000. And with the implementation of the new healthcare law, they'll go from a healthcare cost in the company of about $100,000 to $1 million if they opt out and pay the penalty, and between a half million and a million and a half dollars if they decide to participate in it.

Almost every time we impose new mandates, we run the risk of destroying jobs. We had a debate here and continue to have it—I guess we'll have it all year until election day—about the so-called minimum wage. We had the Congressional Budget Office Director Doug Elmendorf sit right there in front of us and say the proposal to increase the minimum wage before the committee would destroy 500,000 jobs. And now we are here talking about jobs and better jobs for women.

Why would we want to pass something that would destroy 500,000 jobs, especially when the CBO testimony also found that 80 percent of the benefits would go to people above the poverty level? The mandaters versus the enablers and empowerers is a big part of our discussion. I would hope we could agree on more flexibility after we create more jobs.

I mentioned the company I helped to start, which enabled corporate-sponsored childcare for employees. It was in the 1980s, and it provided an opportunity for parents, to take the child to work and have a safe place for that child. It has grown and merged with its competitor and become the Bright Horizons Company.

What I learned in that setting was that many women value as much flexibility as possible, because their days were very difficult. I've offered an amendment to permit employers and employees to voluntarily negotiate compensation and benefits that provide flexibility, and I've opposed proposals that would restrict that kind of flexibility.

Other Senators have introduced bills to allow private sector employees to have the same flexibility that Federal employees have, when they basically swap paid time off—they have paid time off instead of overtime pay. I am focused and listening for answers on how we can create an environment that will produce more jobs, not fewer. My feeling is that the more mandates we have, the fewer jobs we'll create.

Second, I'm looking for creative proposals that would permit employees and employers to agree upon more flexibility, especially for women who work outside the home, so that they can balance all of the things that they have to balance. So I welcome the discussion and look forward to your comments, and I thank the chairman for the hearing.

The CHAIRMAN. Thank you very much, Senator Alexander.

Now I'll introduce our panel. First, let me say that all of your statements will be made a part of the record in their entirety. What we'll do is we'll go from my left to right, and if you could just make a 2-minute statement or something like that—I know that's short, but we'd rather get into a discussion with you. And then rather than us having 5-minute rounds, what I'm going to do is recognize everyone to ask one question, and then we'll just see how many rounds we can go asking questions at that point in time.

On my left is Neera Tanden, president of the Center for American Progress; Ellen Bravo, who is director of the Family Values at Work Consortium; Fatima Goss Graves, vice president for Education and Employment at the National Women's Law Center; Armanda Legros, a low-wage worker in New York City who was fired from her job when she was pregnant. We look forward to hearing from you.

And we have Amy Traub, senior policy analyst at Dēmos; Lori Pelletier, executive secretary-treasurer, Connecticut State Federation of Labor; Gayle E. Troy, human resource manager, Globe Manufacturing Company; Rhea Lana Riner, Rhea Lana's, Inc., of Conway, AR. So thank you all for being here and for your participation.

Like I said, we'll just start with Ms. Tanden. If you could sum up in a couple of minutes the main points you want to make, then we'll open it for discussion. Please proceed.

STATEMENT OF NEERA TANDEN, PRESIDENT, CENTER FOR AMERICAN PROGRESS, WASHINGTON, DC

Ms. TANDEN. Thank you, Chairman Harkin and Ranking Member Alexander, for the invitation to testify today. My name is Neera Tanden. I am president of the Center for American Progress.

As Chairman Harkin said, the American workforce has changed dramatically. While it used to be rare for mothers to work outside the home, today women make up nearly half the workforce, and more than 6 in 10 women are breadwinners or co-breadwinners. These are enormous demographic shifts, and, frankly, our workplace policies need to keep up with them.

Economic progress depends on public policies that acknowledge the changes in our workforce. The national policy has been very slow to keep up. In two-parent households, women are often the primary caregiver in their families. Yet women, particularly low-income women and women of color, go to work each day without the protections they need to balance work and family responsibilities or ensure they are paid fairly. There are mothers today who face the terrible choice of sending a sick child to school because they can't pay their rent if they lose out on simply a day's work.

I believe these policies are family friendly policies, because they allow mothers and fathers to be good parents and good workers. Among the public policy solutions that would empower women to meet their full potential are paid sick days, paid family leave, pay equity, a higher minimum wage, affordable early childcare, and universal Pre-K. I would agree that jobs are a significant issue, and I would remind the committee that there was a jobs package that really focused on the teaching profession, which is, as we know,

disproportionately held by women, and that package, unfortunately, did not pass the Senate. But that would have been a jobs package that really, really helped women.

I believe we need to have policies that strengthen our families, our workplaces, our economy, and our Nation, and that these policies can do so. We see in California a paid leave policy that helps families and does not hurt the bottom line. Businesses have reported that they support those policies. These are policies that help companies help workers and help our economy.

Thank you all very much.

[The prepared statement of Ms. Tanden follows:]

PREPARED STATEMENT OF NEERA TANDEN

Thank you Chairman Harkin, Ranking Member Alexander, and members of the committee for the invitation to testify today.

My name is Neera Tanden, and I am president of the Center for American Progress. CAP is an independent, nonpartisan educational institute dedicated to improving the lives of all Americans through progressive ideas and action. At CAP, we believe that a robust and growing middle class is vitally important to growing a stronger, more resilient economy and a more competitive future. To do this, we know that we need workplaces that make full use of our Nation's talent to ensure that every worker—man or woman—has a fair chance to succeed.

INTRODUCTION AND BACKGROUND

If we want a thriving economy that works for all Americans, strengthens our businesses, and makes our Nation more competitive on the global stage, we have to start with a clear understanding of today's workplace and the changing workforce. The reality is that workplaces—and the people who work in them—are changing. Fifty years after groundbreaking laws like the Equal Pay Act helped usher in a new era of opportunity for women in the workplace, more women are working than ever before.

While it used to be rare for mothers to work outside the home, today, women make up nearly half the workforce. But this demographic shift has enormous implications for how our workplaces operate and for our overall economic growth. More than 6 in 10 women are breadwinners or co-breadwinners for their families, yet women, on average, continue to earn less than their male counterparts. This gap is even larger for women of color, who are more likely to be stuck in minimum-wage jobs.[1]

Our workplace culture and national policy have been slow to adapt. Even in two-parent households, women are often the primary caregivers in their families, with the main responsibility for providing, coordinating, or securing care. And although there are clearly some employers who have adopted progressive policies, too many women—and men—continue to work in environments without the protections they need to balance work and family responsibilities or ensure that they are paid fairly for their work.

If we want real economic progress, we need policies that respond to the everyday challenges facing the diverse group of women who are part of today's economy, particularly those women who too often get ignored.

WHY WOMEN'S WORK MATTERS TO OUR ECONOMIC WELL-BEING

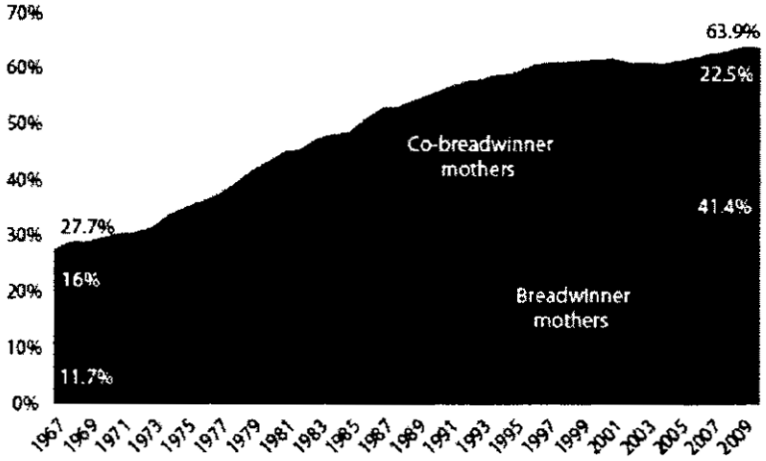
Women's rapid entry into the workplace during the last three decades of the 20th century transformed our country and its labor force. Between 1970 and 2000, the percentage of women who work rose from 43.3 percent to 59.9 percent.[2] Before the Great Recession, more than three-quarters of women worked 35 hours or more per week.[3] And today, the majority of employed women work full-time.

Because more women are working, women's income has become a lynchpin of our Nation's economic success. Today, two-thirds of mothers are breadwinners or co-breadwinners,[4] up from slightly more than a quarter of mothers in 1967.[5] (See Figure 1.

FIGURE 1

Mothers' labor force participation has dramatically increased

Share of mothers who are breadwinners or co-breadwinners, 1967–2010



Source: Author and Jeff Chapman's analysis of Miriam King and others, "Integrated Public Use Microdata Series, Current Population Survey: Version 2.0" (Minneapolis, Minnesota: Minnesota Population Center, 2012).

But women's paychecks don't just contribute to their families' bottom lines. They are also vital for America's economic growth.

CONTINUING WOMEN'S ECONOMIC PROGRESS

Over the past four decades, women have made huge economic gains. But those gains were unequal. While some women have broken into typically male-dominated professions, 43.6 percent of women still work in just 20 types of typically low-paying jobs, such as secretary, nurse, teacher, and salesperson, among others.[6]

Low- and middle-wage, young, and less-educated workers in particular lack access to benefits that help balance work and family life. Employers too often view paid leave or sick days as perks for higher-paid workers: The lowest quarter of wage earners are nearly three times less likely to have access to paid family and medical leave than those in the top quarter.[7]

Women of color are also more likely to lack benefits such as paid leave. Women of color are just as likely to work as white women, but twice as likely to work in a low-wage sector or the service industry in jobs that don't offer these middle-class benefits.[8] This is especially concerning given the additional demographic change that is inevitable in the coming decades.

Women of color will make up 53 percent of the female population by 2050. Hispanic women will lead this growth, increasing from a share of 16.7 percent of the female population in 2015 to 25.7 percent in 2050.[9]

And unequal policy will continue to produce unequal economic gains. It's bad for families, for labor, and for the economy. But policy can—and should—change to react to changing demographics.

FEDERAL POLICIES THAT BENEFIT WORKING WOMEN AND FAMILIES

There are a number of public policy solutions that can make an immediate difference in the lives of working women. At the Federal level, mandating paid sick days, paid family and medical leave, and a more flexible workplace, and strengthening pay equity legislation could empower women to meet their full potential.

Since nearly two-thirds of minimum-wage workers and 70 percent of tipped minimum-wage workers are women, making the minimum wage a living wage would help close the pay gap and lift millions of Americans out of poverty.[10]

Fostering the policies that allow women to be full participants in today's workforce will boost businesses' bottom lines and ensure America's competitiveness in the global economy.

Among the public policy solutions that would empower women to meet their full potential are:

- Paid sick days, as proposed in the Healthy Families Act, and paid family and medical leave insurance, as proposed in the Family and Medical Insurance Leave Act, or FAMILY Act.
- Pay equity, as proposed in the Paycheck Fairness Act.
- High-quality, affordable early childhood education and universal pre-K.
- A higher minimum wage and tipped minimum wage.

Let's examine each of these policies briefly in more detail.

PAID SICK DAYS, PAID MATERNITY LEAVE, AND PAID FAMILY AND MEDICAL LEAVE

About 100 million private-sector workers lack paid family leave to care for a new child or an aging parent.[11] Tens of millions more lack access to paid sick leave.

The United States is the only industrialized nation without a Federal law providing workers access to paid maternity leave, and one of only a few that does not offer broader family and medical leave insurance.[12] The failure to offer paid leave makes the United States an outlier among developed nations.[13] In 2013, only 61 percent of workers had access to paid sick days,[14] and only 12 percent of workers had access to paid leave to recover from an illness or care for a sick family member.[15]

As a leading nation, we need to adopt workplace policies that allow both men and women to balance the demands of parenthood with the demands of their jobs. But this is a make-or-break issue for women.

Because women continue to be more likely than men to provide care to their families—even when they are employed—they are disproportionately affected by the lack of paid leave. Even married mothers take on more family care duties. Compared to employed fathers, employed mothers with a child under age 6 spend about 47 more minutes per day giving care. And mothers are more likely than fathers to stay home with sick children,[16] so women disproportionately bear the worry of losing wages or even a job because they take time off.

In fact, the lack of family friendly policies often pushes women out of the workforce altogether. When women have to take unpaid time away from work or drop out of the workforce entirely, it affects their wages for the rest of their lives, a factor that exacerbates the gender wage gap. Instituting family friendly policies that help women balance the dual demands of work and home can help neutralize some of the imbalance.

A whopping 80 percent of low-wage workers lack access to paid sick days,[17] and 40 million Americans struggle with the choice between working while sick and losing a day's pay.[18] A disproportionate number of those workers are people of color. From higher levels of unemployment to even lower wages, their struggles highlight the need to adopt policies that allow for workplace flexibility.

Guaranteeing workers access to paid leave and sick days will help families care for sick parents and children, a newborn or newly adopted child, or recovery from a serious illness without suffering financially. It will increase labor-force participation, employee retention, and lifetime earnings.[19] Businesses will be able to attract higher-quality workers and reduce absenteeism and tardiness among employees.[20]

The Healthy Families Act, introduced by Sen. Tom Harkin (D–IA), would ensure workers have access to paid sick days and would no longer have to worry about taking a financial hit if they or their children fall ill.[21] This has untold economic benefits. For example, researchers at the University of Virginia found that paid parental leave policies actually equate to lower unemployment rates.[22]

Family and medical leave insurance—also known as paid family leave—would allow employees to take temporary leave to recover from illness or care for a sick loved one. Introduced by Sen. Kirsten Gillibrand (D–NY) and Rep. Rosa DeLauro (D–CT), the Family and Medical Insurance Leave Act of 2013, also known as the FAMILY Act, would relieve the financial burden of taking unpaid time off, providing paid leave for nearly every U.S. worker.[23]

PAY EQUITY

Today, women make up nearly half of the American workforce.[24] Women graduate from college at higher rates than men.[25] More women are serving in Congress than ever before.[26] Yet for millions of American women, no amount of hard work will bring pay equity with their male peers.

Women, on average, still take home 77 cents for every dollar earned by a man. The average American woman makes $11,084 less than her male counterpart per year.[27] If women working full-time, year round were paid the same for their work as comparable men, we would cut the poverty rate for working women and their families in half.[28]

And for women of color, the disparity is even greater. Women of color are twice as likely as white, non-Hispanic women to live in poverty. And the wage gap is more like a gulf. For every dollar a man makes, white women make 77 cents, African-American women take home 64 cents, and Hispanic women take home 55 cents on the dollar.[29]

These differences among women can be attributed to a variety of economic factors, including occupational segregation and higher rates of unemployment among women of color, which lead to longer gaps in work histories. Wage disparities—even compared to men of color—depress lifetime earnings of women of color even more than those of white women.

When women are shortchanged over the course of a lifetime, the dollars and cents add up. Over the course of a 35-year career, a woman with a college degree will make an average of $1.2 million less than a man with the same level of education.[30]

Since the Equal Pay Act was signed 50 years ago, we have made significant progress. Back then, women were paid just 59 cents for every dollar earned by men. Legislation has narrowed the pay gap, but didn't close it.[31] The Lilly Ledbetter Fair Pay Act, the first bill that Barack Obama signed as President, was another important step toward making women full, equal participants in the workforce.

But if a woman doesn't know she is underpaid, she can't take action to close the gap. The Paycheck Fairness Act, sponsored by Sen. Barbara Mikulski (D–MD), would enable the Department of Labor to gather better information about wage differences. The Paycheck Fairness Act would protect employees from retaliation for discussing their salaries. And it would empower women to negotiate for equal pay and create strong incentives for employers to obey the laws already in place.

Making sure women receive equal pay for equal work increases their lifetime earnings and strengthens our economy in the process. The Institute for Women's Policy Research found that if women had received pay equal to their male counterparts in 2012, the U.S. economy would have produced $447.6 billion in additional income[32]—similar to the economic output of the entire State of Virginia.[33]

EARLY CHILDHOOD EDUCATION AND UNIVERSAL PRE-K

Our safety net is working overtime to catch those who have been left behind by the recovery, but once again, policy hasn't kept up with changing demographics. Although the share of working mothers with children under age 5 has doubled since 1970, child care subsidies and preschool programs remain underfunded. And more mothers are also breadwinning alone: At least half of all children in the United States today will spend at least part of their childhood in a single-parent family.[34]

Additionally, today's infants and toddlers are the first age cohort that is majority children of color, making this a critical issue for communities of color.[35] Communities of color are expected to comprise the majority of the U.S. population sometime in the early 2040s. Addressing racial and ethnic disparities is not just the right thing to do; it is imperative for economic growth and competitiveness.

In an economy where three-quarters of families have either a single parent or two working parents, child care isn't a luxury. It's a necessity. More than 60 percent of all preschool-aged children spend time in the care of someone other than their parents.[36]

Unfortunately, most families don't have access to high-quality child care and preschool. Programs such as Head Start and the Child Care and Development Fund serve only a fraction of eligible families. And quality of care is often low. And many more kids don't attend preschool or receive high-quality care because their families simply can't afford it. Child care is the largest household expense for most families and can cost more than a year of college.

In light of these challenges, one of the most important ways we can improve the lives of millions of American families across the economic spectrum is to commit to educate children during the first 5 years of their lives. Research shows that the early years of a child's cognitive and emotional development, more than any others, establish their direction in life. High-quality early intervention makes at-risk children 25 percent less likely to drop out of school, 40 percent less likely to become a teen parent, and 70 percent less likely to be arrested for a violent crime. But because of the shortage of quality, affordable child care, low-income children are entering kindergarten without the skills necessary to succeed.[37]

Universal preschool for all 3- and 4-year-old children, and affordable child care for low-income families with children under age 3 will help bridge the gap, as will an expansion of Early Head Start and home visiting.

The Strong Start for America's Children Act, which was introduced by Sen. Harkin and passed by this committee this month, would create a partnership between the Federal Government and States to expand access to high-quality preschool for all low-income 4-year-olds and provide programs for some younger children as well. Passing and funding this bill would narrow the school-readiness gap and help parents access employment by building the supply of high-quality programs and reducing costs.

THE MINIMUM WAGE BECOMES A LIVING WAGE

We should raise the Federal minimum wage to $10.10 per hour. Currently, a full-time worker making the minimum wage earns just $15,080 per year.[38] For a family of three, that is $4,000 below the Federal poverty line.[39] Raising the minimum wage to $10.10 would increase yearly earnings to $19,777.[40] It would directly raise the wages of 16.5 million American workers and would lift almost 1 million Americans out of poverty.[41]

Nearly two-thirds of minimum-wage workers are women, so raising the minimum wage, as proposed by Sen. Harkin, would give 15.4 million women a raise[42] and help close the pay gap.[43] These workers are not just teenagers. Nearly 90 percent of minimum-wage workers are 20 years old or older, and the average minimum-wage worker is 35 years old.[44]

Seventy percent of tipped restaurant workers are women, so raising the tipped minimum wage would also strengthen women's prospects.[45] While the Federal minimum wage is $7.25 per hour, the minimum for workers who receive tips is just $2.13. Tips are supposed to make up the difference. Yet servers are twice as likely to use food stamps as is the rest of the U.S. workforce, and three times as likely to live in poverty.[46]

The number of female minimum-wage workers has also increased markedly since the beginning of the Great Recession. In 2007, there were almost 1.2 million female minimum-wage workers—nearly double the number of male minimum-wage workers. But the number of women making minimum wage had doubled by 2012.

And while the number of workers earning minimum wage increased for all racial and ethnic groups of women from 2007 to 2012, the share of Latina women at minimum wage tripled, and the share of African-American and Asian women more than doubled.[47]

We're already seeing businesses, such as the Gap, Costco, and Whole Foods, adopt the attitude that a fair wage is good for corporate profits and reputations. Raising the wages of frontline workers helps minimize employee turnover, encourage hard work, and increase employee productivity, commitment, and loyalty.[48] Cities, counties, and States have also adopted measures to raise the incomes of their lowest paid workers because they know that if workers can earn a living wage, it will help grow their local economies. More than half of the States that raised the minimum wage during periods of high unemployment saw their unemployment decrease over the next 12 months.[49]

And increasing the minimum wage has positive implications for the Federal budget as well. CAP recently published research showing that a $10.10 minimum wage would reduce spending on the Supplemental Nutrition Assistance Program by $46 billion over the next decade.[50]

THE BUSINESS CASE

Successful businesses already see a competitive advantage when they ensure workers with families are happy and successful. Policies that support working women and families lead to more productive employees. They also help business attract and retain top-notch talent, paying dividends in the long term. But there are immediate savings for businesses with family friendly benefits as well.[51]

Studies showed companies that are flexible—that allow adjustable work schedules or telework, for example—improved employee retention and recruitment, as well as revenue generation and client satisfaction.[52] Employees said their ability to prioritize both career and family influenced their choice to remain with the company. This translates into real and immediate savings for businesses. While replacing a worker can cost up to 20 percent of that worker's salary, policies such as earned sick days or flexible options can be implemented at little to no net cost.[53]

But the companies that will excel in tomorrow's economy won't just be focused on retaining female employees; they'll be interested in cultivating the next generation of female leaders and executives. That will mean more than adopting flexible sched-

ules and worker-friendly policies. It will mean changing the culture from the factory floor to the board room to allow talented, dedicated women to advance and succeed. It will mean combating workplace discrimination of every kind. It will mean encouraging mentor relationships that pair successful women with future leaders in their organizations. And it will mean including women in the decisionmaking process, so their voices are heard and their concerns are considered. After all, when women have a place at the table, they can advocate for the very worker-friendly policies that boost morale along with the bottom line.

CONCLUSION

Public policies that help women also strengthen our families, our workplaces, our economy, and our Nation. It's time to put women at the center of the policy agenda. Every Member of Congress must work together to demonstrate, with a proactive policy agenda, that government is committed to our families.

Families are changing. Our workforce is changing. The way we live is changing. And our economic success hinges on recognizing those changes and committing to public policy that improves the lives and livelihood of working families.

I thank the Chairman, Ranking Member, and the committee for the opportunity to testify today.

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The CHAIRMAN. Thank you, Ms. Tanden.

Ms. Bravo.

STATEMENT OF ELLEN BRAVO, EXECUTIVE DIRECTOR, FAMILY VALUES AT WORK, MILWAUKEE, WI

Ms. BRAVO. Thank you, Senators and staff of the HELP Committee. I'm delighted to be here to testify on behalf of Family Values at Work. We're a network of 21 coalitions, more than 1,000 groups, very diverse, all of them working for policies like paid sick days and family medical leave insurance. They're driven by women like Rhiannon Broschat in Chicago, mother of a kid with special needs, and Shelby Ramirez in Denver, who helps take care of her dad with diabetes. These are people who have lost a job or vital income for doing exactly what we define as being a good parent or a good child to their parents.

We're in this dilemma because although many employers do a great job, as you said, the rest of them are operating as if we're still in a madman era. There's good news, though, and that is that the States and cities are paving the way toward the Federal policies that we need, as they always have, incubating model policies and studying them for their effectiveness.

We have three States that have passed family medical leave insurance. New York is chomping at the bit. The State-paid leave

fund in the budget would really help. We have seven cities in one State that have let workers earn paid sick days and lots more on the horizon. And we have a growing body of evidence that shows these policies are good for women's economic security, for families, and for business bottom line.

I've talked a lot about it in my written remarks, all this research, and quotes from some of our business partners who say,

> "You know what? These policies—I want to see them as a floor for everyone, because they lower my expenses, but they also put money in the pockets of the people who are going to be my customers, what I need the most."

We shouldn't have a situation where having economic security is at odds with the security of the emotions and physical health of our loved ones, and yet that's where we are.

I want to end by telling you about one of our leaders, Melissa Broome in Maryland, whose son recently had surgery, 4-year-old Owen. He's going to be OK. She and her husband both had paid sick days and could be there the whole week. But as they led him on a red wagon through the halls, they saw a lot of kids who were much sicker. Owen didn't ask, "Why is that kid bald?" or "Why is that kid hooked up to a machine?" But he did ask, "Why is that kid alone, and where is that kid's mommy and daddy?"

It's going to be very difficult to cure all the ailments of those children. It should not be at all difficult to get bipartisan support to pass the Healthy Families Act and the Family Act so that every family knows they can have someone holding their hand and whispering in their ear when they're poked and prodded when they're ill.

Thank you so much.

[The prepared statement of Ms. Bravo follows:]

PREPARED STATEMENT OF ELLEN BRAVO

Thank you so much, Senator Harkin and Senator Alexander, for hosting this hearing and inviting me to testify on economic security for working women.

My name is Ellen Bravo, and I have been working for years to advance policies that value families at work, first as director of 9to5, National Association of Working Women, and for the last decade as director of Family Values @ Work Consortium. In 1995 I was appointed by Congress to the bipartisan Commission on Leave to study the impact of the Family and Medical Leave Act on employers and employees. I have written several books and numerous articles on working women and testified before Federal, State and local legislative bodies. For a number of years I taught a masters level class on Family-Friendly Workplace Practices at University of Wisconsin-Milwaukee.

Family Values @ Work is a network of coalitions in 21 States that bring together a wide range of local groups—working women and men, restaurant owners and restaurant workers, feminists and faith leaders, those who want to end poverty and end asthma, advocates for workers, children, seniors and racial justice, LGBT activists and public health professionals, and many business owners. Together, we have been making strides toward establishing economic security for families through paid sick days and paid family leave policies.

While many employers already offer the policies we seek, millions of workers are still operating in workplaces designed for men with wives at home full-time.

In 2010, nearly three quarters of children had both parents or their only parent working, a 13 percent increase since the mid-1980s when FMLA was first drafted.[1] Women are the primary or co-breadwinners for nearly two-thirds of the Nation's

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families, so a woman's income loss during maternity leave or even a few days with a sick child has significant economic consequences for her family.[2]

Not having these policies in place also holds back our economy. For stronger families, stronger businesses, a stronger country, we must make sure that working women have opportunities to succeed as providers *and* as caregivers. Policies like paid sick days and family and medical leave insurance are small steps that can create a big difference in making us the Nation we set out to be.

I'm here to speak on behalf of all the working women, men and families who are involved in this important work in the States. It is their voices and commitment that are the center of this movement—and this progress—that we are seeing.

They are women like Shelby Ramirez in Denver, whose father and daughter each had surgery within days of each other. Shelby took unpaid time from work to care for them. For doing what a good daughter and mother does, Shelby nearly wound up homeless and had to pawn the one thing of value she owned, a ring given to her by her father many years earlier.[3]

I speak also for Rhiannon Broschat who lives in Chicago.[4] On a day this winter when the Chicago Public Schools closed because it was too cold to be safe for children to go to schools, Rhiannon had no one to care for her special needs son. For safeguarding her child as a good mother does, Rhiannon was "separated" from the company for "abusing" the attendance policy. What this means is that Rhiannon was fired from a very profitable company for refusing to leave her son home alone.

Women and families in this country will not have real economic security until their earnings and their jobs are protected when they or a family member needs care. The lack of modest policies like those that exist in the rest of the world forces women like Shelby and Rhiannon and millions of others to make an impossible choice between the jobs they need and the family that needs them.

This goes against the core family values that our country believes in—across party lines and geographies.

Our coalitions are also working to ensure that pregnant workers can have a stool to sit on, water to drink or sufficient bathroom breaks without losing their job. New York, New Jersey, and a number of other places have passed such bills with bipartisan support. We are working on solutions to another serious set of issues—how to ensure people have enough hours and predictable schedules as businesses seek staffing solutions that can also meet their needs.

However, my testimony today will focus on the need for paid sick days and family and medical leave insurance.

Twenty-one years ago, Congress passed the Family and Medical Leave Act with bipartisan support. The FMLA provides up to 12 weeks unpaid time for the occasional longer term leave people need to care for a new baby or for a serious personal or family illness. It applies to those who work in a firm of 50 or more, have been on the job at least a year and work at least 25 hours a week on average for the same employer.

FMLA was a great first step for families—but as our economy and our families have changed, so too must our laws. The FMLA leaves out more than 40 percent of the workforce.[5] It does not include routine illness or preventive care. While an employee covered by FMLA could take leave to care for her father if he had a heart attack, that same employee could be fired for taking Dad to the doctor to get his cholesterol down and prevent a heart attack in the first place.

Furthermore, many of those who are covered are unable to take the time they need because it is unpaid. In 2012, two and a half times as many people as in 2000 needed leave and were eligible but didn't take it, mostly because they couldn't afford it. Many others went back from leave too early, without fully recovering.[6]

What is needed? We need to expand the FMLA to cover those currently excluded.[7]

We also need public policies like the **Healthy Families Act (H.R. 1286/S. 631)** that address short-term, routine illness and the preventive care that people need every year. The Healthy Families Act, introduced by Senator Harkin, would allow

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[2] Boushey, H. (2009). The New Breadwinners. In H. Boushey and A. O'Leary (Eds.), The Shriver Report: A Woman's Nation Changes Everything. Retrieved May 15 2013 from *http://shriverreport.org/special-report/a-womans-nation-changes-everything/*.

[3] *https://www.youtube.com/watch?v=Ofpe3PZXRgM&feature=youtu.be*.

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workers to earn paid sick days they can use to care for their own illness or that of a loved one, or to deal with the aftermath of sexual or domestic violence.

In addition, we need a policy like the **FAMILY Act (H.R. 3712/S. 1810)**, introduced by Senator Gillibrand, to establish a family and medical leave insurance fund. By pooling small contributions from employees and employers, this fund would enable those needing leave to have some vital income during an already challenging time.

Consider these facts related to the lack of access to paid sick days:

More than 41 million workers in the United States, nearly 40 percent of the workforce, do not earn paid sick days.[8] Millions more are not allowed to use the sick time they earn to care for a sick family member. The numbers are much lower for low-wage workers and particularly those with the closest contact with the public, such as those who work in food preparation and service, and those in personal care.[9]

Nearly one quarter of adults in the United States have been fired or threatened with job loss for taking time off to recover from illness or care for a sick loved one.[10] Even losing a few days' pay can be devastating. For low-income families, going just 3.5 days without wages is equivalent to losing a month's groceries.[11]

The Center for Disease Control found that more than 2.5 million cases of foodborne illness each year were caused by sick restaurant workers contaminating food while they are at work.[12] During the H1N1 epidemic, 7 million people caught the virus from co-workers who came to the job while sick.[13]

Health conditions go undiagnosed because workers without paid sick days are less likely to get basic health and cancer screenings.[14] More than one in four parents of a child with asthma (28 percent) has missed one of their child's medical appointments because they could not get time off work.[15] Injuries on the job are also more common when workers go to the job ill.[16]

The human cost of sick days is also borne by businesses and society.

Presenteeism, (the cost of employees' lower productivity when working sick) adds up to $160 billion annually—considerably more than the cost of absenteeism.[17]

The United States spends $1.1 billion in unnecessary emergency department costs because people can't take time off to see a doctor during business hours and either go straight to ERs or wait until conditions worsen and an ER becomes necessary.[18]

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[8] Williams, C. and Gault, B., Institute for Women's Policy Research (March 2014). "Paid Sick Days Access in the United States: Differences by Race/Ethnicity, Occupation, Earnings, and Work Schedule," retrieved May 15, 2014 from *http://www.iwpr.org/publications/pubs/paid-sick-days-access-in-the-united-states-differences-by-race-ethnicity-occupation-earnings-and-work-schedule*.

[9] *Ibid.*

[10] Smith, T. and Kim, J. National Opinion Research Center, (June 2010). "Paid Sick Days: Attitudes and Experiences," retrieved May 15, 2014. *http://www.publicwelfare.org/resources/DocFiles/psd2010final.pdf*.

[11] Gould, E. et al., Economic Policy Institute, (June 2011). "The Need for Paid Sick Days," retrieved May 15, 2014 from *http://www.epi.org/publication/the__need__for__paid__sick__days/*.

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[17] Kalorama Information (2009, October). "The Market for Wellness Programs and Their Impact on Pharmaceutical, Diagnostic and Device Product Markets." Retrieved May 18, 2014 from *http://www.kaloramainformation.com/about/release.asp?id=1463*.

[18] Miller, K., et al. (2011, November). "Paid Sick Days and Health: Cost Savings from Reduced Emergency Department Visits." Institute for Women's Policy Research, Retrieved May 18, 2014 from *http://www.iwpr.org/publications/pubs/paid-sick-days-and-health-cost-savings-from-reduced-emergency-department-visits/at__download/file*.

The United States is the only country that does not provide paid sick leave for a worker undergoing a 50-day cancer treatment.[19] And we are one of only three countries that do not provide paid sick days for a worker missing 5 days of work due to the flu.[20]

The figures on lack of access to affordable family and medical leave are also stark.

The United States is one of three countries to guarantee no paid maternity leave. The other countries are Papua New Guinea and Oman.[21] Only 12 percent of private sector employees have paid family leave from an employer.[22]

That lack of pay can have disastrous impact on a family's economic security. Studies show that 7 percent of people who filed for bankruptcy cited the birth of a child as the cause.[23] A significant number of bankruptcies also happen after a worker misses 2 or more weeks of work due to illness.[24]

Forty-eight percent of family caregivers who have to take time off to care for a family member lost income during that time.[25] And the number of caregivers is growing as the population ages. By 2030, the number of Americans over 65 will be 70 million—double today's 35 million.[26] Nearly two-thirds of Americans under the age of 60 expect to be responsible for the care of an elder relative within the next 10 years, and by 2020 about 40 percent of the workforce will be caring for older parents.[27]

Both paid sick days and family and medical leave insurance are common sense solutions to the dilemma our Nation faces: the very thing that makes us good parents or children to our parents often jeopardizes our ability to make ends meet.

CITIES AND STATES ARE LEADING THE WAY

My children and I were part of helping to win unpaid Family and Medical Leave in Wisconsin in 1988. That win, along with similar ones in many other States, paved the way for the national bill in 1993. They helped disprove the predictions of job loss and business closings—family leave in fact strengthened families and businesses by helping people keep their jobs and their earnings. It lowers turnover costs, boosts productivity and morale.

Now States and municipalities are developing models for both family and medical leave insurance and paid sick days.

The 1995 Commission on Leave unanimously recommended that States "consider voluntarily establishing or expanding existing temporary disability insurance programs to provide wage replacement for periods of family and medical leave."[28]

Research conducted for that Commission found that nearly 1 in 10 (9 percent) of leave-takers had to rely on public assistance to support themselves while on leave.

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[19] Heymann, J., et al. (2009, May). "Contagion Nation: A Comparison of Paid Sick Day Policies in 22 Countries." Center for Economic and Policy Research. Retrieved May 18, 2014, from *http://www.cepr.net/documents/publications/paid-sick-days-2009-05.pdf*.

[20] *Ibid.*

[21] Addati, L., et al., "Maternity and paternity at work: Law and practice across the world. Appendix II: Key national statutory provisions on maternity leave, by region, 2013." International Labour Organization, 2014. Retrieved May 18, 2014 from *http://www.ilo.org/wcmsp5/groups/public/__dgreports/__dcomm/documents/publication/wcms__242615.pdf*.

[22] Bureau of Labor Statistics. Table 32. Leave benefits: Access, private industry workers, National Compensation Survey, March 2013. Retrieved May 18, 2014 from *http://www.bls.gov/ncs/ebs/benefits/2013/ownership/private/table21a.htm*.

[23] The David and Lucile Packard Foundation (Spring/Summer 2001). "The Future of Children." Retrieved May 18, 2014 from *http://futureofchildren.org/futureofchildren/publications/docs/11__01__FullJournal.pdf*.

[24] Boushey, H and Glynn S (2012 April). "The Effects of Paid Family and Medical Leave on Employment Stability and Economic Security," Center for American Progress. Retrieved May 18, 2014 from *http://www.americanprogress.org/wp-content/uploads/issues/2012/04/pdf/Boushey EmploymentLeave1.pdf*.

[25] Aumann, K (2008). "The Elder Care Study: Everyday Realities and Wishes for Change, Families and Work Institute." Retrieved May 18, 2014 from *http://familiesandwork.org/site/research/reports/elder__care.pdf*.

[26] A Profile of Older Americans (2011), Administration on Aging, U.S. Department of Health and Human Services. Retrieved May 18, 2014 from *http://www.aoa.gov/Aging__Statistics/Profile/2011/docs/2011profile.pdf*.

[27] Lerman, R and Schmidt, S. "Trends and Challenges for Work in the 21st Century," The Urban Institute. Retrieved May 18, 2014 from *http://www.dol.gov/oasam/programs/history/herman/reports/futurework/conference/trends/trendsi.htm*.

[28] A Workable Balance: Report to Congress on Family and Medical Leave Policies, Department of Labor, 1996 *https://archive.org/stream/workablebalancer00unit#page/198/mode/2up/search/Policy+Directions*.

That number was more than one in five (20.9 percent) for those earning $20,000 or less.[29] The overall figure increased in the most recent survey (9.8 percent).[30]

In 2002, California became the first State to attempt to make family leave affordable. Implemented in 2004, the new law expanded the State's existing temporary disability insurance program—just as the Commission had recommended—to help ensure working families had income to rely on during family leave. Those needing family leave may take up to 6 weeks at 55 percent of their pay with a cap of $533 a week in 2013. New Jersey followed in 2009. Benefits there are typically two-thirds of the last 8 weeks of pay, up to $584 a week for up to 6 weeks.

Just last year, Rhode Island became the third State to pass such a measure. Together these three States have brought access to family leave insurance programs to more than 17 million people. Other States are on their way, with Washington having passed and hoping to have funding to implement the program next year. In New York State, legislators are moving a bill forward, and in Vermont and Connecticut, study commissions are laying the groundwork for legislation. Colorado has a bill pending and a number of other States are considering similar action. **The State Paid Leave Fund, $5 million in the Department of Labor budget, would be a significant boost to these programs.**

Economists, business owners and workers alike have confirmed the success of these programs. A recent Rutgers study shows that New Jersey's family leave insurance (FLI) program has saved businesses money by improving employee retention, decreasing turnover costs, and improving productivity.[31] Despite "sky is falling" claims about the potential costs of FLI for business, research from *Unfinished Business*, a book on the success of California's program, shows employers reporting that a neutral or positive effect on employee productivity, profitability, and turnover; most employers coordinate their own benefits with the State's paid family leave program.[32] Workers who took paid family or medical leave are more likely to return to the same employer, reducing turnover costs, which can range from nearly $5,400 to more than $18,000.[33]

Most employees who used California's paid family leave program reported that leave had a positive effect on their ability to care for a child or ill family member (82.3 percent), allowed them to initiate breast feeding (91.3 percent), had a positive effect on their ability to arrange child care (62.5 percent) and had a positive effect on an ill family member's health (86.5 percent).[34]

In New Jersey, women who take paid leave after a child's birth are more likely to be employed the following year and report increased wages than women who do not take leave. Parents who took leave report lower levels of public assistance (about 40 percent less) in the year following their child's birth, when compared to those without paid leave.[35]

Another benefit of family and medical leave insurance is that it increases men's role in caregiving by making it possible for them to be involved without the family taking a big financial hit.[36] In California, for example, fathers' leave-taking for bonding with a new child rose 12 percent from 2011 to 2012.

Paid family leave also promotes children's well-being. Ensuring that new parents can take time to care for a newborn gives babies their best start in life. Four-fifths

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[29] *Ibid.*

[30] Klerman, J., et al, (updated September 2013). "Family and Medical Leave in 2012, Technical Report," Abt Associates, Inc., *http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf.*

[31] Houser, L and Vartanian, T. (2012 January). "Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public, A Report of the Center for Women and Work." Rutgers School of Management and Labor Relations. Retrieved May 18, 2014 from *http://news.rutgers.edu/news-releases/2012/01/rutgers-study-finds-20120118#.U3ZiJ9JdXTo.*

[32] Appelbaum, E and Milkman, R. (2011). "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California." Center for Economic and Policy Research. Retrieved May 18, 2014 from *http://www.cepr.net/documents/publications/paid-family leave-1-2011.pdf.*

[33] *Ibid.*

[34] *Ibid.*

[35] Houser, L and Vartanian, T. (2012 January). "Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public, A Report of the Center for Women and Work." Rutgers School of Management and Labor Relations. Retrieved May 18, 2014 from *http://news.rutgers.edu/news-releases/2012/01/rutgers-study-finds-20120118#.U3ZiJ9JdXTo.*

[36] Appelbaum, E and Milkman, R. (2011). "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California." Center for Economic and Policy Research. Retrieved May 18, 2014 from *http://www.cepr.net/documents/publications/paid-family leave-1-2011.pdf.*

of respondents who took paid leaves reported they were better able to care for a new baby.[37] New mothers who take paid leave are more likely to take the minimum doctor-recommended 6 to 8 weeks to recover from birth.[38] Newborns whose mothers take 12 weeks of leave are more likely to be breast-fed, receive regular check-ups, and get critical immunizations.

An examination of more than two decades of data from 16 European countries showed that paid parental leave policies were associated with lower rates of infant and child mortality.[39]

And paid family leave promotes the well-being and independence of seniors by enabling families to care for aging parents without fear of losing all their wages and allowing seniors to age in their homes instead of State facilities. This also saves taxpayer money.[40] When cared for by family members, patients in the hospital recover from illness and injury faster, leading to shorter hospital stays, improved health outcomes, and decreased health costs.[41]

Businesses support family and medical leave programs and replacement income provided by FMLI goes right back into the local economy, as workers spend it to help cover the basics.

According to Herb Greenberg, founder and CEO of Caliper, a human resources consulting firm in New Jersey:

> "Family Leave Insurance . . . has been a huge positive for Caliper. When you think about the cost of individuals leaving, the cost of seeking new employees, the cost of maybe hiring the wrong person, training them, etc., and you compare that to the pennies that Family Leave costs you—there is just no comparison in terms of the pure balance sheet."[42]

A survey for Small Business Majority found that 6 in 10 New York small business owners support a family and medical leave program with shared contributions from employers and employees.[43]

PAID SICK DAYS

Working women also need to be able to take a day off when they or their kids are sick. Because of the momentum behind paid sick days policies, more than two million people previously uncovered now have that protection. Millions more can use those sick days to care for an ill family member and all can do so without being disciplined for using the time they have earned.

That means mothers are not losing grocery money when their kids get the flu; it means that workers are not going to work sick to spread the flu. A growing body of research affirms that these policies help strengthen families while having a positive or no negative effect on business profitability, productivity, performance and morale.

San Francisco was the first city with the law, followed by wins in DC, then Seattle and the State of Connecticut. 2013 saw paid sick days measures pass in Portland, New York City and Jersey City and an expansion to tipped workers in DC. Already this year Newark enacted paid sick days and New York City expanded its new laws. More wins are likely before the end of this year.

The combined impact on our economy, on our families and on businesses is worth noting.

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[37] *Ibid.*

[38] Gomby, D., & Pei, D. (2009). "Newborn Family Leave: Effects on Children, Parents, and Business." David and Lucile Packard Foundation publication. Retrieved 4 January 2013, from *http://www.packard.org/wp-content/uploads/2011/06/NFLA_fullreport_final.pdf*.

[39] Ruhm, C., "Parent Leave and Child Health," Journal of Health Economics 19, no. 6 (2000), 931–60.

[40] Institute of Medicine of the National Academies (2008 April). "Retooling for an Aging America: Building the Health Care Workforce." Retrieved May 18 2014 from *http://www.iom.edu/Reports/2008/Retooling-for-an-Aging-America-Building-the-Health-Care-Workforce.aspx*.

[41] Taylor, MRH and O'Connor, P. Resident parents and shorter hospital stay, National Children's Hospital and Department of Paediatrics, Trinity College, Dublin. Retrieved May 18, 2014 from *http://adc.bmj.com/content/64/2/274.full.pdf+html*.

[42] Family Values @ Work. "From the Story Bank: Dr. Herb Greenberg's Story." *http://familyvaluesatwork.org/story/dr-herb-greenbergs*.

[43] Small Business Majority (2013 December). "New York Small Businesses Support Publicly Administered Family and Medical Leave Insurance Pools." Retrieved May 18, 2014 from *http://www.smallbusinessmajority.org/small-business-research/family medical-leave/121213-NY-FML-report.php*.

First, economists say job retention policies like paid sick days help reduce unemployment and strengthen the economy,[44] and the local economies where paid sick days policies have been implemented are doing well. For instance, more than two in three businesses in San Francisco support their city's paid sick days law and six in seven employers report no negative impact on profitability.[45] The city experienced better job growth than five surrounding counties without earned sick time.[46] PriceWaterhouseCoopers ranked San Francisco as one of the top cities in the world to do business. Even the chief lobbyist against the bill in San Francisco told Businessweek it's "the best public policy for the least cost."[47]

Since Connecticut enacted the first statewide paid sick days law, the Department of Labor reports that employment has grown in Connecticut's Leisure and Hospitality[48] and Education and Health Services[49] sectors, the two most impacted by the new law. A recent study by Eileen Appelbaum and Ruth Milkman showed more than three-quarters of Connecticut employers are supportive of the law.[50] The authors found that the law had minimal effects on businesses. Typically businesses covered absent workers by assigning the work to other employees, a solution which has little effect on costs. Since the implementation of the paid sick days law, Connecticut employers saw decreases in the spread of illnesses and increases in morale, among many more effects.[51]

Administrators of the programs also confirm that they are not a burden on business. Donna Levitt, Division Manager, San Francisco Office of Labor Standards Enforcement, told Connecticut legislators in 2011, "Since [the PSLO took effect in February 2007,] we have heard relatively few complaints or problems with respect to implementation of the law . . . I am not aware of any employer in San Francisco who has reduced staff or made any other significant change in their business as a result of the sick leave ordinance."[52]

Earned sick days strengthen families. The Healthy Families Act—and local and State bills—would make it easier for workers to be good employees and good parents and will let children lead healthier lives, be more successful in school and be better prepared for the future. Seniors will also benefit when adult children can afford to take them to the doctor or care for them during an illness. Today, as a hospital administrator in Atlanta testified, hospital hallways are often lined with seniors whose adult children cannot leave work to pick them up after a test or minor procedure.

When their parents are able to care for them at home, sick children get better sooner and reduce the risk of spreading the illness to their classmates,[53] and parents with paid sick days are less likely to send a sick child to school.

Sick days also let parents keep their children healthy by getting them to doctor visits for detection, treatment, and vaccinations. Earned sick days protect public health and will make our country a safer, healthier place to live.

Small businesses support earned sick days because it's good for their bottom line. The real experiences of small businesses show earned sick days result in reduced turnover, which saves businesses money. Jim Houser, owner of Houser Automotive Clinic in Portland, OR, says that because employees know "we care about their

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[44] Appelbaum, E and Golden, L. "Sick days for healthy recovery." April 29, 2011. Philadelphia Business Journal. *http://www.bizjournals.com/philadelphia/print-edition/2011/04/29/sick-days-for-healthy-recovery.html*.

[45] Drago, R and Lovell, V (2011 February). "San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees," Institute for Women's Policy Research. Retrieved May 18, 2014 from *http://www.iwpr.org/publications/pubs/San-Fran-PSD*.

[46] Petro, J (2011 January). "Paid Sick Leave Does Not Harm Business Growth or Job Growth," Drum Major Institute for Public Policy. Retrieved May 18, 2014 from *http://everybodybenefits.org/wp-content/uploads/2011/01/Paid_Sick_Leave_Does_Not_Harm.pdf*.

[47] Warren, J. "Cough If You Need Sick Leave," Businessweek. June 3, 2010. *http://www.businessweek.com/magazine/content/10_24/b4182033783036.htm*.

[48] Industry Sector Employment (CES)—State of Connecticut, State of Connecticut Labor Market Information. Retrieved May 18, 2014 from *http://www.ctdol.State.ct.us/lmi/SecEmp.asp#map8*.

[49] *Ibid.*

[50] Kroeger, T, "Is Paid Sick Leave Good for Business?" Center for Economic and Policy Research, January 6, 2014. *http://www.cepr.net/index.php/blogs/cepr-blog/is-paid-sick-leave-good-for-business*.

[51] Appelbaum, E and Milkman, R. (2014 January). "Good for Business? The Case of Paid Sick Leave in Connecticut. Retrieved May 18, 2014 from *http://www.cepr.net/documents/presentations/CT_PSD_Jan_2014.pptx*.

[52] *http://cga.ct.gov/2011/LABdata/Tmy/2011SB-00913-R000301-Donna%20Levitt-City%20of%20San%20Francisco-TMY.PDF*.

[53] Heymann, J. "We Can Afford to Give Parents a Break," *Washington Post*, May 14, 2006. *http://www.washingtonpost.com/wp-dyn/content/article/2006/05/12/AR2006051201817.html*.

health and well-being, they're loyal to us in return."[54] The average tenure for his employees is 18 years, bringing enormous savings in recruitment and training costs. "Any business person can calculate what that means for overall savings," says Houser.

Paid sick days boost businesses and the economy overall by keeping money in people's pockets. Freddy Castiblanco, owner of Terraza 7 Train Café in Queens, recognizes that other employers' workers are his customers. "If we protect the salaries, if we give job stability, we are going to protect the purchasing power of potential customers," he says. "If you give me tax cuts, I won't be able to generate any more jobs. What really creates jobs in my community is customers."[55]

CONCLUSION

Recently one of our leaders in Maryland, Melissa Broome, spent a week at Johns Hopkins Hospital with her 4-year-old son, Owen. Both Melissa and her husband had paid sick days that allowed them to be at his side so they could, as Melissa put it, hold his hand and whisper in his ear every time he was poked and prodded. Fortunately, Owen will be fine. But it broke Melissa's heart to see how many children were alone during the day. When they took Owen for a walk through the halls in a red wagon, he didn't ask why so many of the kids were bald. But he did ask, "Where are that boy's mommy and daddy? . . . He shouldn't be all by himself."[56] Talking to a parent in the family kitchen one evening, Melissa learned that this woman's 18-month-old daughter was about to be discharged with a feeding tube. Her day care won't take children with feeding tubes. "I don't know how I'm going to be able to keep my job," the woman said. "I don't know what I'm going to do."

It may be very difficult to cure the diseases that afflict these children. But it is not difficult to institute policies like paid sick days and family and medical leave insurance so that their parents can hold their hands and whisper in their ears.

We thank you for holding this hearing today and hope that you will champion these policies—not as a favor to women but as a way to strengthen families, businesses and the economy.

The CHAIRMAN. Thank you, Ms. Bravo.

Ms. Goss Graves.

STATEMENT OF FATIMA GOSS GRAVES, VICE PRESIDENT FOR EDUCATION AND EMPLOYMENT, NATIONAL WOMEN'S LAW CENTER, WASHINGTON, DC

Ms. GOSS GRAVES. Thank you, Chairman Harkin and Ranking Member Alexander and members of the committee, for the opportunity to speak today on behalf of the National Women's Law Center. We've had 50 years of laws on the books that provide baseline protections against discrimination in the workplace. But what we know is that employment discrimination still takes place across the income spectrum, and workers in low-wage jobs are hit shockingly hard by it.

Sexual harassment remains a persistent problem, and the cases are filled with reports that seem like they must come from another time. Women report being verbally and physically abused and even raped on the job. One positive step is the recently introduced Fair Employment Protection Act, which would help provide stronger protection for workers who experience harassment on the job from their bosses.

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[54] Family Values @ Work and Main Street Alliance, (2011). "How Your Business Can Benefit from Paid Sick Days," retrieved May 15, 2014 from *http://familyvaluesatwork.org/wp-content/uploads/2011/10/Business-Outreach-Trifold-Brochure.pdf*.

[55] Community Service Society of New York (March 2013,) "Latino Workers Can't Afford to Get Sick," retrieved May 15, 2014 from *http://b.3cdn.net/nycss/8edff06bac4f0ab330__4dm6b625v.pdf*.

[56] Melissa Broome, "Choosing Between Your Child and Your Job," May 16, 2014 Baltimore Sun *http://articles.baltimoresun.com/2014-05-16/news/bs-ed-family-leave-20140517__1__johns-hopkins-children-owen-day-care#.U3jS9jnS6PI.email*.

Despite the Pregnancy Discrimination Act, women continue to face sex discrimination because of stereotypes about women who are pregnant or who have caregiving responsibilities, including being forced off the job entirely because of their pregnancy.

One of our clients, Amy Crosby's, case illustrates this problem. She worked as a cleaner in a hospital in Florida, lifting up to 50 pounds each day. The hospital refused her request for an accommodation when her doctor advised that she receive one, placed her on unpaid leave, and threatened to fire her. Never mind that they accommodated workers who had temporary disabilities and those that had been injured on the job for other reasons.

Cases like Amy Crosby's are just the tip of the iceberg. The Pregnant Workers Fairness Act would provide a lifeline to pregnant workers who need reasonable accommodations to be able to stay on the job.

We also know that pay discrimination is present, even in the lowest paying fields. In the 10 largest low-wage occupations, women working full-time were typically paid 90 percent of what their male counterparts were paid each week. Latoya Weaver of Maryland is one example. She worked full-time at a hotel in Maryland, ultimately making $8.88 an hour. She later learned that two male co-workers were paid $10 an hour for doing the same job. The Paycheck Fairness Act would make it easier to detect pay discrimination and provide employers with more incentives to address it voluntarily.

We know that women who are paid low wages and who are juggling multiple personal and caregiving and financial responsibilities have a lot on their shoulders, and we know they can least afford to have their livelihood threatened by discrimination. We really owe it to these workers to make a serious effort to address the many remaining barriers that they face.

Thank you for having me today, and I look forward to any questions.

[The prepared statement of Ms. Goss Graves follows:]

PREPARED STATEMENT OF FATIMA GOSS GRAVES

Thank you for the opportunity to speak today on behalf of the National Women's Law Center on the critical issue of economic security for working women. The National Women's Law Center has been working since 1972 to secure and defend women's legal rights. We advance the issues that cut to the core of women's lives in education, employment, family and economic security, and health and reproductive rights—with special attention given to the needs of low-income women and their families. We believe that ending all forms of workplace discrimination is crucial to removing barriers to women's economic opportunity.

Employment discrimination takes place across the income spectrum, but workers in low-wage jobs are hit shockingly hard. For example, about 50 percent of pregnancy discrimination charges filed with the Equal Employment Opportunity Commission (EEOC) between 1996 and 2005 involved the service or retail industries.[1] Between January and November 2011 alone, 37 percent of sexual harassment charges filed with the EEOC came from women in the restaurant industry.[2] These are jobs that tend to be low-wage.

Women working in low-wage jobs, who are juggling multiple personal, caregiving, and financial responsibilities, can least afford to have their livelihoods threatened by discrimination. But they also unfortunately confront systemic discrimination that shapes their basic employment opportunities. Women are subject to sexual harassment, experience discrimination when pregnant or caregiving, and are paid less in nearly every occupation, even those that pay the very lowest wages. These and other basic violations of the employment discrimination laws continue 50 years after Con-

gress outlawed workplace discrimination in Title VII of the Civil Rights Act, and undermine the advancement of women in jobs in nearly every sector.

I. SEXUAL HARASSMENT REMAINS PERVASIVE IN LOW-WAGE WORKPLACES

Sexual harassment remains a persistent problem in workplaces overall and in low-wage workplaces in particular. In fiscal year 2013, the combined total number of harassment charges filed with the Equal Employment Opportunity Commission (EEOC) and State and local Fair Employment Practices Agencies was over 30,000.[3] More than 10,000 of these charges involved sexual harassment, and 82 percent were brought by women.[4] But these numbers probably do not even come close to reflecting the extent of sexual harassment. In a recent survey, 60 percent of workers who experienced harassment said they never reported it.[5] The pervasiveness of sexual harassment has also been well-documented among low-wage workers.[6] In a study of more than 1,200 predominantly low-income union workers in the Boston area, 26 percent of women and 22 percent of men reported experiencing sexual harassment.[7] African-American women were more likely to report having experienced sexual harassment (28 percent) than white women (21 percent) and Latinas (17 percent).[8]

Sexual harassment is pervasive in many low-wage sectors. For example, a survey conducted by Restaurant Opportunities Centers (ROC) United found that more than 1 in 10 workers in the restaurant industry reported that they or a coworker had experienced sexual harassment, and this is likely an undercount.[9] As noted above, a 2011 review by MSNBC of EEOC charge data found that nearly 37 percent of EEOC sexual harassment charges from January to November 2011 came from women in the restaurant industry.[10] Workers have described harassment in restaurants as simply "an accepted part of the culture."[11] Women working in agriculture, who are often migrant workers, are also especially vulnerable to sexual harassment. Sexual harassment and assault is so common that farms in California have been referred to by farm workers as the "field of panties" and farms in Florida as the "Green Motel."[12]

More than 15 years ago, the Supreme Court put in place strong protections against workplace harassment. Recognizing the potential for supervisors to abuse their power over their subordinates, in *Burlington Industries, Inc.* v. *Ellerth* and *Faragher* v. *City of Boca Raton*, the Supreme Court held that employers have a heightened legal responsibility to protect workers from supervisor harassment.[13] *Faragher* and *Ellerth* established an important principle: because a supervisor's ability to harass is a direct result of the authority given to the supervisor by the employer, the employer should be liable for the supervisor's actions *unless* the employer can show that it took steps to prevent harassment and to address harassment when it occurred, and that the plaintiff failed unreasonably to take advantage of the opportunities provided by the employer to report and address the harassment.[14] This rule encourages employers to put policies in place to prevent harassment and to respond promptly and effectively when harassment occurs.

However, the Supreme Court recently undermined this longstanding principle in the narrow 5–4 decision in *Vance* v. *Ball State University*.[15] Maetta Vance, an African-American employee who worked in the catering department at Ball State, filed a lawsuit against her employer for racial harassment alleging that Saundra Davis, whom Vance argued was her supervisor, subjected Vance to racial slurs, threats, and intimidation.[16] Because Davis did not have the power to take tangible employment actions against Vance, the Court held that Davis did not qualify as Vance's supervisor, and that Ball State could not be held vicariously liable for Davis's actions.[17] The decision held that heightened protections from harassment no longer apply to harassment by those higher-ups who direct daily work activities but do not have the power to hire and fire.[18] Now, workers who are harassed by their boss must proceed under the more difficult negligence standard that applies in coworker harassment cases, unless that boss has the power to hire and fire.[19] And their cases may be thrown out as a result.

Unfortunately this decision has the potential to have negative consequences for millions of workers, and especially for low-wage workers. Based on a review of the academic literature and an informal survey of sector-based organizations advocating for workers, we believe that millions of lower-level supervisors have significant power over low-wage workers.[20] First, our analysis shows that there are more than 6-million lower-level supervisors in our Nation's workplaces, and that more than half of these oversee low-wage workers.[21] Second, our analysis suggests that these lower-level supervisors have significant responsibility for directing entry-level workers' day-to-day activities.[22] And finally, our analysis suggests that most of these lower-level supervisors have no formal authority to hire or fire workers, which often lies with managers.[23] All of that tells us that most employees with the day-to-day

management authority are not the ones with the formal power to hire or fire employees, and are therefore not supervisors in the eyes of the law when it comes to holding their employers liable for harassment that they might perpetrate.

Because they often have little bargaining power, workers in low-wage jobs can be severely affected by harassment that involves manipulation of their daily work activities.[24] And this is exactly the type of harassment that lower-level supervisors are well-positioned to perpetrate. The person who tells you to clean toilets instead of working the register, to stay late, to work on weekends, or to work the night shift, is enough of a boss to make your life miserable.

Take 15-year-old Megan McCafferty, for example. Jacob Wayne Peterson was McCafferty's 21-year-old shift supervisor at McDonald's, and was often the most senior person on duty when McCafferty worked. Peterson participated in McDonald's manager-in-training program, assigned job duties, scheduled break time, and had authority to authorize overtime and to send employees home when work was slow or when an employee had engaged in misconduct. One day McCafferty agreed to cover a shift for a coworker, and Peterson promised to pick her up from school to give her a ride to work. But when Peterson picked up McCafferty he told her that she did not have to report to work that day; instead he drove her to his friend's home and then his own house, where she alleged that he supplied her with drugs and alcohol and repeatedly sexually assaulted her. McCafferty brought a sexual harassment lawsuit, but the trial court dismissed her case on the grounds that her employer could not be held liable for Peterson's actions, since he was not a supervisor as defined in the *Vance* decision because he did not have the power to hire, fire, or promote employees. The appellate court then affirmed the lower court's dismissal on these grounds.[25]

In March Senator Baldwin, Chairman Harkin, Representative Miller, and Representative DeLauro introduced the Fair Employment Protection Act, which addresses this loophole in the law.[26] The bill would amend Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Genetic Information Nondiscrimination Act and other Federal nondiscrimination laws to restore strong protections from harassment by making clear that employers can be vicariously liable for harassment by individuals with the authority to undertake or recommend tangible employment actions or with the authority to direct an employee's daily work activities. In other words, workers who report to higher-ups without the authority to hire and fire—and many of the employees making these reports will be low-wage workers—would once again have an effective remedy if these higher-ups abuse their power through harassment. Such robust protection against sexual harassment is critical if women are to have a fair shot to succeed in the workplace.

II. WOMEN ARE PENALIZED FOR PREGNANCY AND FOR CAREGIVING, LEAVING THEM WITH LOWER WAGES AND SOMETIMES FORCING THEM OUT OF A JOB ALTOGETHER

Despite women making up nearly half the labor force today, women also still continue to shoulder a far larger share of caregiving responsibilities than men, on average.[27] And women continue to experience sex discrimination at work because of employers' gender stereotypes about the competence and commitment of women with caregiving responsibilities. A recent study about the penalty that women who are mothers face in the workplace illustrates this point. In that study, employers recommended mothers for hire less often, recommended lower starting salaries for them, and rated them as less competent than non-mothers with nearly identical resumes.[28] (In contrast, fathers were recommended for hire more often, regarded as more competent, and recommended for higher salaries than non-fathers.)[29] Indeed, motherhood accounts for a large proportion of the wage gap between women and men. Women who work full-time, year-round are typically paid only 77 cents for every dollar paid to their male counterparts.[30] However, there is an even larger gap between parents: among full-time, year-round workers, mothers earn only 69 percent what fathers earn.[31] Sociologists have documented a wage penalty of approximately 4 to 15 percent per child, with low-wage workers suffering the largest penalties.[32] Discrimination against caregivers based on gender stereotypes constitutes sex discrimination,[33] and enforcement of protections against this form of discrimination is especially important for women in low-wage jobs.

Pregnant workers face particular burdens. Prior to the Pregnancy Discrimination Act of 1978 (PDA), it was not uncommon for employers to categorically exclude pregnant workers from particular jobs, particular industries, or the workforce entirely. The PDA changed this forever by providing that the right to be free of discrimination on the basis of sex includes: (1) the right not to be treated adversely because of pregnancy, childbirth, or related medical conditions; and (2) the right for workers

affected by pregnancy, childbirth, or related medical conditions to be treated as well as other employees not so affected who are "similar in their ability or inability to work."[34]

While these protections have been critical to women's advances in the workforce, the latest data show that women continue to face pregnancy discrimination on the job. In fact, between 1997 and 2011 the number of pregnancy discrimination charges received by the EEOC and State and local counterparts increased by nearly 50 percent.[35] Today, women are still being forced off the job because of pregnancy.

In particular, pregnant workers sometimes have a medical need for temporary adjustments of job duties or work rules so that they can continue to work safely and provide the income on which their families depend. While many women will work through their pregnancies without any need for accommodations, these adjustments are necessary for others, especially in jobs that require running, lifting, long periods of standing, or repetitive motions—physical activities that may pose challenges to some women at some stages of pregnancy. However, too often when pregnant workers ask even for modest accommodations recommended by their medical provider, like the opportunity to sit on a stool or drink water during a long shift, they are instead forced onto unpaid leave, or even fired.[36] Indeed, 35 years after the passage of the PDA, employers continue to believe that they have no obligation to provide reasonable accommodations to workers with limitations arising out of pregnancy, even when they provide these accommodations to workers with similar limitations arising out of disabilities or injuries unrelated to pregnancy.[37] One recent survey estimated that more than a quarter of a million pregnant workers are denied their requests for reasonable accommodations nationally every year.[38]

Amy Crosby's case illustrates this problem. She worked as a cleaner in a hospital in Florida, cleaning 20 to 30 hospital rooms per shift and lifting up to 50 pounds of trash and linens each day. After she became pregnant, she started experiencing intense shooting pains in her back and arms due to carpal tunnel syndrome exacerbated by her pregnancy, and her OB-GYN advised that she not lift more than 20 pounds. But the hospital refused to accommodate her, because it said it would only accommodate workers injured on the job or people with disabilities and that she did not qualify under either of those categories, since she was pregnant. Crosby knew of other cleaners in her department who were accommodated when they had medical needs unrelated to pregnancy, by being allowed to perform other tasks or getting help with heavy lifting. But the hospital placed Crosby on 12 weeks of FMLA leave, which was due to run out more than a month before her due date—and threatened to fire her if she did not return to work without restrictions once this leave was up, even though she would be in the middle of her last trimester.[39]

As this story shows, women working in low-wage jobs often work in jobs that are physically demanding—for example, jobs in the retail sector, in food service, in nursing assistance, or in housekeeping—and are particularly likely to have a medical need for workplace accommodations during pregnancy as a result. Yet these same sectors often are marked by inflexible workplace cultures, which lead to employers refusing to make accommodations as simple as providing a stool to sit on or the right to drink water during a long shift.

Women of color and immigrant women make up a disproportionate share of the workers in low-paying jobs that are also physically demanding. For example, immigrant women make up just 7 percent of employed workers but 45 percent of workers are employed as maids or housekeepers.[40] Workers in these jobs are typically paid less than $10 an hour.[41] Latinas make up only 7 percent of employed workers, but make up 26 percent of workers employed as hand packers and packagers[42]—jobs that also pay only $10 per hour.[43] These are jobs where workers can spend the bulk of their days standing, walking, or moving and lifting heavy objects[44]—which can be a challenge or pose a health risk for some pregnant workers.

To address this problem, the Equal Employment Opportunity Commission must follow through on its identification of pregnancy accommodations as a strategic enforcement priority, and strengthen enforcement of the PDA and the Americans with Disabilities Act, to ensure pregnant workers receive the accommodations to which they are entitled under current law. In addition, the Pregnant Workers Fairness Act, introduced by Senator Casey, Senator Shaheen and Representative Nadler, would provide a lifeline to pregnant workers.[45] This bill would make it unmistakably clear that workers who need changes in job rules or duties because of physical limitations arising from pregnancy, childbirth, or a related medical condition can get such reasonable accommodations. In other words, the bill treats medical needs for accommodation arising out of pregnancy or childbirth in the same way that the Americans with Disabilities Act treats medical needs for accommodation arising out of disability, requiring that employers provide these accommodations if they can do so without undue hardship.[46]

Low-wage jobs that are primarily held by women are also marked by work scheduling policies and practices that pose particular challenges for workers with significant responsibilities outside of their job, including caregiving, pursuing education and workforce training, or holding down a second job.[47] The work schedules in these jobs are often unpredictable, unstable and inflexible. For example, in some low-wage sectors "just-in-time" scheduling practices, which base workers' schedules on perceived consumer demand, often result in workers being given very little advance notice of their work schedules[48]—a practice that can make it nearly impossible to arrange child care, take a second job, or enroll in post-secondary courses. Indeed, in the retail sector workers report that they are routinely required to work call-in shifts, which means they must call their employer to find out whether they will be scheduled to work that day—and if they are told to report to work, they often must do so within 2 hours.[49] Many workers in low-wage jobs experience unstable schedules with hours that vary from week to week or month to month, or periodic reductions in work hours when work is slow, leading to major fluctuations in income that put workers and their families in financial jeopardy. And many of these jobs require working nights, weekends or even overnight, or offer only part-time work, despite many workers' need for full-time hours.

These challenging work schedules have a cascade of negative consequences for both workers in low-wage jobs and their children. In contrast, fairer work schedules benefit employees and employers alike. Workers in low-wage jobs report that more job autonomy and involvement in management decisionmaking led to less negative spillover from work to their non-work life.[50] Employees with flexible workplaces are less stressed and have better physical and mental well-being.[51] Less negative spillover from work also leads to greater productivity and job retention: lower-wage workers with flexibility are almost half as likely as other workers to intend to leave their positions within 2 years.[52] State and local governments have taken the lead in exploring innovative solutions to some of the problems posed by abusive scheduling practices, including requiring some minimum hours of pay for workers who are called into a shift or premium pay for workers required to work particularly challenging schedules. Some have also protected workers' rights to request changes in their schedules at work, without fear of retaliation—as would be protected through the Flexibility for Working Families Act introduced by Senator Casey and Representative Maloney.[53] These State and local innovations suggest ways in which Federal law could promote fairer work schedules, which is particularly important for workers with caregiving responsibilities.

III. WOMEN EXPERIENCE PAY DISCRIMINATION, EVEN IN THE LOWEST PAID JOBS

The wage gap between women and men persists in nearly every occupation, and affects women across the income spectrum.[54] There are a range of unfair factors that contribute to the wage gap including: job segregation, and the fact that women-dominated jobs pay less than male-dominated jobs; the lower pay that women who are mothers face, as discussed above; and the fact that even when women are working in the same jobs as men, they are often still paid less.[55] The wage gap exists even in the lowest paid fields. In the 10 largest low-wage occupations, women working full-time were typically paid only 90.4 percent of what their male counterparts were paid each week—an average wage gap of 9.6 cents for every dollar earned by men.[56]

Latoya Weaver is one woman who experienced pay discrimination first-hand. She worked full-time as a Guest Services Representative at a hotel in Maryland, ultimately making $8.88 an hour.

In 2012 she was offered another job that would pay more, but she wanted to stay at the hotel so she asked for a raise to $9.50. Her manager turned her down because she said that the hotel was undergoing construction, so Weaver ended up taking the other job. During her time at the hotel, employees were told that they were not supposed to discuss their pay with each other. However, just before Weaver left the hotel for her new job she saw some papers that her manager left sitting out that showed that two men recently hired as Guest Services Representatives were each making $10 an hour. As a single mother of three children, being paid fairly would have made a huge difference to Weaver, who struggled to pay $100 out-of-pocket each week for child care. In order to finally get a job that would pay her more, she had to travel 45 minutes from her home.

The Equal Pay Act (EPA), along with Title VII of the Civil Rights Act, has helped to reduce pay discrimination, but the protection offered by the EPA is weakened by court decisions that have opened loopholes in the Act—including by allowing employers to escape accountability for pay disparities even when they are not related to business needs—and by the incomplete remedies the Act provides.[57] In addition,

too often wage disparities go undetected and thus unremedied because employers maintain policies that punish employees who voluntarily share lary information with their coworkers.[58]

The Paycheck Fairness Act, introduced by Senator Mikulski and Representative DeLauro, is a commonsense piece of legislation that would strengthen the EPA in a number of important ways by making it easier to identify and remedy discriminatory pay decisions, closing loopholes in the law, and providing incentives for employers to voluntarily comply with the law.[59] For example, the bill would prohibit retaliation against employees for discussing their pay; bring the remedies for equal pay violations in line with those available for other pay discrimination based on race or ethnicity by allowing plaintiffs who win their equal pay cases to recover compensatory and punitive damages; and tighten the defenses available to employers by requiring employers to provide a business justification for paying unequal wages.[60]

The Fair Pay Act, introduced by Chairman Harkin and Representative Holmes Norton, would address the devaluation of women's work simply because it is done by women.[61] The bill would ensure that female-dominated jobs receive the same pay as male-dominated jobs that require equivalent skill level, effort, responsibility and working conditions.

Title VII of the Civil Rights Act of 1964 outlined a fundamental promise—a promise that a woman's sex or race or ethnicity would no longer prevent her from having access to any opportunity in the workplace. Yet, the sort of biases that underlie all of these discriminatory practices that I've described today, and more, are really rooted in outmoded stereotypes about women. For example, the stereotype that women are not breadwinners and that families do not rely on women's income and women therefore do not need higher pay often underlies employer decisions to pay men more than women and to offer career-track, family-supporting jobs to men only. Women are also regularly confronted by the idea that women working particular jobs should just put up with harassment as a part of the job, and the idea that women cannot be productive workers and take care of their families at the same time. It is clear that a serious effort is still required to fulfill that promise and address the many remaining barriers to women's economic equality, especially for those in the lowest paid jobs.

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The CHAIRMAN. Thank you very much.

Ms. Legros, please tell us your story.

STATEMENT OF ARMANDA LEGROS, LOW-WAGE WORKER, JAMAICA ESTATES, NY

Ms. LEGROS. Good afternoon, Senators. My name is Armanda Legros. I live in Queens, NY, with my two young boys. It's just them and me, and I am the sole breadwinner for our family.

I worked for an armored truck company on Long Island for 2 years before I was pushed out of my job. I was 6½ months pregnant when I pulled a muscle in my stomach doing some heavy lifting at work. My doctor told me to avoid heavy lifting so I wouldn't hurt myself again. He was also concerned because I had a miscarriage a few months earlier. My manager took one look at the note and sent me home without pay, indefinitely.

The result was devastating. Having a child shouldn't mean losing your job. It should not lead to fear and financial dire straits. But the experience of having my son, without a paycheck, was one of the hardest for my family. I had no choice but to apply for public assistance.

When I was 8½ months pregnant, my health insurance was cut-off. Once my baby arrived, just putting food on the table for him and my 4-year-old was a challenge. I was forced to use water in his cereal at times because I could not afford milk. I was scared every time I looked in my empty fridge.

I'm doing my best to get back on my feet, but it's been really hard. I recently started a new job, but they only give me 17 to 18 hours per week and no benefits. I have to wait 6 months to be considered for full-time. I used to have some security in my job. I used to be able to support my family and myself. Now I worry what will happen if I get sick or my kids get sick. We simply can't afford it.

The lawyers at A Better Balance are working to defend and advance my legal rights. They have also inspired me to use my voice to seek fairness and justice for all women. That's why I'm here today. I implore you to stand up for women like me so we have an equal shot in the workplace.

The Pregnant Workers Fairness Act would help keep women healthy and earning a paycheck when they need it the most. And the workers in this country need paid sick days, family leave to care for a new child or a seriously ill family member. If you truly value families and children, then you have to make sure that the women who bear those children and raise them can earn the fair and equal wages we need to support them.

Thank you for this opportunity and thank you for listening.

[The prepared statement of Ms. Legros follows:]

PREPARED STATEMENT OF ARMANDA LEGROS

My name is Armanda Legros. I live in Queens, NY, with my two boys, Aveyl (age 4) and Ayden (16 months). It's just them and me—I am the sole breadwinner for our family.

I worked for an armored truck company on Long Island for 2 years before I was pushed out of my job. I was 6½ months pregnant when I pulled a muscle in my stomach doing some heavy lifting at work and had to miss the rest of the week recovering. My doctor told me to avoid heavy lifting so I wouldn't hurt myself again, and gave me a note to bring into work. My manager took one look at the note and sent me home without pay, indefinitely. He said I could only work if I had no restrictions—company policy. I knew this wasn't true: they had accommodated my co-worker who had injured his back on-the-job. The result was devastating.

Having a child shouldn't mean losing your job. It should not lead to fear and financial dire straits. But the experience of having my son—without a paycheck—was one of the hardest for my family.

I tried to get another job, but I was showing and could tell from the interviews that no one was going to hire me. I had to go 7 months without pay when I needed that income more than ever. My credit score dropped and I almost lost my apartment when I fell behind on rent payments. Even when I applied for emergency rental assistance, I didn't qualify because I didn't have any income coming in. My employer fought my unemployment benefits, and when they did finally arrive, it was still only a fraction of my original salary. I had no choice but to apply for public assistance. The experience was so draining. I almost fainted after waiting in line for hours. I actually fell to the ground. Thankfully, the stranger behind me was kind enough to help me up. I was desperate to leave but dreaded the thought of going back.

When I was 8½ months pregnant, my health insurance was cutoff. I couldn't afford the COBRA payments and had to apply for Medicaid for my prenatal care. Once my baby arrived, just putting food on the table for him and my 4-year-old was a challenge. I was forced to use water in his cereal at times because I could not afford milk.

I was scared every time I looked in my empty fridge.

I'm doing my best to get back on my feet, but it's been really hard. I had to apply for Medicaid for my kids, and have relied on food stamps to help feed my family. I started a new job in February but they only give me 17–18 hours of work per week, about $260/week. As a part-time worker, I don't get any benefits. And since I work in Nassau County, the New York City Paid Sick Time law does not protect me. If I got pregnant again and needed a modest accommodation to maintain a healthy pregnancy or recover from childbirth, the New York City Pregnant Workers Fairness Act wouldn't help me either. I have to wait 6 months to be eligible for a full-time position at my new job, which means it will be August 2015, at the earliest, before I could be entitled to Family and Medical Leave.

I used to have some security in my job. I used to be able to support my family and myself. Now I worry what happens if I get sick or my kids get sick. We simply can't afford it. I can't even afford childcare for both of my kids—care for them costs an entire month's paycheck.

I hate knowing this happens to other women in New York and all over the country, but I know it does. All the time. The lawyers at A Better Balance are working to defend and advance my legal rights—I shouldn't have been pushed out of my job for being pregnant and trying to do right by my family. They've also inspired me to use my voice to seek fairness and justice for all women—both in New York and nationwide. That's why I'm here today.

I implore you to stand up for women like me so we have an equal shot in the workplace. The Pregnant Workers Fairness Act would ensure that no expecting mother in America has to choose between her job and a healthy pregnancy. And workers in this country need paid sick days and family leave to care for a new child or seriously ill family member. If you truly value families, and children, then you have to make sure that the women who bear those children and raise them can earn the fair and equal wages we need to support them.

Thank you for this opportunity and thank you for listening.

The CHAIRMAN. Thank you for being here and telling us your story. We've got a lot of experts here today. You're the best expert.

Ms. Traub, please proceed.

STATEMENT OF AMY TRAUB, SENIOR POLICY ANALYST, DĒMOS, NEW YORK, NY

Ms. TRAUB. Thank you for the opportunity to participate today on behalf of Dēmos. Dēmos is a nonpartisan public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy, and economic security for women is an essential part of an economy where we all have an equal chance.

My testimony is going to focus on women in the retail industry, a major sector of the American economy and one that's projected to add more than a million jobs by 2022. I believe the experience of women working in retail illuminates many of the broader chal-

lenges facing women trying to earn a living throughout our economy.

Currently, 7.2 million American women work in the retail industry, and retail salesperson is the most common occupation in the country today. Yet the typical woman working this job earns just $10.58 an hour, a wage that keeps a family of three near poverty, even if the employee is able to secure enough hours for full-time work.

Erratic schedules, a lack of sufficient work hours, and a scarcity of basic benefits like paid sick days contribute to making hourly retail jobs insecure for American women, with serious consequences for their families and for our Nation as a whole. The reality is that women, who make up about half of the retail workforce, are disproportionately represented among low-wage retail workers and among retail's working poor.

At the same time, women still assume the majority of family caregiving responsibilities, meaning that it's disproportionately female retail employees who juggle care for children and other family members with the unpredictable and unstable work schedules that prevail for hourly workers in this industry.

I would like to say a few words about scheduling, in particular, because I think it's an under-appreciated problem. In an effort to optimize labor costs, retail employers increasingly use scheduling software to match workers' hours to the projected need for labor that day or even that hour. This just-in-time scheduling practice can have a highly detrimental impact on workers' lives.

Without a stable and predictable work schedule, incomes fluctuate and workers can't budget effectively. Ever shifting schedules mean working mothers can't plan childcare arrangements in advance. Efforts to move into a better paying job might also be blocked since pursuing education or training is more difficult with an ever-changing work schedule.

Attempts to take a second job to make up for inadequate income in the first job are similarly problematic. In fact, unstable and unpredictable schedules deprive working women of both income and opportunities to rise up.

There's good news, which is that the retail industry, like the rest of our economy, does not have to pay low wages and offer unstable schedules. For example, successful retail chains that we're all familiar with, like Trader Joe's Supermarkets and Costco Wholesale Clubs, invest in their workforce, provide stable schedules, and also offer low prices and solid business performance.

But, historically, we know that widespread change hasn't come mostly from voluntary actions like this from employers. Legislation raising the minimum wage, promoting equal pay, guaranteeing paid sick time and paid family leave, and strengthening women's right to band together and form unions is going to be critical to improving women's economic security in the retail industry and really beyond as well.

Thank you.

[The prepared statement of Ms. Traub follows:]

PREPARED STATEMENT OF AMY TRAUB

SUMMARY

My testimony will focus on women in the retail industry, a major sector of the American economy, and one that is projected to add more than a million new jobs by 2022.[1] Retail is one of the top industries employing women, and I believe that the experience of women working in retail illuminates many of the broader challenges facing women trying to earn a living throughout our economy.

Currently 7.2 million American women work in the retail industry.[2] According to the Bureau of Labor Statistics, retail salesperson is the most common occupation in the country today.[3] Yet the typical woman working in this job earns just $10.58 an hour: a wage that keeps a family of three near poverty, even if the employee is able to secure enough hours for full-time work.[4] Erratic schedules, a lack of sufficient work hours, and the scarcity of basic benefits like paid sick days contribute to making hourly retail jobs—not just for salespeople, but for cashiers, stockers, and other front-line positions—insecure jobs for American women, with serious consequences for their families and our Nation as a whole.

In many cases, hourly retail jobs are insecure positions for men in the retail industry as well, but the reality is that women, who make up about half of the retail workforce are disproportionately represented among low-wage retail workers and among retail's working poor. It's also the case that in retail—as in other sectors—a substantial wage gap persists between male and female workers doing the same job: the typical female salesperson, for example, is paid $4 less per hour than her male counterpart. Overall in sales and related occupations, women must work the equivalent of 103 days longer every year than their male co-workers doing the same job in order to bring home the same paycheck.[5] At the same time, women still assume the majority of family care-giving responsibilities, meaning that it is disproportionately female retail employees who must juggle care for children and other family members with the rigid, unpredictable, and unstable work schedules (often with insufficient hours) that prevail for hourly workers in the retail industry. In turn, these rigid and unstable work schedules also impose extensive social costs on the Nation in terms of poverty, public health, child well-being, and educational opportunities and outcomes for retail workers and their families. Low wages impose public costs as well, because families often must rely on public benefits, such as food stamps and Medicaid, to supplement women's income from retail jobs. In effect, taxpayers are subsidizing the labor costs of the Nation's largest and most profitable retailers.

The retail industry does not have to pay low wages and offer unstable schedules. For example, successful retail chains like QuickTrip convenience stores, Trader Joe's Supermarkets, and Costco wholesale clubs invest in their workforce while also offering low prices and solid business performance.

The recent decision by The Gap to significantly raise pay for its 65,000 U.S. retail employees[6] illustrates how a company can shift its business model to improve compensation. Even more striking are the steps recently taken by the Nation's largest retailer, Walmart, which recently improved scheduling and treatment of pregnant workers after years of organizing and strikes by its employees, as well as a lawsuit and shareholder resolution relating to conditions for pregnant workers.[7] The changed business strategies at these two major companies in the last year illustrate a growing recognition of the inadequacy of retail jobs and the potential for retailers to improve employment conditions when pushed by workers and political leaders. Women working in retail are consistently the biggest beneficiaries.

Chairman Harkin, Ranking Member Alexander, and members of the HELP Committee: I greatly appreciate this opportunity to speak to you about economic security for working women, particularly the experience of women in the retail industry. My name is Amy Traub and I am a senior policy analyst at Dēmos. Dēmos is a nonpartisan public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. Economic security for women—who make up half of America's workforce and contribute to the incomes of a majority of American households—is an essential part of an economy where we all have an equal chance.

My testimony this afternoon will focus on women in the retail industry, a major sector of the American economy, and one that is projected to add more than a million new jobs by 2022.[8] Retail is one of the top industries employing women, and I believe that the experience of women working in retail illuminates many of the broader challenges facing women trying to earn a living throughout our economy.

Currently 7.2 million American women work in the retail industry.[9] According to the Bureau of Labor Statistics, retail salesperson is the most common occupation in the country today.[10] Yet the typical woman working in this job earns just $10.58 an hour: a wage that keeps a family of three near poverty, even if the employee is able to secure enough hours for full-time work.[11] Erratic schedules, a lack of sufficient work hours, and the scarcity of basic benefits like paid sick days contribute to making hourly retail jobs—not just for salespeople, but for cashiers, stockers, and other front-line positions—insecure jobs for American women, with serious consequences for their families and our Nation as a whole.

In many cases, hourly retail jobs are insecure positions for men in the retail industry as well, but the reality is that women, who make up about half of the retail workforce (48.7 percent) are disproportionately represented among low-wage retail workers and among retail's working poor. It's also the case that in retail—as in other sectors—a substantial wage gap persists between male and female workers doing the same job: the typical female salesperson, for example, is paid $4 less per hour than her male counterpart. Overall in sales and related occupations, women must work the equivalent of 103 days longer every year than their male co-workers doing the same job in order to bring home the same paycheck. At the same time, women still assume the majority of family care-giving responsibilities, meaning that it is disproportionately female retail employees who must juggle care for children, ill family members, and elderly parents with the rigid, unpredictable, and unstable work schedules (often with insufficient hours) that prevail for hourly workers in the retail industry. In turn, these rigid and unstable work schedules also impose extensive social costs on the Nation in terms of poverty, public health, child well-being, and educational opportunities and outcomes for retail workers and their families. Low wages impose public costs as well, because families often must rely on public benefits, such as food stamps and Medicaid, to supplement women's income from retail jobs. In effect, taxpayers are subsidizing the labor costs of the Nation's largest and most profitable retailers.

The retail industry does not have to pay low wages and offer unstable schedules. Before I go into detail about the challenges facing women in low-paid retail jobs, I want to highlight some bright spots: cases where retail offers jobs that advance the economic security of working women. For example, retail expert Zeynap Ton notes in the *Harvard Business Review*, "highly successful retail chains—such as QuickTrip convenience stores, Mercadona and Trader Joe's Supermarkets, and Costco wholesale clubs—not only invest heavily in store employees but also have the lowest prices in their industries, solid financial performance, and better customer service than their competitors."[12] The recent decision by The Gap to significantly raise pay for its 65,000 U.S. retail employees[13] illustrates how even companies with a history of paying low wages can shift their business model to improve compensation. Even more striking are the steps recently taken by the Nation's largest retailer—Walmart—to upgrade its scheduling practices for hourly workers and improve its treatment of pregnant employees. Walmart improved scheduling and treatment of pregnant workers after years of organizing and strikes by its employees, as well as a lawsuit and shareholder resolution relating to conditions for pregnant workers.[14] While neither The Gap nor Walmart have taken sufficient steps to offer adequately paid, sustainable jobs to the workers who make their stores profitable, their changed business strategies in the last year illustrate both a growing recognition of the inadequacy of retail jobs and the potential for retailers to improve employment conditions.

My testimony explores the challenges to women's economic security in the retail industry in terms of wages and schedules; the public costs of the lack of economic security for women in the retail industry; and a discussion of the benefits of raising wages and improving schedules for women in the retail industry, including benefits for retailers themselves.

CHALLENGES TO WOMEN'S ECONOMIC SECURITY IN THE RETAIL INDUSTRY

Poverty wages for women in retail

5.5 million American women were classified as working poor in 2012, and millions more live just over the poverty level.[15] The retail industry is one of their leading employers, with 571,000 working poor women—one in every 10 working poor women in the Nation—employed in retail. 1.3 million women working in retail lives in poverty or near poverty (defined as within 150 percent of the poverty line). And with substantial job growth projected for the industry in the coming years, the Nation can expect hundreds of thousands retail jobs that pay wages too low to support a family if wages do not rise.

Retail jobs are a critical source of income for the families of women working in this sector. Approximately 93 percent of women working year-round in the retail industry are ages 20 and above, not teens looking for extra spending money, while 36 percent of them are raising children. Whatever the household composition, retail wages provide for household necessities. Four out of ten (39.5 percent) of women workers in retail contribute at least half of their family's total income. A large number of them—more than one in five—are the sole earner of their household. The lowest paid women in retail are even more likely to be supporting their households single-handedly.

The gender pay gap in retail is another major concern: in sales and related occupations, the typical woman is paid just 72 cents for every dollar made by the typical man. The impact of that pay gap reverberates beyond individual households to the larger economy: in 2012, lost wages to women mounted to an estimated $40.8 billion, with steep costs for female retail workers, their families, and the economy as a whole.

Scheduling problems for women in retail

Retail employees trying to work their way out of poverty face an obstacle that goes beyond low wages: the lack of sufficient work hours and predictable, stable schedules. If retail workers cannot secure enough hours of work each week, higher wages will not be sufficient to provide a decent standard of living and will fail to lift families out of poverty. In 2012, nearly 1 in every 5 women employed in low-wage retail jobs worked part-time hours despite wanting a full-time position. Some, although officially working as full-time employees, were simply not scheduled to work full hours every week, cutting into their incomes. These findings are consistent with the results of the CitiSales Study, a 2006 survey of more than 6,000 predominantly female employees of a large retail firm which found that 33 percent of full-time retail employees, and 43 percent of part-time employees would like to work more hours.[16] Our analysis of Census data suggests scarcity of work hours was not limited to small retailers with few workers on the payroll: among workers at the largest retail firms—which might seem to have greater resources to offer sufficient hours to employees eager for more work—the percentage of involuntary part-time workers was even higher than at smaller companies.

The problem of inadequate and unstable hours in retail is not limited to workers officially classified as involuntary part-timers: many women trying to balance their jobs with educational pursuits, family responsibilities, additional employment, or other commitments choose to work only part time. Yet rigid, unpredictable, and unstable work schedules threaten the economic stability of full and part-timers alike. Dēmos' 2011 report, "Scheduling Hourly Workers," documented the rise of just-in-time scheduling practices in retail and other service industries.[17] In an effort to optimize their labor costs, employers use scheduling software and measures of consumer demand such as floor traffic, sales volume, or weather conditions to match workers' hours to the projected need for labor on a daily or even hourly basis. The Retail Action Project's 2012 survey of New York City retail employees is one of the best sources of data on this growing industry practice.[18] According to the survey, only 17 percent of New York retail workers—and 10 percent of part-timers—had a fixed work schedule. For others, hours varied week to week or month to month, with 70 percent of workers reporting that they were notified of their schedule just a week in advance.

Without a stable and predictable work schedule, incomes fluctuate and workers cannot budget effectively. At the same time, low-income workers may lose eligibility for public benefits that supplement their incomes if they do not work the required amount of hours. Ever-shifting schedules mean working mothers cannot plan child care arrangements—meaning they may lose the opportunity to work a much-needed shift (or the job itself) if they cannot arrange last-minute child care. Efforts to move into a better-paying job may also be stymied, as pursuing education or training opportunities is made more difficult, if not impossible, by ever-changing work schedules. Attempts to take a second job to make up for inadequate income in the first are similarly unfeasible. In effect, unstable and unpredictable schedules deprive women in retail of both income and opportunities to rise up.

The rigidity of retail schedules poses a related problem. If workers are scheduled for a shift they cannot work, they may face disciplinary measures and a loss of income. The problem is exacerbated by the lack of paid leave, including time off for the inevitable illness. Less than half of workers at retail trade establishments are provided with any paid sick days[19] and it is disproportionately low-paid workers that lack this benefit. In a 2013 survey of low-wage workers in a range of industries, 14 percent of workers overall, and 19 percent of working mothers, reported having lost a job because they got sick or stayed home to care for child or parent.[20] For

women, who still disproportionately assume the majority of family caregiving responsibilities, a lack of paid sick time and paid family leave pose particularly serious risks of income loss and job loss.

PUBLIC COSTS OF THE LACK OF ECONOMIC SECURITY FOR WOMEN IN THE RETAIL INDUSTRY

Taxpayers subsidize retailers' payroll

Retail's most obvious public cost stems from large retailers paying their employees so little that workers and their families must rely on publicly funded benefits, such as food stamps, Medicaid, and the Earned Income Tax Credit, to make ends meet. With women employed by large retailers more likely to be in low-wage jobs and more likely to be raising families, this is a key issue for women in the industry.[21] A recent study by Americans for Tax Fairness estimates that the Nation's largest retail employer, Walmart, receives $6.2 billion annually in taxpayer subsidies in the form of benefits that supplement its low wages.[22] The research builds on a congressional study finding that employees at a single Walmart supercenter in Wisconsin rely on $904,542 to $1,744,590 per year in public benefits because Walmart does not pay enough to support a family.[23] While other retailers have not been analyzed as systematically, a review of State-level studies by Good Jobs First found that Walmart routinely leads the list of corporations whose payroll costs are subsidized by taxpayers, followed by other large retailers such as Target, Kroger, and Home Depot, as well as fast food companies, nursing homes, and meat processors.[24] Absent a wage increase or other policy change, the taxpayer bill for subsidizing the labor costs of the Nation's largest and most profitable retailers will continue to increase as the low-paid retail workforce grows.

The public health costs of low wages and rigid, unstable schedules in retail

A growing body of research illustrates how low wages and unstable schedules contribute to public health crises such as the obesity epidemic that impose steep public costs.[25] Special concerns arise for female workers when they are pregnant or their children are young. For example, pregnant employees may be unable to safely carry out typical retail tasks such a climbing ladders to bring down merchandise, lifting heavy boxes, using harsh cleaning chemicals, or even standing on their feet for prolonged periods. Yet as a recent lawsuit and shareholder resolution at Walmart vividly illustrated, some retailers refuse to accommodate pregnant workers with light duty, potentially imperiling their pregnancy, or pushing them to take unpaid leave they cannot afford.[26] The lack of paid maternity leave is a related problem. Just 5 percent of workers in retail trade establishments are offered paid leave to care for a new baby,[27] increasing the financial pressure on low-income mothers to return to work very soon after birth. This too has a public health consequence, as short leaves at pregnancy are associated with higher rates of infant mortality, lower birth weight babies, and shorter duration of breast feeding.[28]

As children grow up, last-minute unpredictable work schedules make it difficult to set up doctor's appointments. As noted earlier, less than half of workers in retail have access to paid sick days, increasing parents' risk missing regular infant and childhood medical check-ups and immunizations. Because mothers are more likely to be the parent taking their children to the doctor, female workers and their families are disproportionately affected. The lack of paid sick days also increases the risk that retail workers will go to work (and their children will go to school or daycare) while sick, potentially spreading the flu or other communicable diseases to customers and contributing to outbreaks. If large retailers shifted to offer paid sick days and more stable schedules, they could contribute to significant public savings: the Institute for Women's Policy Research calculates that 1.3 million hospital emergency department visits could be prevented in the United States each year if businesses of all kinds provided paid sick days to workers who currently lack access, reducing medical costs by $1.1 billion annually, with over $500 million in savings for public health insurance programs.[29]

Low wages and unstable schedules in retail block opportunity for the next generation

Beyond public health, the unpredictable and inflexible schedules associated with retail and other low-wage work hinder parents from participating in their children's education and development, constraining opportunity for the next generation of Americans and entrenching economic inequality. No matter how much they want to, women working the unstable schedules common in the retail industry may not be regularly available to help children with homework, attend parent-teacher conferences or other school events, or otherwise have sustained involvement in their child's education. Indeed, an analysis of the American Time Use Survey finds that low-wage women working non-standard schedules spend less time with their fami-

lies—particularly with school-age children—than those working standard schedules.[30] The study also notes that retail is among the top industries employing workers with non-standard schedules, defined as work before 6 a.m. or after 6 p.m. or on the weekends. Researchers at New York University examined the consequences of this time deficit, finding that low-income parents working changing shifts at non-standard hours were more likely to have children with behavior problems at school and lower school performance as reported by teachers.[31]

Retail's low wages are also an impediment to opportunity for children, with potentially devastating consequences for their future life chances. Children of low-income parents are seven times more likely to drop out of school than are higher income youth[32] and are far more likely to become parents in their teen years.[33] Young people whose parents hold low-wage jobs are more likely to become "disconnected youth" in their post-high school years, neither working nor pursuing education or training.[34] Considering the tremendous societal loss, researchers at the University of Massachusetts note, "the effects of non-high school completion are profound . . . lifelong income loss, diminished health, and more likely reliance on publicly funded services results in considerable societal expense. Yet, arguably, the greatest cost to society is the loss of talents, abilities, and affiliation of millions of young people."[35]

And yet, a different path is possible. Based on his studies of low-income working parents in Milwaukee, Harvard professor Hirokazu Yoshikawa observes that "a work trajectory that's characterized by full-time work with wage growth over the period of the 2-years resulted in increases in children's school performance and reductions in their acting out behaviors . . . positive work experiences that result in increases in income over time . . . can help actually improve children's school success."[36] By investing in stable careers for the women working in its stores, the retail industry can make a positive difference for the next generation.

Low wages and unstable schedules in retail combine with high pay at the top to fuel inequality

The United States has seen a highly unbalanced economic recovery, with the Nation's highest earners pocketing nearly all of the economic growth since the Great Recession, and the top 10 percent taking home their greatest share of income in recorded history.[37] This growing concentration of income at the top, combined with a wave of strikes and protests by low-wage workers—including retail workers employed by Walmart—has brought renewed attention to the corrosive effects of inequality. And retail is among the most unequal sectors of the economy.

In 2012, CEOs in the retail industry earned 304 times the annual income of the average retail worker—among the highest CEO-to-worker ratios of any sector in the economy in any year since 2000.[38] Over the years between 2000 and 2012, the only economic sector with greater average pay disparities than retail is accommodations and food services. And the trend is worsening: after dipping briefly during the Great Recession, pay disparities in retail have grown since 2009, nearly recovering their pre-Recession peak. This mounting inequality has a gendered face: while women make up more than half of the retail labor force at large firms, they account for just 1.8 percent of retail CEOs in the Fortune 1000, according to Catalyst.[39]

The growing inequality fueled by retail and other low-wage industries has far-reaching effects on our society. Increasingly, research shows that inequality is associated with slower economic growth and volatility, as well as social instability and declines in the quality of health and education.[40] At the same time, studies suggest that inequality undermines our democracy, as political decisionmaking increasingly reflects the policy preferences of major political donors with substantially different priorities than the voting public.[41] Of course, no single industry caused this damage on its own or can fix it single-handedly. Nevertheless, as the employer of 1 in 10 working Americans—and 1 in 10 working poor women—raising wages and improving schedules in the retail industry would be a significant step toward reducing inequality and the harms it causes throughout society.

THE BENEFITS OF RAISING WAGES AND IMPROVING SCHEDULES FOR WOMEN IN THE RETAIL INDUSTRY

In Dēmos' forthcoming paper on women in the retail industry, we model the effects of a wage increase to $12.25 an hour (the equivalent of $25,000 a year for a full-time worker) at large retail companies. We look at costs to retailers, the price increase for consumers, and the impact on the Nation's gross domestic product and job creation. We also consider the impact of improved scheduling practices such as providing work schedules further in advance, guaranteeing workers a consistent number of hours, and giving workers opportunities to swap shifts, cross-train for different positions, or work in different store locations, ensuring that both employee and employer scheduling needs are met. While the numerical results of that study

are not yet available, this section discusses the evidence for the benefits of raising wages and improving schedules for women in the retail industry.

Improving wages and schedules for women in retail would benefit the economy

Families living in or near poverty spend close to 100 percent of their income just to meet their basic needs, so when they receive an extra dollar in pay, they spend it on goods or services that were out of reach before. This ongoing need makes low-income households more likely to spend new earnings immediately—channeling any addition to their income right back into the economy. High-income households, in contrast, put a larger portion of their money into long-term investments such as retirement savings that do not factor into consumer demand.[42] Because spending patterns differ widely across income groups, investments that enhance the budgets of low-income households have a greater impact on the economy than money given to those at the top. For example, the economic stimulus payments of 2008 increased spending among low-income households far more than higher earners, with a substantial portion of the new purchases going toward durable and non-durable retail goods.[43] Increasing the purchasing power of low-income households is good economic policy during a period of flagging demand. By raising the floor of large chain retail wages, these businesses can provide a private sector stimulus without depending on the government to enact the change.

The amount of economic activity generated by a wage raise is determined by what economists refer to as the multiplier. The multiplier indicates how many times a new dollar will circulate in the economy before its amplifying effects fade away. When a worker receives a raise, she will have additional money to spend—that spending becomes someone else's new income, either the business owner where she makes a purchase or the worker at the store who gets more hours or more money when business is good. Multipliers differ depending on where the dollar appears in the economy; if low-income households have an extra dollar to spend the multiplier is higher than if that dollar goes to high-income savers. A transfer of purchasing power to low-wage workers will boost economic activity to the degree that the multiplier forecasts ripple effects across consumer spending.

In order to predict how a raise for employees at large retail firms will impact the economy, we incorporate both the positive effect of the multiplier on household spending and the potentially negative effect on the balance sheet of employers. Firms can either pay for the wage raise out of profits, pass on the cost of the additional wage bill to consumers through higher prices, or combine both tactics to cover the cost. The extent to which retail employers will place the burden of higher wages on their customers is unclear. Research on the relationship between prices and the minimum wage focuses entirely on the fast food industry and presents mixed results.[44] But there is reason to believe that firms will pass-through less than 100 percent of the cost. That is because the new minimum produces gains to the firm that offset part of the cost before either profits or consumer spending have to make up the difference.

Employers that invest in their labor force are better able to hang on to their best, most experienced workers, increasing operational efficiency and cutting down on the costs of labor turnover. The differences can be dramatic. One study from the Wharton School of Business found that a $1 increase in payroll at retailers leads to an additional $4 to $28 in sales each month, with a 25 percent rise in payroll generating 2.6 percent more in sales.[45] Revenue grows because well-paid, experienced employees are better able to provide the essential services that customers need—with knowledge of inventory, products, brands, and prices—and satisfied customers spend more money in the store.[27] The benefits of the new wage floor appear on the balance sheet as profits, mitigating a part of the wage bill so that customers and firms take on only the remaining part of the cost. A raise for retail wages is an investment in the labor force, increasing productivity and translating to lower costs and higher sales for the firm, and negating a portion of the wage bill before it ever reaches consumers.

Higher wages and better schedules lead to higher sales

The reality is that large retail firms won't have to cover the entire wage bill or cost of improving scheduling because these improvements to retail jobs have the potential to pay for themselves, at least in part. A large body of research shows that paying higher wages in the retail sector results in greater productivity and higher sales. Zeynep Ton, an expert on the retail sector at MIT, has shown that businesses that make an investment in their retail workforce find that well-paid, knowledgeable, and experienced employees can be a driver of sales, rather than costs.[46] Paying for high quality workers who can answer customer requests and identify priorities

meets the long-term goals of the business, as opposed to simply satisfying short-term cost minimization.

Ton's close study of retailers like Home Depot and the defunct Borders bookstore chain leads to similar conclusions about scheduling: retailers' efforts to precisely match labor supply to consumer traffic often fall short because just-in-time scheduling strategies fuel employee turnover, absenteeism and tardiness. This means that despite sophisticated scheduling software, retailers "don't know who will quit, who will be late tomorrow, and who just won't bother to show up."[47] Finally, Ton concludes that a misguided effort to cut labor costs leads many retailers to under-staff their stores, losing sales and passing up profits. Missed sales opportunities could be recaptured if, for example, retailers drew on the pool of more than 1 million women working part-time retail jobs who report wanting full-time hours.

Ton's findings are supported by other research on the performance of retail firms. For example, the CitiSales study conducted by researchers at Boston College and the University of Kentucky finds that giving retail employees more control over their work schedules optimizes recruitment among the hourly workforce, boosts retention of key talent, promotes employee productivity, engages employees, cultivates quality customer service, and reduces costs associated with turnover.[48] Researchers have also compared Costco, a high-wage retail employer that guarantees employees a set number of hours per week, with its warehouse club rival, low-wage employer Sam's Club, revealing a substantial payoff to paying fair wages and offering stable schedules: sales per employee at Costco are nearly double the average sales per employee at Sam's Club.[49] Across the retail sector higher payroll levels and more stable schedules are associated with customer satisfaction, which translates to more money in the register.

CONCLUSION

The retail industry has tremendous potential to offer good, family sustaining jobs to the 7.8 million American women projected to work in the industry in the next decade. To realize this potential, and advance women's economic security, retailers must raise wages and improve scheduling policies for their workforce. Recent movements toward increasing pay at the Gap and improving schedules at Walmart have been encouraging, but broad change is likely to occur only as a result of legislation. Legislation to increase the minimum wage, strengthen the Equal Pay Act, facilitate union organizing, and guarantee a minimum number of paid sick days and paid family leave would enhance the economic security of women in the retail industry and throughout the economy. Congress should also consider the models offered by State laws on reporting pay, which compensate employees for a minimum number of hours during a work shift for which they have been scheduled.

ENDNOTES

1. The Bureau of Labor Statistics projects that the retail industry will employ approximately 16 million Americans by 2022, a number of private employees exceeded only by health care and social assistance (22 million workers) and professional and business services (21 million workers). See The Bureau of Labor Statistics, "Employment by major industry sector, 2002, 2012, and projected 2022," 2013. *http://www.bls.gov/news.release/ecopro.t03.htm*.

2. Bureau of Labor Statistics Current Population Survey March Supplement, 2012.

3. Bureau of Labor Statistics, "Occupational Employment and Wages, May 2013" 2014. *http://www.bls.gov/news.release/pdf/ocwage.pdf*.

4. Bureau of Labor Statistics Current Population Survey March Supplement, 2012.

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The CHAIRMAN. Thank you, Ms. Traub.

Ms. Pelletier.

STATEMENT OF LORI PELLETIER, EXECUTIVE SECRETARY-TREASURER, CONNECTICUT STATE FEDERATION OF LABOR, ROCKY HILL, CT

Ms. PELLETIER. Thank you, Senator Harkin, Senator Alexander, Senator Mikulski and, if I may, Senator Murphy from Connecticut.

My name is Lori Pelletier, and I'm the executive secretary-treasurer of the Connecticut AFL–CIO. Today, I have the honor of being here representing what is the largest women's organization in the Nation with 6.5 million working women of the AFL–CIO.

I think that our point here is exactly what Senator Alexander talked about in his opening remarks about jobs and about flexibility, and that jobs need to pay. We have a consumer-driven economy, and so the more that people make, the more money they can put into the economy and spend, and more jobs are created. If we are looking to create more low-wage jobs, again—and we wonder why our economy may sputter.

As far as flexibility goes, I will say to you that the best flexibility is a collective bargaining agreement, when both sides can come to the table and decide on what's important, what needs to be looked at, issues like family medical leave that first of all was passed in Connecticut over 20 years ago and brought to this august body by then-Senator Chris Dodd.

The flexibility—as a member of the Machinist Union, a rank and file member at the time, when we were trying to implement the family medical leave in our shops, it was very helpful that as a union representative, I could sit down with the employer and try to figure out how this was best implemented.

The idea that since the 1970s, the pay equity problem is becoming more and more rampant, also goes hand in glove with the fact that the labor movement has also been in decline and has gotten worse as far as the percentage of the workforce. Again, I'm honored to be here today. I'm thrilled to be able to answer any questions you have, and thank you for the opportunity.

[The prepared statement of Ms. Pelletier follows:]

PREPARED STATEMENT OF LORI PELLETIER

Good morning, my name is Lori Pelletier, and I am president of the Connecticut AFL–CIO. As a woman in the labor movement, I know 6.5 million women stand with me everyday. We're the largest working women's organization in the country.

I want to focus on the importance of unions and collective bargaining for the economic security of women. I also want to explain why we in the labor movement are among the strongest supporters of labor standards like the minimum wage and paid sick days and the Family and Medical Leave Act (FMLA), and why we believe so strongly in the funding of agencies that enforce our labor standards.

There has been a lot of attention given lately to the growth of economic inequality and the stagnation of workers' wages since the late 1970s. One important reason why wages have stagnated is that the percentage of workers who belong to unions is a lot lower now than it was then. The decline of unions has had a bigger impact on men's pay than on women's, but it also had a big impact on women. About one-fifth of the growth of wage inequality among women workers from 1973 to 2007 was because of the decline of unions.

Unions today continue to be critical to the economic security of working women and their families, who still face an uphill battle in the workplace. What we are seeing in Connecticut is more and more jobs moving offshore and being replaced with lower paid jobs without benefits, and this puts women's economic security at risk.

When women are protected by a mutually agreed upon collective bargaining agreement, it gives them an important weapon to combat the undermining of their economic security. Collective bargaining raises women's wages by 12.9 percent, and the union difference is even higher for African-American women, Latino women, and women who have immigrated recently.

The union difference is especially pronounced for women who have less formal education, and for women workers in low-wage industries. In the retail food industry, where women workers are now the majority, unionized women workers earn 31 percent more than their non-union counterparts.

Collective bargaining is one of the best solutions for gender discrimination because a union contract sets standard rates for different positions. As a result, the gender pay gap for workers covered by a union contract is much smaller—91 cents on the dollar—than for non-union workers. As women become the majority of the workforce, it is even more important for them to join together collectively to protect themselves and their families.

Collective bargaining also gives women workers more economic security by increasing their chances of having employer-provided health insurance and pension benefits. The share of women workers who have employer-provided health insurance is 18.4 percentage points higher for union women, and the share of women workers who have an employer-provided retirement plan is 22.8 percentage points higher.

Two other ways that collective bargaining helps union workers are paid family leave and short-term disability benefits. Union workers are more likely than non-union workers to have both.

Finally, collective bargaining levels the playing field when it comes to training and opportunities for advancement. When employers offer training programs, often one big issue is whether child care and elder care will be available for workers who want to participate. Without this training, women workers may be put in the position of not being qualified for a promotion, which hurts them and their families. But the availability of child care and elder care is the kind of thing you can negotiate collectively through the union.

I've seen the same kind of productive and fruitful bargaining when it comes to implementation of legislation passed by Congress. Take for example the Family and Medical Leave Act, the FMLA. When it came time to implement the FMLA, collective bargaining made things so much simpler for the workers, for management, for everybody. When we hit bumps in the road, we were able to smooth them out through the union. And when it came time to educating our members about how the new law worked, well, that's one of the things the union does best. Everybody benefits from that.

Speaking of which, I want to say just a few words about labor standards legislation. We believe legislation and collective bargaining go hand in hand. One of the best ways for unions to protect our members is by working with our representatives to pass legislation. We in the labor movement have always been among the strongest supporters of increasing the minimum wage, paid sick days, and paid family and medical leave, and we always will be.

In Connecticut we were the first State in the country to pass legislation requiring paid sick days. That would not have happened without the labor movement. Our members are not the main beneficiaries, but we understand that everybody does better when everybody does better.

In the Connecticut General Assembly, we also a have a task force working on paid family and medical leave. The FMLA was a giant step forward, but too many workers can't afford to take FMLA leave.

We in the labor movement strongly support an increase in the Federal minimum wage to $10.10. We understand that women are over-represented in low-wage occupations. Almost a quarter of women workers would benefit from an increase in the minimum wage, and that more than half the workers who would benefit are women.

We also understand the importance of raising the minimum wage for tipped workers, such as restaurant servers, bartenders, and hairstylists, which has not been raised since 1991. Almost three quarters of tipped workers are women. Tipped workers are paid 40 percent less than other workers, on average, and they are twice as likely to be poor.

I hear people in the business community complain about these labor standards and demand less regulation because they say the "free market" will take care of things. But what that boils down to in reality is a lower paid, less safe, and a more exploitable workforce. It's the role of government to ensure that people are protected and are not treated like the property of the business owner.

By claiming "government doesn't work" and then gutting the budget of enforcement and protection agencies because they represent "big government," they are making sure government doesn't work as well as it should. They are rendering these agencies powerless. Employers in Connecticut know that the chance of an OSHA audit are very low, and an inspection by a State DOL wage and hour investigator is not likely to happen.

So I just want to put in a good word for the funding of enforcement agencies. When Congress passed the Fair Labor Standards Act (FLSA) in 1938, there was one wage and hour investigator for every 11,000 workers. By 2007, there was only one investigator for every 164,000 workers. In 1980 there were about 50 percent more investigators per employee than there are today.

One way for workers to be protected in the workplace is when the employer is responsible and treats people with dignity and respect. But in my experience this is often not the case. That's why collective bargaining and legislation and enforcement are so important for women workers.

The CHAIRMAN. Thank you, Ms. Pelletier.

Ms. Troy.

STATEMENT OF GAYLE E. TROY, SPHR, HUMAN RESOURCE MANAGER, GLOBE MANUFACTURING COMPANY, LLC, PITTSFIELD, NH

Ms. TROY. Good afternoon, Chairman Harkin, Senator Alexander, and other Senators. Thank you for inviting me to be here today. My name is Gayle Troy. I'm the Human Resources Manager for Globe Firefighter Suits—that's our trade name—in Pittsfield, NH. I'm pleased to be here to represent the Society for Human Resources Management, or SHRM, of which I've been a member for 28 years.

This topic is particularly relevant to Globe. Our workforce is 71 percent female, so it's very important to us. We are the world's largest manufacturer of firefighters' protective clothing. We produce over 100,000 garments per year for firefighters in more than 80 countries, including approximately one-third of the gear sold here in the United States. I'm especially proud to say that our products helped to clothe and protect many of the brave first responders on and after September 11th.

Ensuring that Globe is a great place to work is very important to our company owners. One of the best ways we support our workforce is by helping our employees with work-life fit through our flexible hours program. This program allows our non-exempt employees, almost all of them—about 90 percent of our employees are non-exempt—to choose their start time, between 6 a.m. and 8 a.m., and to end their work day eight and a half hours later, between 2:30 p.m. and 4:30 p.m. Interestingly, most of those people, about 80 percent, have chosen the 6 a.m. to 2:30 p.m. shift, likely to maximize time with their families.

In addition, Globe instituted a new approach to paid time off in response to high turnover rates, especially among new employees. Our new flexible approach to paid time off is known as Globe Time Off or GTO. Under GTO, non-exempt employees receive 12 days off per year to use for any purpose, meaning the time could be used to care for a sick child or for the employees themselves, to run errands, or as a vacation day. Six of these days are paid, and six are unpaid, and any unused paid time is given as a bonus at the end of the year.

All these practices are voluntary. We're not required to offer these benefits. But we do because they work well for our employees and help us attract and retain the best people.

Because one-size-fits-all mandates limit employer flexibility and innovation, pending legislation such as the Healthy Families Act actually could curtail leave flexibility. Life cannot always be divided between sick and vacation buckets. Sometimes an employee needs to chaperone a school trip or they need to renew a driver's license. Are these examples of sick time or vacation time? Requiring employees to use leave for very specific reasons does not pro-

vide the flexibility valued by employees in meeting their work-life needs.

Mr. Chairman, thank you for the opportunity to share Globe's story and the impact new Federal leave mandates would impose on employers. SHRM remains committed to working with the committee to ensure that employers can continue to provide workplace flexibility to employees in a manner that does not threaten existing benefits or create unnecessary and counterproductive regulations.

Thank you again for allowing me to share my views, and I welcome any questions.

[The prepared statement of Ms. Troy follows:]

PREPARED STATEMENT OF GAYLE E. TROY, SPHR

INTRODUCTION

Good afternoon Chairman Harkin, Ranking Member Alexander, and distinguished Senators. My name is Gayle Troy, and I am the Human Resources Manager at Globe Manufacturing Company, LLC at our company headquarters in Pittsfield, NH. I am pleased to appear before you today on behalf of the Society for Human Resource Management (SHRM). Thank you for this opportunity to participate in this roundtable discussion.

SHRM is the world's largest association devoted to human resource (HR) management. Representing more than 275,000 members in over 160 countries, the Society serves the needs of HR professionals and advances the interests of the HR profession. Founded in 1948, SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates.

By way of introduction, I have been a SHRM member for nearly 28 years, and have twice served in a volunteer leader role as President of the Human Resources Association of Greater Concord, my local chapter of SHRM. I have 32 years of experience as an HR professional, including 28 years working in human resources for Globe. With 424 employees across four States including Oklahoma, Virginia, and Maine, today Globe is the world's largest manufacturer of firefighters' protective clothing, producing over 100,000 garments (coats or pants) every year in more than 80 countries, including approximately one-third of all garments sold in the United States.

Globe opened in 1887 in Lynn, MA and was moved to Pittsfield, NH, in 1901. Business operations and manufacturing continue today from this small New Hampshire town and the business is currently owned and managed by the fourth generation of the Freese family. The owners live locally so they tend to meet our employees everywhere—at the grocery store, the movies, or the motorcycle rally. It is extremely important to the owners to know that they are offering their employees a quality place to work.

In order for my company to be an employer of choice, remain competitive and promote economic security, Globe actively works to create an environment that encourages employee development and retention. At Globe, we focus on employee retention by frequently connecting our employees to our mission. For example, firefighters will occasionally visit the company and share how their lives were saved by the gear produced by employees. During these visits, our team gathers in the cafeteria to meet these professionals, examines the remains of the garments, and asks questions. One firefighter brought a letter "written" by his toddler-aged daughter, thanking us for saving her Daddy so he could go in the pool with her—a moment none of us will ever forget.

In addition, we are diligent about promoting from within the organization. Our two most senior production managers (each with more than 40 years of service) both started as front-line workers. Each of them was eager to learn, and took the bold step of asking for more responsibility. Neither has formal education beyond a high school diploma, but both are absolutely star performers for the company.

In my testimony, I will share with you how Globe's rich benefits and workplace flexibility practices promote economic security, describe the merits and challenges inherent in both current and proposed Federal leave mandates, reveal recent SHRM research on employer practices, offer SHRM's workplace flexibility policy recommendations to Congress and discuss SHRM's effort to educate HR professionals about the importance of effective and flexible workplaces.

PROMOTING ECONOMIC SECURITY THROUGH WORKPLACE FLEXIBILITY

The purpose of today's roundtable is to discuss ways to promote economic security for working women across our country. This topic is particularly relevant and important for Globe's workforce which is made up of 71 percent women.

As I mentioned earlier, ensuring Globe is a great place to work is very important to the owners. As such, we are a company that invests in our people, by focusing on recruiting, retaining, and advancing our skilled workforce. We have found that one of the best ways to retain talented and dedicated employees is to create an effective and flexible workplace, with generous benefits and innovative workplace flexibility policies. At Globe, our employees are treated like true professionals with more control over their work time and schedules, which helps improve engagement and morale, increases productivity, retains top performers, and, ultimately, improves business performance.

Our workplace flexibility practices help meet the work-life needs of our workforce while also ensuring business operations continue. In other words, our policies and programs work for both our employees and for our company. As a small company, Globe is creative in providing employee benefits and flexible work strategies. These employee benefits have contributed to our company's 93 percent employee retention rate. Higher employee retention leads to greater economic security and stability for our workforce. Organizations like ours want to be able to continue to manage our workplace in ways that work for our company culture and that help us meet our business objectives, including our financial sustainability.

Below I have outlined some of Globe's total rewards offerings that help ensure we are an employer of choice. These include:

• **Flexible Work Hours**—Offering flexible work hours is one of the best ways we help employees meet their work and life obligations. Our Flexible Hours program allows most non-exempt employees to choose their start time between 6 a.m. and 8 a.m. and correspondingly, to end their workday 8.5 hours later, between 2:30 p.m. and 4:30 p.m. Employees may choose to change their start and end times at any time as long as they have their supervisor's approval. Interestingly, almost 80 percent of eligible employees have chosen the 6 a.m. to 2:30 p.m. shift. I believe many employees choose this shift to maximize time with their families.

• **Globe Time Off (GTO)**—Globe instituted a new approach to paid time off in reaction to high turnover rates, especially with our new employees. In order to keep the best talent, we developed a comprehensive package of benefits, which included a flexible approach to paid time off, that we termed, "Globe Time Off." Under the Globe Time Off program, non-exempt employees (90 percent of our workforce) receive 12 days off per year to be used for any purpose. The time could be used to care for a sick child or for the employees themselves, to run errands, or as a vacation day. Six days are paid, and 6 days are unpaid. Any unused paid time is paid as a bonus at the end of the year.

• **Paid Vacation Days**—In addition to GTO, Globe offers 10 to 20 paid vacation days, depending on length of service. Any unused vacation time is paid as a bonus at the end of the year.

• **Paid Leave Days**—In addition to the GTO program and paid vacation days mentioned above, Globe offers additional paid-time-off policies important to our workforce. For example, we remove some of the disincentives associated with blood donation by ensuring workers continue to be paid while traveling to and from the donation site. As a manufacturer of firefighter suits, we believe it is important to offer Volunteer Firefighters Time, allowing for unlimited paid time off during working hours to respond to fires and other serious emergencies in our community. To further incentivize employee advancement and growth, we offer paid time (at half their regular rate) for employees to attend classes to become certified as a firefighter and we provide paid time provisionally for disaster relief in other areas of the country. Additionally, we provide unlimited time off at full pay for jury duty and for time spent in criminal cases where the employee is a crime victim or if the employee is a witness to a crime and is called upon to testify. All employees receive 10 paid holidays as well.

• **Disability**—Our short-term disability program is paid 100 percent by the company and provides 70 percent of regular pay for up to 26 weeks in a 2-year period. Our long-term disability program is also paid 100 percent by Globe; it begins after 26 weeks and continues as needed.

• **Equipping Our Workers**—At Globe, we want to ensure that our employees have the tools needed to be safe and successful in the workplace. That is why we provide a shoe allowance of $75 per year to spend on appropriate footwear for employees whose jobs require them to stand or walk for most of the day. In addition, the company provides all general safety equipment; however, if an employee prefers

to purchase prescription safety glasses, the company will reimburse 50 percent of the cost, up to $150, every 2 calendar years.

• **Employee Well-Being**—Globe offers high-quality health care to our employees, contributing 87 percent toward the single health insurance plan and 81 percent of the family health insurance plan. In addition, we provide dental insurance and Flexible Spending Accounts (FSA), which allow employees the opportunity to set aside pre-tax dollars to pay for medical expenses not covered by their health insurance. In order to encourage participation and promote employee well-being, Globe contributes $100 to the FSA for each employee who participates. Another way Globe encourages employee health and well-being is through our smoking cessation program. When an employee is smoke-free for 1 year, our company pays half of the smoking cessation program and the employee is taken to a celebratory lunch by the three company owners.

• **Employee Financial Health**—Promoting long-term economic security through competitive pay and a variety of retirement and profit-sharing tools is a major component of our compensation package. Globe provides an array of retirement tools to help our employees and their families prepare for the future. Through Globe's 401(k) plan, the company matches 50 percent of our employee's contributions up to 6 percent and offers a 3 percent company contribution.

Mr. Chairman, these offerings, whether employee benefits or workplace flexibility strategies, are intended to improve employee engagement and retention while improving business results. All of these practices I described are voluntary. We are not required to offer these benefits at Globe, but we do because they work well for our employees and help us attract and retain the best people. However, if Globe's benefits were forced onto another employer in New Hampshire, or across the State or the country, these benefits might not work as well in meeting the business needs of the organization and the personal needs of its employees. What works at one company may not be appropriate for another organization's culture, business structure or industry.

THE FAMILY AND MEDICAL LEAVE ACT?

To date, the Family and Medical Leave Act (FMLA) is the only Federal statute that mandates employee leave. While SHRM supports the spirit and intent of the Act, it is an example of a well-intended Federal employment law that has had unexpected consequences and burdensome administrative requirements.

As you know, Mr. Chairman, the FMLA provides unpaid leave for the birth, adoption or foster care placement of an employee's child, as well as for the "serious health condition" of a spouse, son, daughter, or parent, or for the employee's own medical condition. The Act also provides specific protections for employees who have family members that have been called up to serve on active duty in the military, and for employees to take care of a covered service member who has suffered an injury or illness incurred in the line of duty.

From the beginning, HR professionals have struggled to interpret various provisions of the FMLA. What began as a fairly simple 12-page document has become 200 pages of regulations governing how the law is to be implemented. This is the result of a well-intentioned, but counterproductive attempt to anticipate every situation in every workplace in every industry—without regard for the evolving and diverse needs of today's workforce or the new operations and technologies that organizations employ to stay competitive. For example, one of my human resources staff members has estimated that she spends up to 65 percent of her time on FMLA compliance work. In my office, there are only three of us, so that accounts for one-fifth of my team.

Vague FMLA rules mean that practically any ailment lasting 3 calendar days and including a doctor's visit now qualifies as a serious medical condition. Unfortunately, if the doctor has written the certification without great care, the employer has little to no recourse. Although Congress intended medical leave under the FMLA to be taken only for truly serious health conditions, sometimes I'm concerned that employees use this leave to avoid coming to work. This behavior is damaging to employers and fellow employees alike.

At Globe, our challenges with the FMLA center on the definitions of a serious health condition, intermittent leave, and medical certifications. In particular, Globe has struggled with intermittent leave for episodic conditions. Intermittent leave means that employees can basically be absent from work on any random day as long as it fits the parameters given by the medical provider. Currently, more than 10 percent of my workforce could be out on any given day. A few years ago, 25 percent of our workforce could be out on any given day. When large segments of your em-

ployee population can take this time off, without much advance notice, production and output is negatively impacted.

PROPOSED LEAVE MANDATES

Congress's examination of proposals to help employees navigate their work-life needs should focus on encouraging or incentivizing employers to voluntarily adopt workplace flexibility offerings that work for the organization and the employees, not on additional, rigid mandates.

For example, the one-size-fits-all mandate contained in S. 631, the "Healthy Families Act" (HFA) raises serious concerns. The bill would require public and private employers with 15 or more employees to provide 56 hours—effectively 7 days—of paid sick leave annually to each employee. Employees who work for 20 or more calendar workweeks in the current or preceding year would be eligible for HFA leave.

If organizations are required to offer paid sick leave as envisioned in the HFA, they will likely absorb this added cost by cutting back or eliminating other employee benefits, such as health or retirement benefits, or forgo wage increases. Keep in mind that many employees may prefer higher wages or other benefits over receiving more paid sick leave—yet another way the HFA's one-size-fits-all approach will not meet the needs of all employees.

SHRM believes the Federal Government should encourage paid leave—without creating new mandates on employers and employees. As has been our experience under the FMLA, proscriptive attempts to micromanage how, when and under what circumstances leave must be requested, granted, documented and used would be counterproductive to encouraging flexibility and innovation. If a paid sick leave mandate were enacted, an employer's focus would have to be on documentation of incremental leave and the reasons for the leave, rather than on seeking innovative ways to help employees to meet the demands of both their work and personal lives.

As mentioned, Globe provides over 20 days of paid leave, plus 10 paid holidays and other leave. It is unclear whether the HFA would require Globe to provide another 7 days of leave in addition to our vacation and GTO. In this economy, many employers cannot afford that. Even those that can afford it will have to cut employee benefits somewhere else. At Globe, profits are shared with the employees through our 401(k) and profit sharing programs. The cost of adding 7 additional days of paid leave, on top of our 30-plus days of leave, would have to come from somewhere and would therefore curtail or remove some other benefit, or would lessen our profit sharing.

We provide generous paid leave so that we can continue to be an employer of choice for employees and applicants in our area. What we do not want is a government-imposed paid-leave mandate to take away our competitive edge over other employers.

SHRM RESEARCH

Today's roundtable is well-timed with the recent release of a new report by SHRM and the Families and Work Institute (FWI), the 2014 National Study of Employers, which looks at changes in the workplace since 2008. First conducted by FWI in 1998, the National Study of Employers is the most comprehensive and far-reaching study of the practices, policies, programs and benefits provided by U.S. employers to address the changing needs of today's workforce and workplace, including workplace flexibility, health care and benefits, caregiving leave and elder care assistance.

The study found that more employers are adopting flexibility policies over when and where full-time employees work. This includes options such as working remotely occasionally (telecommuting) and control over overtime. The most common forms of flexibility are control over taking breaks, time off for important family and personal needs, and flextime. Overall, from 2008 to 2014, the study found employers have continued to increase their provision of options that allow at least some employees to better manage the times and places in which they work. These include occasional flex place (67 percent in 2014 compared with 50 percent in 2008); control over breaks (92 percent in 2014 compared with 84 percent in 2008); control over overtime hours (45 percent in 2014 compared with 27 percent in 2008) and time off during the workday when important needs arise (82 percent in 2014 compared with 73 percent in 2008).

The data show that employers continue to find ways to offer flexibility to their employees, despite the economic challenges they face. Employers are dealing with lingering economic instability by trying to accomplish more with fewer employees. While it may have been expected that employers would cut back on flexibility entirely during the economic downturn, we are seeing employers leverage flexibility to remain competitive.

SHRM'S RECOMMENDATIONS FOR A 21ST CENTURY WORKPLACE FLEXIBILITY POLICY

Because HR professionals are on the front lines of devising workplace strategies to create effective and flexible organizations, SHRM and its members have given careful consideration to the role public policy can play in advancing the adoption of workplace flexibility. It is our strong belief that public policy must not hinder an employer's ability to provide flexible work options. Rather, public policy should incentivize and enhance the voluntary employer adoption of workplace flexibility programs.

SHRM and its members believe the United States must have a 21st century workplace flexibility policy that reflects the nature of today's workforce, and that meets the needs of *both* employees and employers. It should enable employees to navigate their work and personal needs while providing predictability and stability to employers. Most importantly, such an approach must encourage employers to offer greater flexibility, creativity and innovation to meet the needs of their employees' families.

In 2009, SHRM developed a set of five principles to help guide the creation of a new workplace flexibility public policy. In essence, SHRM believes that all employers should be encouraged to provide paid leave for illness, vacation and personal days to accommodate the needs of employees and their family members. In return for meeting a minimum eligibility requirement, employers that choose to provide paid leave would be considered to have satisfied Federal, State and local requirements and would qualify for a statutorily defined "safe-harbor." The principles are as follows:

- **Shared Needs**—SHRM envisions a "safe-harbor" standard where employers voluntarily provide a specified number of paid leave days for employees to use for any purpose, consistent with the employer's policies or collective bargaining agreements. A Federal policy should:
  - Provide certainty, predictability and accountability for employees and employers.
  - Encourage employers to offer paid leave under a uniform and coordinated set of rules that would replace and simplify the confusing—and often conflicting—existing patchwork of regulations.
  - Create administrative and compliance incentives for employers that offer paid leave by offering them a safe-harbor standard that would facilitate compliance and save on administrative costs.
  - Allow for different work environments, union representation, industries and organizational size.
  - Permit employers that voluntarily meet safe-harbor leave standards to satisfy Federal, State and local leave requirements.
- **Employee Leave**—Employers should be encouraged to voluntarily provide paid leave to help employees meet work and personal life obligations through the safe-harbor leave standard. A Federal policy should:
  - Encourage employers to offer employees some level of paid leave that meets minimum eligibility requirements as allowed under the employer's safe-harbor plan.
  - Allow the employee to use the leave for illness, vacation, personal and family needs.
  - Require employers to create a plan document, made available to all eligible employees, that fulfills the requirements of the safe-harbor.
  - Require the employer to attest to the U.S. Department of Labor that the plan meets the safe-harbor requirements.
- **Flexibility**—A Federal workplace leave policy should encourage maximum flexibility for both employees and employers. A Federal policy should:
  - Permit the leave requirement to be satisfied by following the policies and parameters of an employer plan or collective bargaining agreement, where applicable, consistent with the safe-harbor provisions.
  - Provide employers with predictability and stability in workforce operations.
  - Provide employees with the predictability and stability necessary to meet personal needs.
- **Scalability**—A Federal workplace leave policy must avoid a mandated one-size-fits-all approach and instead recognize that paid leave offerings should accommodate the increasing diversity in workforce needs and environments. A Federal policy should:

- Allow leave benefits to be scaled to the number of employees at an organization; the organization's type of operations; talent and staffing availability, market and competitive forces, and collective bargaining arrangements.
- Provide pro-rated leave benefits to full- and part-time employees as applicable under the employer plan, which is tailored to the specific workforce needs and consistent with the safe-harbor.

• **Flexible Work Options**—Employees and employers can benefit from a public policy that meets the diverse needs of the workplace in supporting and encouraging flexible work options such as telecommuting, flexible work arrangements, job sharing and compressed or reduced schedules. Federal statutes that impede these offerings should be updated to provide employers and employees with maximum flexibility to navigate work and personal needs. A Federal policy should:

- Amend Federal law to allow employees to manage work and family needs through flexible work options such as telecommuting, comp time, flextime, a part-time schedule, job sharing and compressed or reduced schedules.
- Permit employees to choose either earning compensatory time off for work hours beyond the established work week, or overtime wages.
- Clarify Federal law to strengthen existing leave statutes to ensure they work for both employees and employers.

One approach to providing additional workplace flexibility that works for both employers and employees and that meets the principles outlined above is legislation to allow for compensatory (comp) time off in the private sector. S. 1626, the Family Friendly and Workplace Flexibility Act of 2013, would allow more U.S. workers to access comp time. Specifically, the bill would modernize the application of the Fair Labor Standards Act to the private sector by permitting employers to offer employees the voluntary choice of taking overtime in cash payments, as they do today, or in the form of paid time off from work. Currently, Federal employees are offered a similar benefit.

At Globe, we are in close proximity to our State capital of Concord. Many current Globe employees are former State employees and are often surprised when they learn that compensatory time is not available to private-sector employees. Since comp time has worked well within the public sector at the State and Federal level for nearly three decades, I think it is disappointing that Congress has not extended this same benefit to private-sector employees.

WORKPLACE FLEXIBILITY EDUCATIONAL EFFORTS

As SHRM continues to advocate for public policy proposals that encourage or incentivize employers to create effective and flexible workplaces, the Society has also formed a multi-year partnership with the FWI to educate HR professionals about the business benefits of workplace flexibility. The primary goal of the SHRM/FWI partnership is to transform the way employers view and adopt workplace flexibility by combining the research and expertise of a widely respected organization specializing in workplace effectiveness with the influence and reach of the world's largest association devoted to human resource management.

Although FWI is an independent non-advocacy organization that does not take positions on these matters, and the position of SHRM should not be considered reflective of any position or opinion of FWI, I'd like to mention one of the key elements of the SHRM/FWI partnership, *When Work Works*, a national initiative to bring research on workplace effectiveness and flexibility into community and business practice. *When Work Works* partners with communities and States around the country to:

- Share rigorous research and employer best practices on workplace effectiveness and flexibility.
- Recognize exemplary employers through the Sloan Award for Excellence in Workplace Effectiveness and Flexibility.
- Inspire positive change so that increasing numbers of employers understand how effective and flexible workplaces benefit both employers and employees, and use this information to make work "work" better.

Change is constant in business. We know that in order for organizations to remain competitive, they must employ strategies to respond to the changes in the economy, the workforce, and work itself. By highlighting strategies that enable people to do their best work, *When Work Works* promotes practical, research-based knowledge that helps employers create effective and flexible workplaces that fit the 21st century workforce and ensures a new competitive advantage for organizations.

CONCLUSION

In the global, 21st century economy, workplace flexibility policies help both multinational corporations and small businesses meet the needs of their employees. At its core, workplace flexibility is about improving business results by providing employees with more *control* over how, when and where work gets done. In order for workplace flexibility strategies to be effective, however, they must work for both the employer and the employee.

SHRM remains committed to working with the committee and Congress to ensure employers can continue to provide workplace flexibility to employees in a manner that does not threaten existing benefits or create unnecessary and counterproductive regulations. We believe it's time to pursue a new approach to this issue absent rigid, unworkable mandates.

Thank you. I am happy to answer any questions you may have.

The CHAIRMAN. Thank you very much, Ms. Troy.

Ms. Riner.

STATEMENT OF RHEA LANA RINER, PRESIDENT, RHEA LANA'S, INC., CONWAY, AR

Ms. RINER. Chairman Harkin, Ranking Member Alexander, and members of the committee, thank you for the invitation to testify today.

In 1997, I began my small business as a young mom after my family transitioned from a corporate salary to a ministry salary. I loved cute clothes but did not have the budget to dress my children the way I hoped. So I invited a few friends to a small event in my living room to buy and sell children's clothing.

From this humble beginning, my heart swelled for families with budget struggles trying to provide for their children. I wanted to offer them the opportunity to save money. The moms, grandmoms, and husbands who joined together to host consignment events like ours create a marketplace in which their families can both sell and purchase gently used children's clothing, toys, and baby equipment.

My business, called Rhea Lana's, is simply a facilitator. We help these families succeed and we love it. Rhea Lana's offers families the same types of real world opportunities that E-bay offers its participants in the virtual world. Like Rhea Lana's, E-bay offers a marketplace where buyers can find low-price products from people looking to sell their goods. Everyone understands that E-bay participants are looking out for their own interests, just like Rhea Lana's consignor volunteers.

In 2013, I encountered a huge obstacle to my business' success. The Department of Labor ruled that my best customers should be classified as employees. The DOL then sent letters to these customers suggesting that they sue me. The DOL also warned if we did not follow their advice, we could be penalized for willful violations with astronomical fines.

In doing so, the DOL ignored zero complaints against us; ignored a favorable ruling by the State of Arkansas; ignored interviews with our consignors, none of whom support the DOL's conclusions; and ignored the benefits of a nationwide industry faithfully serving millions of moms, dads, and children over the past 25 years. Frankly, the actions of the DOL have been the exact opposite of economic security for this working woman.

We were forced to file a complaint against the Department of Labor in Federal court. The case was brought by cause of action,

and we now ask your support of S. 1656 sponsored by Senators Pryor and Boozman, which was referred to this committee.

Members of the committee, I support our government's duty to verify the lawfulness of the actions of its citizens. However, the Department of Labor is acting to oppose struggling families who are seeking to help themselves. I believe the government should instead do more to honor a precious American resource, the ingenuity and courage of America's entrepreneurs.

Thank you.

[The prepared statement of Ms. Riner follows:]

PREPARED STATEMENT OF RHEA LANA RINER

In 1997, I began my small business as a young mom after my family transitioned from a corporate salary to a ministry salary. I loved cute clothes, but did not have the budget to dress my children the way I hoped. So, I invited a few friends to a small event in my living room to buy and sell children's clothing.

After that very first sale, my husband suggested that we computerize everything so that consignors could enter their items online, and we bar coded our tags. From that time until now, we have worked hard on developing our unique, copyrighted software and we continually strive to increase and improve our technology. We value the precious little time that moms have to do all that they must do. Our events are about loving and serving people.

From this humble beginning, my heart swelled for families with budget struggles trying to provide for their children. I wanted to offer them the opportunity to save money. The moms, grandmoms, and husbands who join together to host consignment events like ours create a marketplace in which their families can both sell and purchase gently used children's clothing, toys and baby equipment. My business, called Rhea Lana's, is simply a facilitator. We help these families succeed, and we love it!

In 2008 we took a huge step and expanded our business. We now support seventy new business women who serve many thousands of families in their own communities. We are proud of these ladies! They have had the love and courage to step out of their comfort zones. It is my heart's desire to add value to the lives of families by providing excellent quality merchandise at affordable prices. And it is also my desire to help women learn to gracefully wear those hats that we all wear—and to mature personally, professionally, spiritually and emotionally.

The last 17 years have been an incredible journey. I never intended to be a business person. But I am deeply thankful to God for putting this desire in my heart, pushing me out of my comfort zone, and blessing my attempts in building this business. Just as with any pursuit, there have been highs and lows, victories and challenges. But I was raised to be a hard worker and to never give up.

Please allow me to tell you how my current struggle began.

In Spring 2011, I sent an e-mail to central Arkansas families announcing an upcoming Rhea Lana's event. The e-mail mentioned that moms could volunteer at the event if they were interested in helping out. One of these e-mails went to a family member of an Arkansas Department of Labor employee that had signed-up for our mailing list. Arkansas Labor officials soon began investigating Rhea Lana's to determine if we were violating any laws by allowing volunteers to help at events. We cooperated fully, and in the end, received a favorable response from our State. After slightly tweaking our business model, we signed a Consent Agreement with Arkansas in January 2012 that allowed us to continue using consignor-volunteers. The State then audited Rhea Lana's in June 2012 and utilized the Consent Agreement to interpret their findings.

While our experience with the Arkansas Department of Labor resulted in significant legal expense to our small company, we ultimately were very satisfied with the result. In fact, I would like to commend the Arkansas Department of Labor for applying a common sense approach to Rhea Lana's business model that allows us to continue operating and serving Arkansas families.

But then, in January 2013, we were contacted by the U.S. Department of Labor. There are over 2,000 consignment events held each season nationwide, and we have never heard of any of them being investigated. Yet now, we were about to undergo our second investigation in 2 years! We learned at a hearing before a joint session of the Arkansas Senate and House Insurance and Commerce committees that the State of Arkansas had originally referred Rhea Lana's to the U.S. DOL, which at first declined to investigate us. Only after the State of Arkansas completed their in-

vestigation and signed our Consent Agreement did the U.S. DOL decide to investigate us.

Our initial meeting with the U.S. DOL was held in Little Rock on February 28, 2013. Staff members from Congressman Griffin and Senator Boozman's office attended, along with Denise Oxley, Counsel for the Arkansas Department of Labor. In the spirit of full cooperation, we provided DOL with the contact information of 10 moms who had participated as consignor-volunteers for the DOL to interview. These moms come from all walks of life. For example, two were teachers, one was a stay-at-home mom, two were nurses, and one was a radiologist. We thought that once the U.S. DOL spoke with these moms and recognized that they were participating on a limited basis for their own benefit, not because Rhea Lana's had some control over them, the U.S. DOL would realize they are not employees. We also shared with the U.S. DOL the Consent Agreement we had entered into with the Arkansas State Department. Unfortunately, this did not satisfy the U.S. Department of Labor. DOL asked for all of our payroll records going back 2 years, submitted formal questions to us that required the assistance of lawyers to respond, and unpredictably showed up at one of our events to surreptitiously interview our moms. The moms told us that they told the DOL that we are all in this together, and that they choose to participate to help their families.

Ignoring the moms' input, in a letter responding to Congressman Griffin, the DOL cited a 1985 Supreme Court case involving cult leaders who used adults and children in horrible ways that violated the law. The DOL's target in this 1985 Supreme Court case, Tony Alamo, is a convicted child offender who exploited cult members. By relying upon this case, the DOL appears to be comparing me and my children's consignment business to a criminal who preyed upon and manipulated many families here in Arkansas.

This should come as no surprise to you, but Rhea Lana's does not abuse its volunteers! Moms love Rhea Lana's, and they are certainly NOT exploited cult members.

The DOL also told us that the participating moms should be considered employees because they volunteer at our event location. Our consignment events are like multi-family garage sales in many ways. Certainly the DOL does not expect neighbors to issue W–2's for participating in the neighborhood garage sale. Hopefully, government regulations will never come to this, but this is the same type of model under which Rhea Lana's operates.

Incredibly, the U.S. DOL even sent letters to all of our consignor-volunteers, asserting they had the right to sue us. The letter was also mailed to our past employees and implied that we may not have paid them for their labor—which we certainly did. We note that we have received ZERO complaints from our consignor-volunteers and employees. None of them took action against us—even after DOL's prompting.

In August 2013, DOL sent us a letter citing legal provisions that "provide for the assessment of a civil money penalty for any repeated or willful violations . . . in an amount not to exceed $1,100 *for each such violation*." After being investigated for 2 years, when I received that letter it was my most terrifying and discouraging experience. However, we at Rhea Lana's will not be victims. We are defending ourselves against the U.S. DOL's seemingly arbitrary position. We have two bills in Congress. House Bill H.R. 3173 is sponsored by our Representative Tim Griffin, and co-sponsored by all of Arkansas's Congressmen—Rep. Tom Cotton, Rep. Steve Womack and Rep. Rick Crawford, as well as Missouri Congresswoman Vicki Hartzley. Senate Bill S. 1656 is sponsored by both Senator Mark Pryor and Senator John Boozman. We are mobilizing moms nationwide to help Congress to understand that moms have the right to join together to help their families. If you have suggestions about how we can mobilize Members of Congress outside our State, we are very open to hearing from you.

Also, on January 6, 2014, Cause of Action, an advocacy group for economic freedom, filed a legal complaint on our behalf against the DOL in the U.S. District Court for the District of Columbia. Again, we believe the Fair Labor Standards Act and case law are on our side.

Members of the committee, I understand and support our government's duty to verify the lawfulness of the actions of its citizens. This is part of living in a civilized world. However, unlike our own State of Arkansas, the Federal Government is now acting to oppose and frustrate struggling families. It is acting in this chilling manner even after fully investigating the intentions and activities of our industrious moms. I am doing all I can to protect my business and the rights of these precious women from their own government. I am grateful for a chance to speak with you, and I hope you will join me. Our children—and their moms—deserve our best.

The CHAIRMAN. Thank you very much, Ms. Riner.

Thank you all very much for your very concise statements. I read over your statements last evening. They're all excellent written statements, and I appreciate it very much.

We'll start a round—as I said, we'll do just one question each, and then we'll get through that, and maybe we'll get some discussions going. Like I said, if a question is asked of the panel, and if you would like to respond to it, just, as Senator Mikulski showed you, turn your name up like that.

So I'll have the first question, and it is a panel question. I understand that much of the developed world has already implemented many of the public policies that we're discussing here today. Can any of you address what some of those policies are, and how successful have they been for women in some of these other countries, if you're aware of any such thing like that?

I've heard of Canada, and I've heard of some European countries and others in the OECD countries. Are any of you aware of what they've done in any other countries?

Ms. Bravo.

Ms. BRAVO. When I was pregnant with my first child in the late 1970s, I had a good friend who lives in France who said, "I feel so sorry for you that you have to have this baby in the United States." And I was shocked to learn how backward we were in comparison to the rest of the world.

You mentioned developed countries. It isn't only developed countries. I used to give a quiz when I taught a class for master's level students on family practices, and I put up, "Which of these countries don't have paid family leave, Iran, Mongolia, Kenya?" And we were the only one besides Papua New Guinea and then Swaziland—now it's Oman—who don't have paid leave for mothers, and many have paid leave for fathers.

One of the things that's really great is that many countries who have far more time than we do have studied what the impact is on fathers' involvement with their kids. For example, countries like Denmark and Sweden and Norway require fathers to spend at least a certain amount of time with their newborn or the family loses it. And it has hugely changed their involvement, not just with their infants, but with their kids throughout their lives.

The CHAIRMAN. Did you want to respond to that also?

Ms. TANDEN. Yes. I'll just briefly say that our economic competitors, Germany, China—they all offer paid leave proposals. So if you're thinking about this from a competitiveness perspective, those countries have recognized, as all other developed nations have recognized, that ensuring that women participate is an important economic challenge. Countries like Italy and Japan are actually trying to increase their women's participation rate in the workforce, because they recognize it's a competitive advantage, not a disadvantage.

The CHAIRMAN. Thank you.

Senator Alexander.

Senator ALEXANDER. Thanks, Mr. Chairman.

Ms. Riner, that's a really interesting story you tell about your company and the special efforts you've made to give volunteers a chance to have an advantage. You've got a bipartisan bill by both the Democratic and Republican Senators from Arkansas to change

the attitude of the Department of Labor. If the Department of Labor were to be successful in requiring you to treat your volunteers as employees, what would be the cost to your company, and what would be the effect on your company?

Ms. RINER. There would be a tremendous cost, sir. That's why we're fighting for it. It would definitely negatively affect us. We have moms, our consignor mom volunteers, that just volunteer a few hours. We hold events twice a year. So to have to have the added burden and regulation and the red tape that goes into classifying them as employees would be an incredible burden.

We have definitely felt targeted and singled out. There are consignment events going on all over the country, and we disagree with their position, quite frankly. We feel—the Supreme Court has said that when you apply the Fair Labor Standards Act that you look at the economic reality of the whole situation. So we use our common sense to look at the whole work activity.

The work activity of our business is that it's moms coming together to work for themselves. They're co-venturing with us to sell their children's items. So they're not our employees, and that decision by the DOL would negatively affect our business and our opportunity, quite frankly, to serve our customers.

Senator ALEXANDER. Thank you, Mr. Chairman.

The CHAIRMAN. On my list, I have Senator Mikulski, Senators Franken, Casey, Warren, and Murphy.

STATEMENT OF SENATOR MIKULSKI

Senator MIKULSKI. Thank you very much, Mr. Chairman, to both you and Senator Alexander for convening this hearing. Women in this country have always worked. There is somehow or another this myth that there are these little ladies at home that suddenly emerged after radical feminism flamed their desires to join the workforce in the 1960s.

Whether it was the founding mother, like Abigail Adams, who kept the farm going while John came down and wrote the Constitution, to women who kept farms and others going during wars, to some who came to this country to escape chains, some in chains, worked, and we know about the sweat shops. Women have always worked. But the work has often been undervalued, underpaid, or made invisible.

Then we have a modern employer, and my question goes to you, Ms. Troy. First of all, congratulations to this company making stuff to protect our firefighters. Second, you have to be competing with China. We understand that you're a global competing company. How does a company like yours offer these benefits and still remain competitive in this world?

And I gather you also turned a profit, because you're turning every argument against what we want to do on its head. Can you speak from the business perspective about how you're able to do this, and does it actually increase profitability?

Ms. TROY. Yes. Thank you. I thank you for your kind comments. We are a family-owned and -operated company. We've been in the same family for 127 years. We invented the fire suit, so we have a leg up on the competition, and it was ours to lose, I guess. We

actually do not compete with China or any other overseas entities, mostly because our garments are customized.

What is not well-known outside of our very small niche industry is that every single garment we make, all 100,000-plus of them, are measured to fit a particular firefighter. And then we add onto that different selections of materials, different selections of various components, and then after we do all that, we put on options. Options are pockets and snaps and various things that you can attach your rope to. So you can't make them in China.

We make them one at a time for an individual firefighter. We have 1.7 million combinations of options that can go on a fire suit, and we can make all 1.7 million combinations in our two main manufacturing facilities in New Hampshire and in Oklahoma.

The owners have always been committed to working with the employees. They live in town with us. It's a small town. I don't live in the town, but I think it's 5,000 people or so.

Senator MIKULSKI. Apart from wanting to be a good employer, do you feel that these practices increase productivity and profit, or are they kind of neutral, or are they negative?

Ms. TROY. There are some of each. Some things increase productivity. We have a nice profit sharing plan where we do a quarterly profit sharing bonus to all employees if the company meets its goals. We all have to work together in order to be both productive and efficient and to meet our quality standards. That certainly motivates employees. They get a weekly report as to how they're doing, and then a bonus is paid out quarterly to every employee if we meet those goals. We do a lot of things like that.

We spend a lot of time actually talking with our employees and working with them. We listen to them when they have concerns or when things come up, and we try to balance our programs and our policies around the issues that come up in the workplace to make sure that we're meeting their needs as well as the company's. And, yes, we are profitable.

The CHAIRMAN. Thank you.

Senator Casey. No, I'm sorry. Senator Franken. I apologize.

STATEMENT OF SENATOR FRANKEN

Senator FRANKEN. It's quite all right. Thank you, Mr. Chairman.

Ms. Bravo, I was very taken with your testimony about the children in the hospital with no parent there. Quite a while ago, a friend of mine—their child was very, very sick, and I went to visit the family, and both parents were able to be there. They were able to do that. But as I went around this pediatric ward, I saw there were kids that didn't have a parent.

We have this sort of philosophical debate. I think Senator Alexander said a mandate versus not. We have the Family Medical Leave Act, which is mandated, so you can have medical leave for your kid, but it's not paid. So parents who can't afford to take the medical leave don't do it, and their kid is there, and the kid is alone.

What I wonder about is what is it like in other countries? Do we have children alone—very sick children alone in the hospital without their parents, or do they have paid medical leave? And if they do, is it a mandate? What's the tradeoff here? It broke my heart,

and these parents of the child I was visiting were very cognizant of these other children and so was that child. What is that like around the world, and what is it like here, and what's it like in California? This is open for anyone.

Ms. TANDEN. Around the world, there's a mandate for leave, and you can take it for sick children in many countries. But you ended with California——

Senator FRANKEN. Is it paid, though?

Ms. TANDEN. Yes, it's paid leave in other countries. We stand out as a country that does not offer paid leave, and, therefore, we have bigger burdens on workers and their families and their children. I also think we should just look at the example of California, which has a paid leave model. That model is one where the workers pay out, so it's not a particular burden just on employers, but workers pay into a system, and then they get basically paid leave insurance.

We have lots of data about this so-called tradeoff, and businesses—the vast majority of businesses report that it's a positive or neutral on the bottom line. It increases productivity. It helps keep workers. It helps retain high-quality workers. It helps retain women workers. Women are too often forced to come out of the workforce and then come in at a lower salary than they otherwise would.

So you see a lot of economic benefits, not in another country, but in a State like California, and New Jersey is another one. It's a model that shouldn't be foreign to us, because we have good examples that work here.

The CHAIRMAN. Ms. Bravo.

Ms. BRAVO. I have references to all these studies that show that impact on kids, on health, as well as on businesses' bottom line in my written remarks. But, you know, in 1995, there was a bipartisan commission appointed by Congress to study the impact of the then unpaid Family Medical Leave Act, and I was one of those 12 people.

I remember one of the more striking things—because as someone who fought for the bill, we were told over and over that it isn't necessary, that employers are doing it on their own. Of those employers who are covered, let's never forget that 40 percent of the workforce isn't covered, and the majority of employers aren't required to offer it.

Two-thirds of the covered employers had to change one or more of their policies in order to comply. Do you know what that often meant? Covering adoptive parents, covering dads, covering people to take care of their aging parents or to take care of a kid with cancer. It was a really good thing that we did this, and now the 2012 survey on FMLA showed that most employers find it easy to deal with and a good thing, and that will happen with these other laws, too.

The CHAIRMAN. Thank you very much.

Ms. Traub, I'll give you a short answer. We're out of 5 minutes on this one.

Ms. TRAUB. Yes, sorry about that. I always think I talk fast, and then I do. I think about, thankfully, not all of us have a child who is sick for a long time. But anyone who is a parent—you're going

to have a child that is sick from time to time. Everyone gets sick. And so a basic benefit like paid sick days is—you know, everybody gets sick, and yet not every job accommodates somebody—that very human reality that every child gets sick, every adult gets sick at one time or another, and we need time to take care of ourselves and our children.

Senator FRANKEN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Franken.

Senator Casey.

STATEMENT OF SENATOR CASEY

Senator CASEY. Thanks, Mr. Chairman. I want to thank the members of the panel for being here. It's a great panel, and we're learning a lot as we listen and as we hear the questions.

I wanted to focus specifically on the issue of discrimination in the workplace as it relates to pregnant women. A number of you mentioned the legislation that Senator Shaheen and I have, the Pregnant Workers Fairness Act.

I have to say when I heard the very personal testimony that you provided, Ms. Legros, that you did, what I've been trying to do for months, which is to summarize in one or two sentences what it's all about.

We have a problem that we thought we fixed a long time ago. We had a Pregnancy Discrimination Act passed in 1978, but—we later found it had a gaping hole in it. We didn't do for pregnancy what we were able to do, thankfully, for disabilities in 1990. So instead of having a provision, as we did in the ADA, which passed with overwhelming support under George Herbert Walker Bush, the first President Bush, the so-called reasonable accommodations. What we're trying to do with this bill is to provide that same protection.

I wanted to ask you one question, in particular. But I wanted to re-read to everyone what you said earlier. You said, "Having a child shouldn't mean losing your job. It should not lead to fear and financial dire straits." You have encapsulated the problem with that sentence—or both sentences, really—and you've encapsulated the reason why we need to pass the bill.

I guess I would ask you, in your own experience, in terms of the work you were doing, after you had pulled a muscle—you pulled a muscle, and you're told not to strain yourself. Your doctor gives you a note. You hand the note to the employer and he says, "Go home." That's a quick summary. But in your workplace, what was the accommodation or change that would have helped you to stay on the job and do the job, even as you were pregnant?

Ms. LEGROS. Thank you, Senator. With my job, I had different duties. I could have been accommodated by doing clerical duties instead of the heavy lifting. It was just a minor accommodation to have someone else to lift those, but it was just only me at the time. So they did not want to have somebody else help me at the time. But it could have been done. They were accommodating others at the time, but when it came to me, he just decided not to.

Senator CASEY. Does anyone else want to comment on that, in particular?

Ms. Goss Graves.

Ms. GOSS GRAVES. Ms. Legros' story is very consistent with the type of intake we get at the National Women's Law Center. We thought we had solved this problem with the Pregnancy Discrimination Act, and what we're finding is that some employers are basically saying that everyone can be accommodated if their doctor tells them that they need it, except for women who are pregnant. And that's the exact opposite of what the Pregnancy Discrimination Act was supposed to do.

Sometimes it's even basic accommodations, like having a step stool if you're working at a cash register, having the ability to go to the bathroom or take a water break. These aren't huge accommodations, and with Amy Crosby, the example I gave, lifting 20 pounds was OK. It was just 50 pounds that her doctor advised her.

Senator CASEY. I'll conclude with this. The individuals in this category, in terms of the whole workforce, are 1.5 percent of the workforce. It seems that we could come up with something to protect 1.5 percent of the workforce.

The CHAIRMAN. Thank you, Senator Casey.

Senator Warren.

STATEMENT OF SENATOR WARREN

Senator WARREN. Thank you, Mr. Chairman and Ranking Member Alexander. We've heard today how the deck is stacked against women, particularly working moms, and about how it's getting worse. We also know that two out of every three minimum wage workers is a woman, and that a mother working full-time at minimum wage cannot keep herself and a baby out of poverty.

Minimum wage workers have not received an increase in their wages in 7 years. Women also make up about three-quarters of tipped minimum wage workers, and they haven't received a raise in 23 years. This is bad for women. It doesn't reflect our values. CEOs got raises. Managers got raises. But the mothers who cook and clean and work hard are just kept at the same poverty level wages.

We could change this if Congress would raise the minimum wage to $10.10 an hour. More than 15 million women and their families would have a chance to lift themselves and improve their economic prospects. So what I'd like to ask the panel is how increasing the minimum wage would lift women and their families, to expand on what it means if we move to a $10.10 an hour minimum wage, and what kind of opportunities that would create for working families.

Anyone? Yes, please.

Ms. PELLETIER. Thank you, Senator. Thank you for the question. In Connecticut, we did just pass legislation that raised it to $10.10. For about 80,000 women and men, that's going to mean that they'll have more money to spend in the economy.

When their wages go from $8.65 to $10.10, that's going to mean more to the local baker. That's going to mean more to the local dry cleaner. And in turn, that will then allow the local baker and dry cleaner to go out and buy some other product or do some other service.

Again, the idea that women making $7.25 on the Federal level after 40 hours, or roughly $300 a week, or $1,200 a month—how they make ends meet—clearly, they're magicians. We need to make

sure that the minimum wage gets raised. For tip workers, again, the idea that they haven't had a raise since I was very young is heartbreaking, and these are hardworking men and women who are trying to make ends meet but haven't gotten a raise.

Thank you.

Senator WARREN. Thank you.

Ms. Goss Graves.

Ms. GOSS GRAVES. I just want to add that we have a new study out that highlights that one in five working moms are working in very low-wage jobs. This is an issue for women overall. It's an issue especially for working moms.

Senator WARREN. Thank you. That's important to note.

Ms. Tanden.

Ms. TANDEN. I would just like to add that I know that there's a lot of concern about tight Federal budget dollars these days, and, unfortunately, a lot of low-income women rely on food stamps. The Center for American Progress recently issued a report that showed that increasing the minimum wage to $10.10 an hour would save $46 billion in food stamps and would lift a lot of women, obviously, out of poverty. But I think for those members of the committee concerned about tight Federal dollars, increasing the minimum wage would be a phenomenal way to have more fiscal stability.

Senator WARREN. Thank you, Ms. Tanden.

Ms. Bravo.

Ms. BRAVO. Minimum wage workers without paid sick days are sub-minimum wage workers. Paid sick days is a way of keeping your pay as well as keeping your job, and we so appreciate your comments on that. Thank you.

Senator WARREN. Thank you.

I want to thank the panel on this. I just want to summarize here if I can, Mr. Chairman. What we hear is that if we would raise the minimum wage, it would be good for the economy, that it would reduce Federal spending at least to the tune of $46 billion, that it would affect one in five working mothers, and from the data we already know, it would permit 15 million women and their families to lift their economic circumstances and build a fighting chance for their children.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warren.

Senator Murphy.

STATEMENT OF SENATOR MURPHY

Senator MURPHY. Thank you, Mr. Chairman.

Thank you to this fantastic panel. You've all been excellent. I want to drill down on one particular subject, and I'll maybe point the question to my great friend, Lori Pelletier, and then ask others to comment if you'd like.

I wanted to talk about specific industries that have disproportionate shares of males versus females. I think of an article that was in the *Wall Street Journal* at the end of last year, particularly on the issue of manufacturing—and that's Ms. Pelletier's background—that said that we are at a 20-year low in terms of the number of women who are working in manufacturing today, 27 percent of the workforce.

And yet we've added a couple of hundred thousand manufacturing jobs over the past couple of years, and there are all sorts of estimates to suggest that this is going to be one of the primary growth areas for our economy, and yet only one of four individuals working in manufacturing are women. I'd look at military service in the same way. This is an area of huge employment opportunity, and yet women are tremendously underrepresented. We've had some changes in combat rules which may change that dynamic.

But I'll maybe ask the question specifically with respect to manufacturing and, more broadly, in terms of other industries. How can we try to remedy some of these disparities, especially within industries like manufacturing, where we see tremendous job growth over the next several years or several decades?

Ms. PELLETIER. Thank you, Senator. I think that one of the best things that we can do is invest in the science, technology, education, and math schools for our kids, for our young women. I was very fortunate. I had two parents that never said that as a young girl I couldn't play little league, and I was the first girl in my town to play little league. And it was OK for me to go out and to enjoy math and enjoy science, although I do wish I had been part of the AV squad with all the computers today instead of the softball team.

But that's what we need to do. We need to encourage young women and say to them, "Hey, it's OK to like math. It's OK to go into the sciences. It's OK to learn how to be a mechanic on a jet engine." I look at my niece, Gabriella, who is going to be 13 in a couple of weeks, and she loves math, and she loves science. For me and for all of us, we should be encouraging more of that, and then that way, those jobs that pay well, that have good benefits, that are here to stay, women can be part of.

Senator MURPHY. Any other comments on this question?

Go ahead, Ms. Goss Graves.

Ms. GOSS GRAVES. I was just going to add that there's a leaky pipeline in STEM. But some of it is sort of the environment that women who are in those jobs are working in now, and some of the barriers that we talked about, including harassment. It comes up in manufacturing. You hear about rampant pregnancy discrimination and other barriers. I think encouragement and recruitment is critical. But we also need reinforcement of our civil rights laws.

Senator MURPHY. A quick question to you, Ms. Tanden. It seems as if the debate over repeal of the healthcare law has maybe been set on the sidelines for now. But can you just give us a quick minute and a half on the economic consequences for women if the repeal efforts were successful?

Ms. TANDEN. Thank you, Senator. I welcome the day that there's no longer controversy with the ACA. There's really two sets of economic impacts of the ACA. First, particularly, there's a range of benefits championed by many people in this room. Senator Mikulski was a lead champion of ensuring that there was a range of preventive benefits that are available for women and, most importantly, that women would no longer be discriminated against in insurance protections.

Women, before the ACA, paid much more, often 20 percent to 30 percent more for their insurance. That is no longer possible with the ACA. It is a mandate, but I think it is a fair mandate. I also

would note, though, that, as importantly, costs for healthcare are reducing, the level of cost in the Affordable Care Act. And I know, Senator, that you have shown tremendous leadership on the issue of healthcare costs and put forward many ideas.

But as we reduce healthcare costs, that is also going to be a benefit to employment, because in the United States, employers and employees bear the cost of health insurance directly. As we lower those costs, we will lower barriers to employment. In both ways, women workers are benefiting from the Affordable Care Act, and I think it would be a tragedy to reach out and take those protections away from them.

Senator MURPHY. Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Baldwin.

STATEMENT OF SENATOR BALDWIN

Senator BALDWIN. Thank you. We have the basic premise in America that if you work hard and play by the rules, you should have a fair shot at getting ahead. It's just a basic premise that we all agree on, but we know that for too many, it is not the case. So I want to thank the Chair and Ranking Member for convening this roundtable to discuss some of the barriers that we see to realizing it.

One of the barriers that I would like to explore a little further is the role of discrimination and harassment, in particular, sexual harassment in the workplace and how that threatens the economic security of women and their families. Just a few statistics on this topic—the Equal Employment Opportunity Commission says that they're receiving annual claims of sexual harassment of over 10,000 per year, and yet according to polls and other research, it's drastically underreported. Only 41 percent of women surveyed indicate that they have reported harassment out of those who have actually experienced it.

Now, workplace sexual harassment was already clearly a significant threat to the economic security of working women. But last year, I think there was a significant setback when the U.S. Supreme Court worsened an already difficult environment by stripping away some critical protections against workplace harassment in *Vance* v. *Ball State University*.

In Vance, the court made it harder to hold employers accountable when the harassment was perpetrated by what you could describe as lower level supervisors, in other words, a supervisor who doesn't have hiring and firing authority over somebody that they supervise, but may yet have all sorts of other control or ability to affect the working lives, and beyond, of those that they supervise. So in response—and I think before I was able to arrive, there might have been some reference to it—I have introduced the Fair Employment Protection Act, which would basically restore the critical protections that were stripped away in the Vance decision.

But I wonder if I might ask you, Ms. Goss Graves—in the Vance case, the Supreme Court weakened the employer liability for harassment by lower level supervisors. These people, nonetheless, control daily activities of many workers, particularly those in low-wage positions.

So I'll ask, in your experience, can't those supervisors, nevertheless, use their leverage, their control that they have in the workforce, whether it's to set hours or assign tasks relating to other workplace conditions, to harass and discriminate against or sexually harass their subordinates?

Ms. GOSS GRAVES. That's absolutely right. In her dissent in the *Vance* decision, Justice Ginsburg said that this new rule was really out of touch with the realities of the workplace. In large part, that's because there are a lot of lower level supervisors who control the day-to-day activities of workers. They're the people who say what shift you work, whether you work weekends, whether you're cleaning the toilets or working the register. It is a way to aggravate the harassment. So in her dissent, she said the ball is in Congress' court, and we are grateful to you and others for taking it up through the Fair Employment Protection Act.

Senator BALDWIN. Any other comments on the issue of sexual harassment in the workplace?

My friend, Ms. Bravo.

Ms. BRAVO. I wanted to talk about another form of discrimination that you have addressed and that Senator Alexander referred to—people who are working part-time. Part of the problem is that we have no law that says if you and I do the same job for the same company, but I do it fewer hours a week, I have to get treated the same in any way—base pay, any benefits.

We have a situation where the FMLA, for example, excludes many part-time workers, and I appreciate your having championed getting rid of that exclusion. We need part-time parity. I may work fewer hours, but I'm full-time every hour I'm on the job. And if we did that, we'd have more jobs that were better jobs.

The CHAIRMAN. Thank you, Senator Baldwin.

Senator Murray.

STATEMENT OF SENATOR MURRAY

Senator MURRAY. Thank you very much, Mr. Chairman, for having this hearing. I think the issue of economic security for working women is critically important to our Nation today as we try to grow our economy. I just had a hearing in my Budget Committee on this issue last week—what are the policies, what are the things we need to be doing as a nation today to make sure that women can participate fully in the workforce, everything from minimum wage to childcare?

I think we have to be looking at our country to say, "What are we doing?" I appreciate your holding this hearing and my thanks to all of our witnesses who are here today.

Let me focus my time on a slightly different end of the spectrum for women, and that's retirement security. We know that only about half of the workers in the private sector today have access to an employer-based retirement plan. That is a figure that drops to about 30 percent for workers in businesses with fewer than 100 employees. And, surprisingly, in such a wealthy nation, about 45 percent of all of our workers have no retirement assets at all—45 percent.

That is pretty bad news for everyone. But, in particular, it does lead to worse retirement conditions for women. Among people 65

and older, women have less retirement income and face a greater risk of poverty than men, and one in three women today depends on social security as their sole source of income. I don't think it's an exaggeration to say that we have a crisis in America today when it comes to retirement for women, in particular. And I wanted to open it up to any of you who would like to comment on that.

Ms. Tanden, we'll start with you.

Ms. TANDEN. I agree on the points you're making and really thank you for your leadership on this issue, Senator Murray, and on issues like universal Pre-K and childcare that are so critical to working families. I would just note that issues of pay disparity for women have retirement implications, because as women are paid less throughout their career, that accumulates also in having a disparate pay in their retirement benefits, which are tied to salary.

So as we look at retirement issues and the real anxiety that so many women, especially older women, have about being able to face retirement, we also need to recognize that what happens in the employment practice and the fact that we still have these disparities replicate themselves in retirement as well.

Senator MURRAY. Thank you.

Ms. Pelletier.

Ms. PELLETIER. Thank you, Senator. In Connecticut, a study was done—and, again, we're a wealthy nation, and Connecticut is a wealthy State. But one out of four seniors lives in poverty in Connecticut. If you think about the fact that women as a whole, if, over the course of their work career, are continually making 23 cents less, basically, on a 40-year work life, they work 10 years for nothing. That absolutely has something to do with retirement security.

In Connecticut this past year, we were able to work with the Governor's office and get a study to look at a potential retirement for all, a State-run, employee-contributed retirement fund so that people may have a chance to put some money away. If people are working seven or eight different jobs in their career, and they're not staying at the same employer, this would at least give them the security to know that they can still put money in, even——

Senator MURRAY. Have you implemented that now?

Ms. PELLETIER. Yes. The committee is supposed to convene by July 1st and work and come back with specific recommendations. It's very important. Again, in Connecticut, one out of every four seniors lives in poverty.

Senator MURRAY. And how many of those are women?

Ms. PELLETIER. I don't know.

Senator MURRAY. Ms. Bravo.

Ms. BRAVO. Making sure that women have access to affordable time for caregiving will also help their retirement income. Fewer people will lose their jobs, and fewer people will lose their income that affects the pay disparities that Neera was talking about. That's another thing, and thank you so much for bringing this up.

Senator MURRAY. I think sometimes we don't connect all the policies we talk about today that we think are so important, whether it's making sure you have childcare so that you can stay at work, whether it's pay equity and how that impacts your finances both today and when you retire, or the issue that so many women come

in and out of the workforce when they have kids because our policies today make it tough.

What happens is all of a sudden, you're retired, and your only source of income is social security. I think it's about $13,000 or a little more than that a year for somebody to exist on if their sole source of income is social security, and one in three women, as I said, today depends on that small amount of money. It's a huge economic issue.

Anybody else? Oh, I am out of time. But this is something I welcome your input on, and I hope that we can focus on this issue, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murray.

We'll start another round.

Ms. Bravo, you said that the United States is the only country that does not provide paid sick leave for a worker undergoing a 50-day cancer treatment. We are one of only three countries that do not provide paid sick days for a worker missing 5 days of work, say, due to the flu. Does that strike anybody but me as kind of odd? I mean, what's going on here?

I've known a lot of employers in this country and in my State and otherwise, and it just seems to me that those who do a better job of taking care of their employees, providing for these kinds of contingencies, paid maternity leave—my daughter works in California. They have a great system in California. She's had three children now, and it's just great, the maternity leave in California.

Why don't other businesses see the benefit they get from productivity, loyalty, low turnover, lack of absenteeism, when people have a baby and they come back to work? I don't get it. What is it that we're not getting here that other countries and some States are getting? What is it we don't understand?

Ms. BRAVO. The role of lobbyists. Unfortunately, I think the lobbyists for big corporations do a real disservice to business owners. As I said, every one of our coalitions has business partners. They already do it, because they see it's the smart as well as the right thing to do, and they also support there being minimum standards to guarantee protection for everybody.

Unfortunately, we have lobbyists who get in the way, and in their name—I call it identity theft—say that this is bad for business. You can go back—there's a great Web site called Cry Wolf, and it shows all these quotes, and you think, "Oh, that's so and so from Today." But, in fact, it was—you know, they had their real estate board in New York after the Triangle Shirtwaist Factor Fire arguing against fire escapes and not being able to lock the workers in while they were on the job—the simplest things. We've heard that the sky will fall and business will flee.

The CHAIRMAN. Ms. Traub, did you want to respond to that?

Ms. TRAUB. I do. I think that, in addition, there's a challenge for employers in that employee benefits are easily seen as a cost, and wages are seen as a cost. And the benefits that an employer can get in terms of more productive employees, in terms of employees who may spend more money in the case of retail at the business itself, will have more money to spend to strengthen their community and will be more productive when they have that time home

with their families. That may be more intangible to a business and harder to realize that all those benefits really are there.

At the same time, I think that Ms. Bravo's point about lobbyists that don't speak for the companies they purport to represent is true in our experience, as well. Thank you.

The CHAIRMAN. I would just add that sometimes, some of our larger employers do a better job. Sometimes the biggest ones do the best job.

Ms. Legros, did you want to respond to that?

Ms. LEGROS. Yes. I just wanted to clarify something. I just wanted to also add that if I was accommodated at work, there wouldn't have been a lot of things that followed afterwards, not being able to support my family, and having to rely on public assistance and government assistance and all those things. I just wanted to point that out, also.

The CHAIRMAN. Very true. Thank you.

Senator Alexander.

Senator ALEXANDER. Ms. Troy, let me ask you this question, and there may be others who want to comment on it. I've enjoyed the testimony. I still am puzzled at how, at a time when the big problem is the lack of jobs in America—and we're talking about jobs for working women, women who work outside of the home as well as inside the home—that we keep getting back to the major cure for that being a raise in the minimum wage, which Congressional Budget Office Director Elmendorf sat right there and told us would destroy 500,000 jobs.

Now, he said it could be as few as not many jobs destroyed, or it could be as many as a million jobs destroyed. But he is obligated by law to tell us what the truth is, that is what we pay him for. He said it would destroy 500,000 jobs. So we're talking about the need for good jobs, and the No. 1 solution is to destroy 500,000 jobs. How does that make any sense? It doesn't make any sense to me at all.

Then-CBO Director Elmendorf told us that 80 percent of the benefits go to people who are members of families above the poverty level. We also know that two-thirds of minimum wage workers earn a raise within 1 year of starting employment.

If our goal is to help working women and men who are not making enough money, why would we take action that would cost 500,000 Americans jobs? I mean, each of those persons have names. Most of them must be women, according to the testimony we've heard today. Why don't we find some better policy?

So let me suggest some and ask for your comments. Since Federal workers already have the opportunity to request comp time, which is paid time off instead of overtime pay, Ms. Troy, why shouldn't private workers be allowed to do that?

And, second, why should we not consider the reform and expansion of the Earned Income Tax Credit as a way to help women and men who are working and not making enough money? In the case of the Earned Income Tax Credit, the money, we know, goes to low-income people who work. It goes to people who need the money, and so far as I know, there is no suggestion that it would cost jobs. Those are two other ways to address the issue of women who work outside the home. Do you have a comment on either of those?

Ms. TROY. I am honestly more familiar with the comp time than the Earned Income Tax Credit. That's not something that we deal with a lot. Comp time—I can't speak specifically for my company, because we haven't discussed it at great length.

But it makes sense that employees and employers could choose whether to allow comp time at the same time and a half rate, so that employees would not be harmed by that. And if the employee would rather have time off over the summer or when something is going on in their own family, instead of taking the overtime pay that same week, I think they should be given that choice.

I think we would discuss it very seriously as a company and decide whether it was something that made sense for us to offer. And I suspect some employees would really be happy to do that, and some would still choose to take the time-and-a-half pay. I think having the choice would be great.

I know we have employees who are very close to the State capital of Concord, NH, and we have employees who are coming to us after having worked for the State. And they tend to get upset with us that they can't have comp time, and it's not us. I'm trying to explain to them, yes, there are rules, but the rules apply differently if you work for the government than if you work in the private sector, and it's very difficult.

We do get that question fairly frequently. "Well, why can't I save my time and have some extra vacation or to take care of some personal business?"

Senator ALEXANDER. Thank you. I believe there are two or three others, Mr. Chairman.

The CHAIRMAN. I don't know who had theirs up first.

Ms. Traub, go ahead.

Ms. TRAUB. Thank you. With all due respect to the Congressional Budget Office and their study, there's a lot of evidence, really, that raising the minimum wage does not harm job creation and may encourage it. There's sort of two sets of studies on this, some that use economic models and some that look at the experience of States that really have raised the minimum wage and what the impact has been. In the studies that look at the experience of States that have recently raised the minimum wage, there are not findings that this has been detrimental to job creation.

Senator ALEXANDER. I know there are lots of different studies, but that was the Congressional Budget Office testimony after a review. And then President Obama's new chairman of the Federal Reserve Board was asked if CBO was competent to make that review, and she said they're as good as anybody to study it. They are non-partisan. We have to take somebody's judgment on that.

Ms. TRAUB. Senator, I do think that the Earned Income Tax Credit is a wonderful supplement to an increase in the minimum wage and can be a big part of the solution.

Senator ALEXANDER. Thank you.

The CHAIRMAN. Yes. Go ahead, Ms. Goss Graves.

Ms. GOSS GRAVES. The only other thing that I want to add to that is that I think today's roundtable has shown how interconnected these issues are, and that the reality of women's lives is that there's two-thirds of working adult women who are minimum wage workers. Having an increase in the minimum wage would

make a big difference. But also having an Earned Income Tax Credit makes a big difference. I think things like support for childcare is going to make a big difference.

When you pair all of that with the conversation around flexibility, the conversation that we hear at the Law Center a lot is around schedules that are unpredictable and unstable and workers who aren't able to deal with their family needs because of that reason. So I think these are interconnected issues, but I don't think it's a situation where you have to do one or the other.

Senator ALEXANDER. I think there's one other comment.

The CHAIRMAN. Did you have—OK, fine.

Senator ALEXANDER. There's one over here.

The CHAIRMAN. Oh, I'm sorry. Ms. Riner.

Ms. RINER. Thank you, sir. I just wanted to bring a little different perspective as a business owner, a small business owner, that I love and care for my employees as if they are our family. So just a little different perspective. I'm not an expert in all the regulations that are being discussed today. But just a reminder that when we do apply these regulations across the board, it really hurts small businesses like myself, and it can hurt with undue regulations.

One of the things that we offer in our business is franchise opportunities to women. That's a way I have really enjoyed approaching the economic challenges of women in the workforce. We provide an entry level opportunity for a woman to be a business owner.

I know, Senator Alexander, you discussed flexibility, and from my discussions with women across the country, that is what women want. We actually want it all. We want to provide and help our families financially, but we also want to be present with our families. So when we are able to be a business owner, we have more control over our schedules, and I just love offering that to women.

We actually have a single mom who is a franchise owner in Kansas. That's what being a business owner has provided for her. It's given her a chance to own and operate her business and be very present with her child. I just wanted to share just another perspective.

The CHAIRMAN. Thank you very much, Ms. Riner.

Senator Warren.

Senator WARREN. Thank you, Mr. Chairman. As you know, women hold a disproportionate number of low-wage jobs, making up about 76 percent of the workers in the 10 biggest low-wage job categories in America. And these include some of the fastest growing occupations in the country. The Bureau of Labor Statistics projects that over the next decade, about half of the fastest growing occupations will be in low-wage, female dominated, service occupations. That's the direction we're headed in.

Now, many of these jobs lack predictable schedules or hours. Many of these workers have little control over their work hours. It makes juggling a family, a home, and work for many people almost impossible. According to the Retail Action Project, about a fifth of retail workers receive their schedules only 3 days in advance.

As a result of these practices, these workers often have to struggle to cobble together childcare and transportation at the last

minute. And even after all of that, some of them get to work only to be told to turn around and go home because business is slow.

In Massachusetts, we have something called the 3-hour rule. If you're scheduled for more than 3 hours and you show up for your shift, then you must be paid for at least 3 hours at no less than minimum wage. That law has been in place for over 30 years, and it seems to have worked pretty well. We've also heard of other examples of States enacting innovative policies to help working families.

So my question for the panel is this: Are there innovative approaches at the State or local level that would curb abusive scheduling practices and that would give families a fair shot at trying to put together their lives?

Anyone—yes, Ms. Traub.

Ms. TRAUB. Massachusetts is such a great model of a reporting pay law, and I think this is something that Congress could consider. Eight States now offer laws on reporting pay which compensate employees for a minimum number of hours during a work shift for which they have been scheduled.

Many of these laws guarantee that if a worker is called in for a shift, she has to be paid for a certain number of hours. It might be 3 hours, 4 hours, even 1 hour. But it at least guarantees that workers have that opportunity. If they've set up childcare, if they've arranged for transportation, however they've done it, to get to work, then they are guaranteed at least a minimum amount of pay.

Senator WARREN. Good. Very helpful. Thank you.

Ms. Goss Graves.

Ms. GOSS GRAVES. In addition to the reporting time pay laws, there are also laws out there that discourage split shifts. I think that DC has an example, and California has an example of that type of law. And there's also the laws that allow for workers to request flexible schedules without receiving a penalty. That's another example, and Vermont has one.

What we know is that the consequences for workers who have these unstable and inflexible schedules is that they can't also have stable childcare arrangements and they can't also have additional educational opportunities. So, another point about all of these issues being linked.

Senator WARREN. Actually, I should add to that people who are trying to work two jobs and how impossible that becomes for many.

Ms. Bravo.

Ms. BRAVO. In California, the right to request is combined with studying the predictable scheduling problem and looking for solutions. That's a good model. There's another aspect of this, which is enforcement. There are a lot of temp workers who get told,

> "You must show up to see if your name is on the list. If you don't do that, you won't be called for weeks. But you're not going to get paid for showing up to see if your name is on the list."

Or people who get driven in a van are told they can only get the job if they go in the van, and they wind up sitting there an hour, and they don't get paid for that time. Those could be violations of wage and hour that we could change.

Senator WARREN. Very helpful. I just want to ask, since my time is up, if we could have more ideas sent in to the committee. This is where we need to push the conversation. We can't always be fighting on defense. It's time to talk about where we could make changes that would help families.

And when we think, particularly, about the direction that we're headed in the workforce and the rise in the number of female dominated, low-wage jobs, the importance of being able to focus on things like the scheduling issues, I think, could really be powerful. So I invite your continued conversation on this.

The CHAIRMAN. Thank you, Senator Warren.

Senator Baldwin.

Senator BALDWIN. Thank you. I want to talk about paid sick time, or actually, more specifically, about the 40 percent of working people who don't have those protections, because it obviously leads to these horrible choices between taking care of your own health or the health of a family member and losing out on a paycheck or perhaps even a job entirely.

There was some testimony today about the steps forward that have been achieved at the local and State level on this issue. The old, good news in Wisconsin was that in 2008, voters in Milwaukee approved a local ballot measure for mandating paid sick days. But, troublingly, the bad news is that in my State of Wisconsin and Ellen Bravo's State of Wisconsin, in 2011, a law was passed to forbid localities from requiring paid time off.

I wonder, starting with you, Ms. Bravo, if you could talk about the trends at the State and local level on paid sick days. I'm curious to know whether Wisconsin is an anomaly with regard to cutting off local measures like this, or whether there are other States that have done the same.

Ms. BRAVO. Thank you so much, Senator Baldwin. There's lots of progress, and we're going to see more in Senator Warren's home State. I think we'll see increases in both paid sick time and minimum wage under the umbrella of Raise Up Massachusetts, and we're going to see a number of other places that will add it.

But, alas, Wisconsin was not the only State. This is another form of attack on democracy, trying to limit not only who can vote, but what we can vote for. It's really frightening, and it's, surprisingly, being done by people who claim to care about local control. But it is, in essence, an attack on local control for broader protections.

I remember when it was being stolen from us in Milwaukee, the conservative columnist at the Milwaukee Journal Sentinel wrote a column saying, "I hate paid sick days." But local control is local control. You can't take it away. But we're fighting it. We've stopped in several places, and you'll see.

The CHAIRMAN. Ms. Tanden.

Ms. TANDEN. I would just say, you know, Florida is an example where there was a move afoot at the local level to have paid sick days, and then statewide there was a move afoot to stop that ability to have that happen. I would just say to the committee that for those who support federalism and say that States should be able to innovate without Federal intervention, we should have the same level of experimentation at the city level.

We're seeing paid sick days around the country—San Francisco, New York City. These are experiments, and they should not be thwarted by statewide action, either.

The CHAIRMAN. Ms. Pelletier.

Ms. PELLETIER. Thank you, Senator. In Connecticut, we passed paid sick days. It was a 3- or 4-year battle. The sky was supposed to fall when it happened, and it did not. This past year, a study was released that showed that it had no negative impact on businesses at all.

And, what really drove it home was those service sector jobs where people—we had testimony of people who in the food industry had to go to work, serve customers, knowing they were sick. One woman who stayed out because she had the flu for 2 days got fired by her employer.

So it was those sort of testimonies that really drove the point home, because we can all picture ourselves going into a fast food restaurant or any restaurant and thinking, "My gosh. The person who just served my food—were they sick or not?" It was a battle, but we continue to bring that out. Thank you.

The CHAIRMAN. Ms. Troy.

Ms. TROY. Thank you. As an employer, we have issues with the idea of just calling it sick time, because sick time means you have to be sick, and I have to define that on who is covered and what the documentation looks like, and there's a lot of paperwork. As an employer, we said we don't want people to have to wait until Thursday night or Friday morning and pick up the phone and cough at the last minute into the phone and pretend to be sick and call us because they need a day off. We want them to be honest with us. We want them to be adults. We want them to plan their time.

We already had between 10 and 20 vacation days, depending on how long you've been with the company, and we added these 12 GTO days to say,

> "Look, we know you have other reasons you need time off. You might be sick, and if you have a family, there's a bigger chance you need some sick time because you have additional family members. But maybe you're a single person and you don't get sick very often, but you have a dog that you love that has to go to the vet, or you have all those other things that happen in our lives. You have to pick up mom at the airport. You have to do those things."

As an employer, we need to be encouraged to have time off for people that's appropriate, but the sick time bucket is the one-size-fits-all that doesn't fit everybody. It just doesn't. To mandate sick time—we're not going to add to sick time if someone mandates 7 sick days. We're not going to have 20 days of vacation plus 12 days of GTO plus add 7 sick day plus jury duty plus military plus—we're not going to add 7 more.

We're going to revamp our GTO time to say, "OK. Now it's sick time," and that's going to hurt some employees. It's going to hurt some women employees who have other things to do that have nothing to do with being sick, but they need the time off. I think it's really important to think about the unintended consequences.

The idea of it is wonderful. People need time off to take care of family members and themselves, absolutely, positively, and the good employers recognize that, and I don't think those are the ones we're really talking about as much today. But the good employers recognize that and try to do something. I'd just caution you to be careful.

Ms. BRAVO. I'm so happy to correct the misunderstanding here. We applaud you, Ms. Troy, for the flexibility that you have. Every one of these laws is written to say that any paid time that the employer provides can be used to comply, as long as it can be used in the same manner for the same reason, meaning that if my child is sick, I can use my sick time, and that I can use it without being punished. But, absolutely, your policy would comply. Not a problem.

The CHAIRMAN. Thank you, Senator Baldwin.

Ms. Legros, I want to talk to you again. You had this job for 2 years at this armored truck company. Did you like your job?

Ms. LEGROS. Yes, I did. I did enjoy my job. It was very difficult for me to not be able to work while I was pregnant, especially since my employer did accommodate other disabled people that were working for the same company. I wasn't protected under the same law that they were.

The CHAIRMAN. Did you belong to a union?

Ms. LEGROS. No, I did not belong to a union.

The CHAIRMAN. Did any of your fellow workers belong to a union?

Ms. LEGROS. No, they did not.

The CHAIRMAN. There was not a union there. So you liked your job. You worked there for 2 years, and then you got pregnant, and you had this physical problem, and your manager sent you home without pay indefinitely. Let me ask you this. Had they provided you accommodations, and you'd had your child, and if you'd had some decent time off to nurse, that type of thing, would you have gone back to work for that armored company?

Ms. LEGROS. Yes, I would have. I did not have any complications with my pregnancy. My doctor just advised me from heavy lifting to prevent me from further injury from pulling a muscle in my stomach.

The CHAIRMAN. And then you say later that your employer fought your unemployment benefits.

Ms. LEGROS. Yes, they did. I went 7 months without any pay.

The CHAIRMAN. Why did they fight your unemployment benefits?

Ms. LEGROS. I believe because I did not fall under the short-term disability terms, and they did not want to compensate me for being out.

The CHAIRMAN. And then your health insurance was cutoff. You didn't have COBRA, and you had to go on Medicaid. Now you have a part-time job. Is there a reason why you don't have a full-time job?

Ms. LEGROS. Currently, I'm working a part-time job because of—after having my baby, I did go back to work with the help of A Better Balance, and I did go back full-time. Things did get slow, and I started getting cut in hours. So I looked for a part-time job to

compensate for the hours that I was losing. I was recently laid off of my full-time job in March again.

The CHAIRMAN. So you were actually doing two jobs?

Ms. LEGROS. I was doing two jobs at the time. But, currently, I'm just working a part-time job.

The CHAIRMAN. How many hours were you working when you were doing both jobs?

Ms. LEGROS. I'm sorry?

The CHAIRMAN. How many hours a day were you working when you had the full-time job and a part-time job?

Ms. LEGROS. The full-time job gave me probably 26 to 30 hours a week, and I'm currently working 17 to 18 hours a week.

The CHAIRMAN. But you were working both at one time.

Ms. LEGROS. Yes, I did both at one time because I was working less hours at the full-time job because work was slow. So I needed something to compensate for the loss of hours. And I won't be eligible for full-time at my part-time job for another 6 months. That's their policy.

The CHAIRMAN. I think what we tend to forget is there are millions of people, women, in America who have your same situation. That's what we're trying to address. For a lot of different reasons, they find themselves in tough circumstances, and as someone said, you shouldn't have to be choosing between your job and the health of your kids and the well-being of your family.

Certainly we're a rich enough country to be able to afford that—a modicum of decency, of support. Again, I say if other countries can do it, and we're only one of three—that doesn't make sense that other countries can do it and we can't. We can't afford it? We're the richest nation in the world. We're the richest nation in the history of the world. And if we're the richest nation in the history of the world, why do we have all these problems?

It seems to me that we need to have some societal type agreements that put some floors underneath this, that provide for people like Ms. Legros, who are pregnant or who have a medical problem—that there's accommodations made. Should a person like Ms. Legros just be at the whim of whoever the employer is? You say, "Well, he owns the business, or she owns the business." I don't know. But some people have the attitude that if you own a business, you can do whatever you want.

Businesses get tax advantages. They do other things. They're involved in our society. It seems to me there ought to be some fundamental rules that apply to workers in our country, and, of course, one of those is minimum wage, which I've been pushing, which is my bill. And I'm going to give Senator Alexander a chance to rebut me on this, my good friend that he is, and he knows that. We just have a difference on this.

I would say I want to correct this, though. CBO did not do their own study. They did not do a study. They only looked at the literature that was out there. They added it all up, and they said there could be jobs lost of anywhere from zero to a million. Senator Alexander mentioned that. They said they just picked 500,000 as the median point.

But some of those studies were old studies, and there's new studies, and the quality is quite different. I've often used the example

of when I was an engineering student once, back when we used a transit and we used a chain and a rod, and we'd do surveying that way, you know, get boundaries like George Washington used to do. We plotted different things.

Today, however, they use GPS and lasers. Now, if they were to plot the same land that I plotted 60 years ago, they'd probably be a little bit more accurate than I was. So if you're saying,

> "Well, we want to know what that plot of land really is, so we'll take Harkin's, which is 60 years old, and we'll take the new one, and we'll just even them up,"

that doesn't make sense. If you've got something that's better and more accurate, you take that.

The fact is we have better and more accurate studies that have been done in the last few years on the impact of raising the minimum wage that show, basically, that there hasn't been an impact on unemployment. But there has. I mean, the CBO did say that almost a million people would be lifted out of poverty, and $31 billion would flow to—not people in poverty, but people below three times the level of poverty. So that's a debate that continues.

Senator Alexander, do you want to say anything?

Senator ALEXANDER. I've made my point. I thank the witnesses for being here today. It's been very helpful, and I've enjoyed listening to them.

The CHAIRMAN. I, too. And, Ms. Legros, I especially appreciate your putting a human face on this. It's a small comfort. But there are a lot of people in this country in your same situation, and I think we have a responsibility as a Federal Government to respond to a national, I think, crisis that we have in families, especially with women and single mothers and single parents in this country.

I think that as we progress in our ideas of what society should be like and how we should advance our social awareness, I think this is one of the areas where we're way behind. Paid sick leave, I think, maternity leave, Senator Casey's bill on the pregnancy act are just things I think that make our society more caring, more inclusive, and more considerate of one another. And I don't think that's a bad thing.

Thank you all very much for being here. Great testimony. We appreciate your being here. Thank you.

The committee will stand adjourned.

[Additional material follows.]

ADDITIONAL MATERIAL

JUNE 3, 2014.

Hon. TOM HARKIN, *Chairman,*
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Dirksen Senate Office Building,
Washington, DC. 20510.

DEAR CHAIRMAN HARKIN: On behalf of the National Partnership for Women & Families, I commend you for holding the May 20th roundtable on *Economic Security for Working Women*. I write to urge you and your colleagues to support the policies the panelists discussed, including paid sick days, paid family and medical leave, pregnancy accommodations and equal pay. These policies would modernize our Nation's workplaces to reflect the urgent needs of our families.

Across the Nation, families are struggling to get by. The economy is recovering unevenly, and the jobs that are being created don't provide the wages or the protections that workers need. Women dominate the industries and fill the lower-paying jobs that offer little access to basic paid time off for illness or family and medical needs. Nineteen of the 30 fastest growing jobs pay annual wages below the national median wage, and most of these jobs will be held by women.[1]

Women bring home a significant share of their families' income and are the primary caregivers for children and elders in their families. Women are the primary or co-breadwinners in two-thirds of households,[2] and two-thirds of all family caregivers are female.[3] Overwhelmingly, mothers have primary responsibility for selecting their children's doctors, accompanying children to appointments and helping to ensure they obtain recommended care.[4] Women are also more likely than men to care for elderly parents.[5] They are more likely to drop out of the workforce rather than reduce their work hours to manage caregiving responsibilities, leading to long-term financial consequences.[6] People across the country are working hard to make ends meet and take care of their families, yet the Nation fails to provide the support they need and that businesses and our economy need to thrive.

The United States is on an unsustainable path. It is past time for Congress to adopt basic standards to help people manage the dual demands of work and family and promote their families' financial stability. These policies include job-protected paid sick days, paid family and medical leave, fair pay and work schedules, affordable child care and job-protected time away from work to attend children's school meetings or preventive medical care appointments. Other policies, such as raising the minimum wage, protecting workers' ability to earn overtime pay and protecting the right of workers to organize, are also critically important to prosperity and mobility.

The National Partnership is proud to convene a national coalition that advocates for many of these policies. In particular, this coalition of organizations representing women, children, low-wage workers, health care providers, business leaders, faith leaders, and the civil rights community urges Congress to take immediate action in support of:

- The **Healthy Families Act (S. 631/H.R. 1286)**, which would allow workers to earn up to seven paid sick days to use to recover from illness, access preventive care or care for a sick family member; and
- The **Family And Medical Insurance Leave Act (FAMILY Act) (S. 1810/H.R. 3712)**, which would create a national insurance program to support workers and businesses by providing workers a portion of their typical wages when they

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[1] U.S. Bureau of Labor Statistics. (2013, December 19). *Occupations with the most growth, 2012 and projected 2022 (Table 1.4)*. Retrieved 30 May 2014, from *http://www.bls.gov/emp/ep_table_104.htm*.

[2] Glynn, S. (2012, 16 April). The New Breadwinners: 2010 Update. Retrieved 30 May 2014, from *http://www.americanprogress.org/issues/labor/report/2012/04/16/11377/the-new-breadwinners-2010-update/*.

[3] National Alliance for Caregiving. (2009, November). *Caregiving in the U.S. National Alliance for Caregiving and AARP* publication. Retrieved 30 May 2014, from *http://www.caregiving.org/data/Caregiving_in_the_US_2009_full_report.pdf*.

[4] Kaiser Family Foundation. (2011, May). *Women's Health Care Chartbook: Key Findings from the Kaiser Women's Health Survey*. Retrieved 30 May 2014, from *http://kaiserfamilyfoundation.files.wordpress.com/2013/01/8164.pdf*.

[5] 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 30 May 2014, from *https://www.metlife.com/mmi/research/caregiving-cost-working-caregivers.html#key%20findings*.

[6] Ibid.

need time away from their jobs to address their own serious health condition, care for a loved one with a serious health condition, care for a new child or address the exigencies of a family member's military deployment.

Our broad and diverse coalition supports these policies because they improve working families' economic security, improve health outcomes and reduce health care costs. Moreover, evidence from States and cities that have adopted these policies show they are working well for workers, families, businesses and communities.

We look forward to working with you and the HELP Committee to ensure that American workers are able to meet their responsibilities on the job and to their families. If you have any questions, please do not hesitate to contact me.

Sincerely,

DEBRA L. NESS,
President.

Attachment 1.—Coalition Letter in Support of the Healthy Families Act, June 3, 2014.

JUNE 3, 2014.

DEAR MEMBER OF CONGRESS: **We, the undersigned organizations, urge you to support the Healthy Families Act (H.R. 1286/S. 631) a common sense bill that would allow workers to earn up to 7 paid sick days a year to recover from short-term illnesses like the flu, access preventive care, care for a sick family member or seek assistance related to domestic violence, sexual assault or stalking.** Without paid sick days, workers are forced to make impossible choices when illness strikes: stay home, lose pay and risk their jobs; or go to work sick, risk their health and spread disease to their co-workers and communities. Establishing a national paid sick days standard will help make businesses and governments more efficient while giving working families more financial stability—leading to a stronger economy for all.

No one should face the impossible choice between caring for their health and keeping their paycheck or job. But more than 43 million workers—nearly 4 in 10 private sector workers—must make this decision every time illness strikes because they don't have access to earned paid sick days.[1] And millions more lack paid sick time to care for a sick child or other family member. Working families need the job and economic security paid sick days provide.

The lack of paid sick days is acute in jobs requiring frequent contact with the public—with potentially grave public health consequences. Three in four food preparation and service workers don't have a single paid sick day.[2] Without paid sick days, workers are forced to take unpaid leave or work sick. In the restaurant industry, the result is that nearly two-thirds of servers and cooks report that they have served or cooked while ill.[3] This puts workers, customers and businesses in danger. Similarly, the vast majority of workers in child care centers and nursing homes cannot earn paid sick days.[4] When these workers have no choice but to work sick, they risk spreading contagious diseases to the very young and the very old.

Ensuring all workers can earn paid sick days will significantly reduce public expenditures. Workers without paid sick days are more likely to seek treatment at an emergency department because they can't take time off to get care during regular business hours.[5] A 2011 study found that if all workers had paid sick days, 1.3 million emergency room visits could be prevented each year, saving $1.1 billion annually. More than half of these savings—$517 million—would accrue to taxpayer-funded health insurance programs such as Medicare, Medicaid and the State Children's Health Insurance Program.[6]

Businesses benefit when their employees have access to paid sick days. When sick workers are able to stay home, the spread of disease slows and workplaces are both healthier and more productive. Plus, workers recover faster from illness and obtain timely medical care—enabling them to get back to work more quickly and holding down health care costs. Paid sick days also reduce "presenteeism", the productivity lost when employees work sick, which is estimated to cost our national economy $160 billion annually and surpasses the cost of absenteeism.[7] In addition, workers who earn paid sick days are 28 percent less likely than workers who don't earn paid sick days to be injured on the job—with an even greater difference among workers in high-risk occupations.[8]

Paid sick days enable working parents to care for their children when they are sick—shortening child recovery time and reducing community contagion. Unfortunately, more than half of working parents are unable to earn

even a few paid sick days to use to care for a sick child.[9] Parents without paid sick days are more than twice as likely as parents with paid sick days to send a sick child to school or day care.[10] When parents have no choice but to do so, children's health and educational attainment is put at risk—as is the health of classmates, teachers and child care providers.

Paid sick days policies have been enacted successfully at the State and local levels. Connecticut, San Francisco, Washington, DC, and Seattle have all successfully implemented paid sick days laws, and in 2013, Portland, Oregon and New York City have become the latest cities to pass paid sick days. San Francisco's paid sick days law has been in place since 2007. Since its passage, the number of businesses and jobs in the city has increased relative to the surrounding five counties without paid sick days laws.[11] And workers and their families have benefited with little to no burden on employers.[12] The momentum for paid sick days policies is growing in States and cities across the country, but illness knows no geographic boundaries and access to paid sick days should not be dependent on where a worker is employed. That is why the national paid sick days standard proposed in the Healthy Families Act is so important.

The Healthy Families Act would:

- Allow workers in businesses with 15 or more employees to earn up to 7 job-protected paid sick days each year to be used to recover from their own illness, access preventive care or provide care for a sick family member;
- Allow workers who are survivors of domestic violence, stalking or sexual assault to use their paid sick days for recovery or to seek assistance; and
- Allow employers that already provide paid sick days or paid time off to maintain their existing policies, as long as they meet the minimums set forth in the bill for the amount of time, types of use and method of use.

Working people should not have to risk their financial health when they do what the U.S. Centers for Disease Control and Prevention urge, and what we all agree is the right thing to do when illness strikes—stay home to recover. Setting a minimum paid sick days standard will be good for America's workers, families, communities and businesses. When people have the financial and job security they need, our economy gets stronger.

We urge you to demonstrate your strong commitment to our Nation's working families by becoming a co-sponsor of the Healthy Families Act. Thank you.

Sincerely,

National Partnership for Women & Families
9to5
A Better Balance: The Work and Family Legal Center
African American Ministers In Action (AAMIA)
African American Ministers Leadership Council (AAMLC)
Alliance for Children & Families
American Association of University Women (AAUW)
American Civil Liberties Union
American Federation of Government Employees (AFGE)
AFL-CIO
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers, AFL-CIO
American Friends Service Committee
American Psychological Association
Business and Professional Women's Foundation
Campaign for Community Change
Caring Across Generations

Center for American Progress Action Fund
Center for Law and Social Policy (CLASP)
Coalition of Labor Union Women (CLUW)
Coalition on Human Needs
Communications Workers of America, AFL-CIO
Demos
Direct Care Alliance
ECE PolicyWorks
Equal Rights Advocates
Families USA
Family Equality Council
Family Values @ Work Consortium
Feminist Majority
First Focus Campaign for Children
Food Chain Workers Alliance
Friends Committee on National Legislation
Half in Ten
HIV Prevention Justice Alliance
Human Impact Partners
Institute for Science and Human Values
Interfaith Worker Justice
Jewish Women International
Jobs with Justice/American Rights at Work
Labor Council for Latin American Advancement
Labor Project for Working Families
Legal Momentum
Legal Voice
LULAC
Main Street Alliance
Maternity Care Coalition
MomsRising
NAACP
National Action Network
National Association of County and City Health Officials
National Association of Mothers' Centers
National Association of Social Workers
National Baptist Convention, USA, Inc.
National Consumers League
National Council of Jewish Women
National Council of La Raza (NCLR)
National Council of Women's Organizations
National Domestic Workers Alliance
National Employment Law Project (NELP)
National Fatherhood Initiative
National Gay and Lesbian Task Force Action Fund
National Hispanic Council on Aging
National Latina Institute for Reproductive Health (NLIRH)
National Military Family Association
National Organization for Women (NOW)
National Perinatal Association
National Research Center for Women & Families
National Women's Health Network
National Women's Law Center
NETWORK, A National Catholic Social Justice Lobby
OWL - The Voice of Midlife and Older Women
Partnership for Working Families
People For the American Way
PICO National Network
Presbyterian Church (U.S.A.)
Progressive National Baptist Convention, Inc. (PNBC)
Progressive States Network
Restaurant Opportunities Centers United
RESULTS
The Roosevelt Institute
Sargent Shriver National Center on Poverty Law
Trust for America's Health
United Methodist Church
United Neighborhood Centers of America
United Steelworkers (USW)
USAction
Voices for America's Children
Wider Opportunities for Women
Women Employed
Women's Media Center
Working America
Young Invincibles

ALABAMA
AAUW of Alabama

ALASKA
AAUW of Alaska

ARIZONA
AAUW of Arizona
Navajo Nation Breastfeeding Coalition
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Phoenix
Sun City/West Valley National Organization for Women

ARKANSAS
AAUW of Arkansas
Little Rock National Organization for Women

CALIFORNIA
9to5 California
AAUW of California
Before and After Baby
Legal Aid Society-Employment Law Center
National Council of Jewish Women, Los Angeles Section
Restaurant Opportunities Center Bay Area
Restaurant Opportunities Center Los Angeles

COLORADO
9to5 Colorado
AAUW of Colorado
Colorado Breastfeeding Coalition
Colorado Fiscal Institute
Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)
FRESC: Good Jobs, Strong Communities
Interfaith Worker Justice Committee of Colorado
NAACP Colorado/Montana/Wyoming State Conference
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Denver

CONNECTICUT
AAUW of Connecticut
Connecticut Working Families Party

DELAWARE
AAUW of Delaware

DISTRICT OF COLUMBIA
Christ Our Redeemer AME Church
District of Columbia Breastfeeding Coalition, Inc.
Pilgrim Baptist Church
Restaurant Opportunities Center Washington, DC

FLORIDA
AAUW of Florida
Broward County Chapter of the National Organization for Women
Farmworker Association of Florida
Florida Breastfeeding Coalition, Inc.
Miami-Dade Coalition for Healthy Families and Workplaces
Restaurant Opportunities Center Miami
South Florida Voices for Working Families
Tampa Chapter of the National Organization for Women

GEORGIA
9to5 Atlanta
AAUW of Georgia
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Atlanta

HAWAII
AAUW of Hawaii

ILLINOIS
AAUW of Illinois
Action Now
AIDS Foundation of Chicago
Arise Chicago
Chicago Women's AIDS Project
Federation of College Clerical and Technical Personnel, Local 1708, AFT, IFT, AFL-CIO
Heartland Alliance for Human Needs & Human Rights
Human Action Community Organization (HACO)
Illinois Maternal and Child Health Coalition
National Council of Jewish Women, Illinois State Public Affairs Committee
ParentsWork
Restaurant Opportunities Center Chicago
SEIU Healthcare Illinois & Indiana

INDIANA
AAUW of Indiana
Community, Faith & Labor Coalition
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Indianapolis

IOWA
AAUW of Iowa
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Iowa

KANSAS
AAUW of Kansas
Kansas Breastfeeding Coalition, Inc.

KENTUCKY
AAUW of Kentucky
Lactation Improvement Network of Kentucky

LOUISIANA
AAUW of Louisiana
Louisiana Breastfeeding Coalition
Restaurant Opportunities Center New Orleans

MAINE
AAUW of Maine
Maine Women's Lobby

MARYLAND
AAUW of Maryland
Baltimore National Organization for Women
Job Opportunities Task Force
The Prince of Peace Baptist Church, Baltimore
Public Justice Center
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Baltimore

MASSACHUSETTS
AAUW of Massachusetts
Jewish Alliance for Law & Social Action
Massachusetts Paid Leave Coalition
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Boston
St. Paul A.M.E. Church

MICHIGAN
AAUW of Michigan
Metro-Detroit Chapter of the Coalition of Labor Union Women
Oakland/Macomb Michigan National Organization for Women
Restaurant Opportunities Center Michigan

MINNESOTA
AAUW of Minnesota
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of the Twin Cities
Uptown National Organization for Women

MISSISSIPPI
AAUW of Mississippi

MISSOURI
AAUW of Missouri
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Kansas City
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of St. Louis

MONTANA
AAUW of Montana

NEBRASKA
AAUW of Nebraska
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Omaha

NEVADA
AAUW of Nevada

NEW HAMPSHIRE
NH Sisters of Solidarity

NEW JERSEY
AAUW of New Jersey
Family Voices-NJ
Grace Cathedral Family Worship Center, Inc.
National Council of Jewish Women, Bergen County Section
New Jersey Citizen Action
New Jersey Policy Perspective
New Jersey State Industrial Union Council
New Jersey Tenants Organization
New Jersey Working Families Alliance
Northern NJ Chapter of the National Organization for Women
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of New Jersey
Statewide Parent Advocacy Network

NEW MEXICO
AAUW of New Mexico
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Albuquerque

NEW YORK
AAUW of New York
Academy of Women's Health Catalyst
Gay Men's Health Crisis (GMHC)
Greater New York Labor-Religion Coalition
New York Paid Leave Coalition
New York State Nurses Association
Restaurant Opportunities Center New York

NORTH CAROLINA
AAUW of North Carolina
Fayetteville National Organization for Women
North Carolina Justice Center
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of North Carolina

NORTH DAKOTA
AAUW of North Dakota

OHIO
AAUW of Ohio
Akron Area National Organization for Women
National Organization for Women, Greater Cleveland Chapter
Ohio National Organization for Women
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Cincinnati
Southeast Seventh-day Adventist Church
Woodland Christian Church (Disciples of Christ)
Zion Hill Missionary Baptist

OKLAHOMA
AAUW of Oklahoma

OREGON
AAUW of Oregon

Central Oregon Coast National Organization for Women
Family Forward Oregon

Pennsylvania
Institute for the Advancement of Working Families
Micah Leadership Council
New Hope Baptist Church
PathWays PA
Pennsylvania Association of Staff Nurses & Allied Professionals (PASNAP)
Pennsylvania Council of Churches
Pittsburgh UNITED
Restaurant Opportunities Center Philadelphia
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Pittsburgh
Southwestern Pennsylvania Coalition of Labor Union of Women
Women's Law Project

RHODE ISLAND
AAUW of Rhode Island
Rhode Island Breastfeeding Coalition

SOUTH CAROLINA
AAUW of South Carolina

SOUTH DAKOTA
AAUW of South Dakota

TENNESSEE
AAUW of Tennessee
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Memphis

TEXAS
AAUW of Texas
Equal Justice Center
North Dallas National Organization for Women
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Dallas
Workers Defense Project

UTAH
AAUW of Utah

VERMONT
AAUW of Vermont
Voices for Vermont's Children

VIRGINIA
AAUW of Virginia
Charlottesville Chapter of the National Organization for Women (CNOW)
NoVA National Organization for Women
Vienna Area National Organization for Women
Virginia Breastfeeding Task Force
Virginia National Organization for Women

WASHINGTON
AAUW of Washington
Economic Opportunity Institute
Healthy Tacoma
Puget Sound Advocates for Retirement Action
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Seattle
Statewide Poverty Action Network
Teamsters Local 117
Thurston County Chapter, National Organization for Women
United Food and Commercial Workers Union, Local 367
Washington State Labor Council, AFL-CIO
Washington State National Organization for Women
Washington Work and Family Coalition

WEST VIRGINIA
AAUW of West Virginia
WV FREE

Wisconsin
9to5 Milwaukee
AAUW of Wisconsin
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Milwaukee
SEIU HealthCare Wisconsin
Wisconsin National Organization for Women
Workers' Rights Center

WYOMING
AAUW of Wyoming

Attachment 2.—Coalition Letter in Support of the Family And Medical Insurance Leave Act (FAMILY Act)

MAY 21, 2014.

DEAR MEMBER OF CONGRESS: On behalf of the 437 undersigned organizations and the tens of millions of working families we represent, we **urge you to become a co-sponsor of the Family and Medical Insurance Leave Act of 2013 (FAMILY Act)**. The FAMILY Act, legislation that would create a national family and medical leave insurance program, epitomizes our Nation's commitment to the fundamental well-being of its people, especially women, children and seniors. Such a program has the support of three-quarters of voters—with majority support or more across demographic, partisan and regional line[13]—because Americans know that a national paid leave program would strengthen the workforce, families, businesses and our economy.

The FAMILY Act would create a paid family and medical leave insurance program. Employees would earn a portion of their wages for a limited period of time (up to 60 workdays, or 12 workweeks in a year) to address their own serious health issue, including pregnancy or childbirth; to deal with the serious health issue of a parent, spouse, domestic partner or child; to care for a new child; and/or for specific military caregiving and leave purposes. Employees and employers would contribute a small amount in each paycheck to a self-sustaining fund, administered through a new Office of Paid Family and Medical Leave. Fund contributions would cover both benefits and administrative costs. Eligibility rules would allow younger, part-time, low-wage and contingent workers to contribute and benefit, regardless of their employer's size or their length of time on the job.

Many employer and public workplace policies are currently not meeting the basic health and economic needs of workers and their families. A mere 12 percent of workers in the United States have access to paid family leave through their employers, and less than 40 percent have access to personal medical leave through an employer-provided temporary disability program.[14] Just 50 percent of new mothers take even a few paid days away from their jobs to care for a new child.[15] And lower-wage workers and workers of color are even less likely to have basic access to paid leave,[16] yet they are often most in need of financial resources when a family or medical need arises.

The Family and Medical Leave Act (FMLA) has been a tremendous help to families, but too many people today cannot afford to take unpaid leave. The most common reason cited by those who are eligible for FMLA leave but do not take it is that they cannot afford to do so. Nearly three-quarters (74 percent) of people who are employed say that they or their families would be likely to face significant financial hardship if a serious personal or family illness occurred or a new child was born or adopted.[17] Many others cut their leave time short, dip into savings or go into debt in order to take the time they need to care for their loved ones or their own health.[18]

The American people want to have strong families, to be good parents, and to have a job and succeed at it, but they are too often forced to choose one of these priorities over another—and that weakens the entire country. We can do better, and we can be stronger.

The FAMILY Act will mean a stronger workforce. Many women and men today are both breadwinners and caregivers, and paid time off for family and medical purposes helps workers —particularly women—stay and succeed in their jobs and earn higher wages over time. Most women work prior to and after the birth of their first child; most families with children have all adults in the workforce; and most women and men who provide care to an ill family member also hold paying jobs.[19] People are working longer and retiring later, meaning older workers with health needs are increasingly part of the workforce.[20] In addition, employees are increasingly working part-time or on a contingent basis, diminishing their access to paid time off when family and medical needs arise.[21] The FAMILY Act would create a national labor standard that recognizes these fundamental changes in the way people live and work.

The FAMILY Act will help to bring the United States in line with the rest of the world. The United States is one of just eight countries in the world that do not guarantee paid maternity leave to new mothers,[22] one of five highly competitive countries that do not guarantee paid parental leave to new fathers,[23] and the only highly competitive country that does not guarantee paid medical leave for serious illness.[24]

The FAMILY Act will strengthen the economic security of working people and their families. Paid leave provides income stability for working people and families at critical moments in their lives. Having a baby is the most expensive health event that families face during their childbearing years,[25] and a new child's entry into a household is a leading trigger for a family's entry into poverty.[26] Paid leave also promotes **financial independence**, especially for growing families. In the year following a birth, new mothers who take paid leave are 54 percent more likely to report wage increases and 39 percent less likely to need public assistance than mothers who do not, taking other related socioeconomic factors into account; fathers who take paid parental leave are also less likely to need public assistance in the year following a child's birth.[27]

The FAMILY Act will mean stronger, improved health outcomes for all. Paid leave contributes to improved **newborn and child health**. New mothers who take paid leave are more likely to take the amount of time recommended by doctors,[28] and their children are more likely to be breast fed, receive medical check-ups and get critical immunizations.[29] An additional 10 weeks of paid leave for new parents, on average, reduces post-neonatal mortality by up to 4.5 percent.[30] Children with illnesses also recover faster when cared for by their parents. The presence of a parent shortens a child's hospital stay by 31 percent.[31] And active parental involvement in a child's hospital care may head off future health care needs and costs, which is particularly true for children with chronic health conditions.[32]

Paid leave also allows **ill or injured adults** to get critical care and needed recovery time. And it enables people to help their loved ones, including **older family members** with health problems, recover from illness, fulfill treatment plans, and avoid complications and hospital re-admissions,[33] which reduces health costs. Currently, 48 percent of family caregivers who have to take time off to meet their care responsibilities lose income when they do so.[34]

The FAMILY Act will mean stronger businesses. A majority of small business employers say they support paid family and medical leave insurance because it gives employees the financial security they need, without harming business.[35] Paid leave keeps people in their jobs and spending money in their communities while also **reducing turnover costs** and **increasing employee loyalty**. Companies typically pay about one-fifth of an employee's salary to replace that employee.[36] But new mothers who take paid leave are more likely than mothers who do not to be working 9 to 12 months after giving birth.[37] And in California, one of the three States where a successful family leave insurance program exists, workers in low-wage, high-turn-

over industries are much more likely to return to their jobs after using the State's program.[38]

Paid leave also leads to cost savings for high-road employers who already provide paid time off because their policies can be coordinated with the Federal program. In California, 60 percent of businesses surveyed reported coordinating their benefits with the State program, likely reducing their out-of-pocket costs.[39] Creating a national standard would also level the playing field for those businesses that want to provide paid leave but currently cannot afford to do so.

The FAMILY Act will mean a more secure retirement for all and a stronger Social Security system. Paid leave safeguards the income and retirement security of workers while complementing our Nation's well-established Social Security system. Social insurance has a long record of success in the United States, lifting millions of children and elders out of poverty. The FAMILY Act builds on that success.

On average, a worker who is 50 years of age or older who leaves the workforce to take care of a parent will lose more than $300,000 in wages and retirement income.[40] By keeping new parents, ill workers and family caregivers attached to the workforce, a national paid family and medical leave insurance program would keep people paying taxes, which would help correct projected Social Security shortfalls down the road.

In addition, the paid leave fund would be entirely separate from the Social Security Trust Fund and Social Security Disability Insurance. The funding would be used to administer the program and provide benefits. The program would build on Social Security's existing benefits determination and payment infrastructure, and any additional demands on the system would be covered through new revenue.

The FAMILY Act will mean a stronger economy. The benefits of establishing a national paid family and medical leave insurance program for our workforce, families' economic security, businesses and the Nation's retirement system will all contribute to a healthier, more stable economy for all. When people have to miss a paycheck or lose a job because a serious medical or caregiving need arises, they often jeopardize their ability to provide for their families and struggle to afford even the most basic necessities. This hurts workers, their families, and the businesses that depend on revenue from these purchases, and it stifles the growth of our economy.

We know paid leave insurance programs like this work—but people should have access to affordable family and medical leaves no matter where they live. The FAMILY Act builds on State family and medical leave insurance programs, which have a strong record of success. Personal medical leave through State temporary disability insurance programs has been working well for many decades in California, Hawaii, New Jersey, New York, Rhode Island and Puerto Rico. Family leave insurance programs have existed in California since 2004 and New Jersey since 2009. Rhode Island passed a family leave insurance program in 2013 that will be implemented in 2014. Analyses of California's law show that both employers and employees benefit from the program.[41] In New Jersey, the program costs are even lower than expected, leading to a payroll tax cut.[42] More State progress is on the horizon but a national standard is both necessary and more efficient.

It is well past time for a stronger America that meets our Nation's needs, lives up to the values we all share, and truly honors America's families. The American people know that there is nothing more important than being able to care for family—whether you have an ill parent or loved one or a new baby on the way. That is why we need a law that guarantees that people can care for themselves and their loved ones while still making ends meet and contributing to the economy. The FAMILY Act is that law. We urge you to sponsor this critically important legislation today.

Sincerely,

National Partnership for Women & Families

Center for American Progress Action Fund
9to5

A Better Balance
Advancing Women Professionals and the Jewish Community

African American Ministers in Action
AIDS Alliance for Women, Infants, Children, Youth & Families
Alliance for Children and Families
Alliance for Justice
American Academy of Pediatrics
American Association of University Women
American College of Nurse-Midwives
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
American Federation of State, County and Municipal Employees (AFSCME)
American Friends Service Committee
American Psychological Association
American Public Health Association
Association for Women in Science
Association of Flight Attendants – Communications Workers of America
Association of Reproductive Health Professionals
Association of State Public Health Nutritionists
Association of Women's Health, Obstetric and Neonatal Nurses
Baby Café USA, Inc.
Baby-Friendly USA, Inc.
Bend the Arc: A Jewish Partnership for Justice
BirthNetwork National
Black Women's Roundtable, National Coalition on Black Civic Participation
Breastfeeding USA
Business and Professional Women's Foundation
Campaign for Community Change
Caring Across Generations
Caring Economy Campaign, Center for Partnership Studies
Catalyst
Center for Law and Social Policy
Center for Women Policy Studies
Center for Science in the Public Interest
Centering Healthcare Institute
Childbirth Connection
Church Women United
Coalition of Labor Union Women (CLUW)
Coalition on Human Needs
Community Action Partnership
Communications Workers of America
DC Jobs Council
Demos
Direct Care Alliance
Easter Seals
Evangelicals for Social Action
Faith in Public Life
Family and Children's Ministries of the Christian Church (Disciples of Christ) and the United Church of Christ
Faith in Public Life
Family Equality Council
Family Values @ Work Coalition
Feminist Majority
First Focus Campaign for Children
Food Chain Workers Alliance
Franciscan Action Network
Gamaliel
Girls, Inc.
Hadassah, The Women's Zionist Organization of America, Inc.
Half in Ten
HealthConnect One
Human Rights Campaign
Human Rights Watch
Interfaith Worker Justice
International Brotherhood of Teamsters
Jewish Council for Public Affairs
Jewish Women International
Jobs with Justice
Justice and Witness Ministries of the United Church of Christ
Labor Project for Working Families
Leadership Center for the Common Good
Legal Momentum
Mi Familia Vota
MomsRising
National Advocacy Center of the Sisters of the Good Shepherd
National Alliance for Caregiving
National Association for the Advancement of Colored People (NAACP)
National Association of Mothers' Centers
National Association of Nurse Practitioners in Women's Health
National Consumers League
National Council of Jewish Women
National Council of Women's Organizations
National Domestic Workers Alliance
National Employment Law Project
National Gay and Lesbian Task Force Action Fund
National Hispanic Council on Aging
National Latina Institute for Reproductive Health
National Organization for Women
National Research Center for Women and Families
National Respite Coalition
National Women, Infants and Children (WIC) Association
National Women's Health Network
National Women's Law Center
NETWORK, A National Catholic Social Justice Lobby
OWL – The Voice of Midlife and Older Women
Partnership for Working Families
People For the American Way
PHI – Quality Care through Quality Jobs
Progressive National Baptist Convention
Progressive States Network
Religious Coalition for Reproductive Choice
Restaurant Opportunities Center United
RESULTS
Sargent Shriver National Center on Poverty Law
Service Employees International Union (SEIU)
Sojourners
The Leadership Conference on Civil and Human Rights
T'ruah: The Rabbinic Call for Human Rights
UltraViolet
Unitarian Universalist Association
Unitarian Universalist Women's Federation
United Food and Commercial Workers, International
United Methodists General Board of Church and Society
United States Breastfeeding Committee
United States Women's Chamber of Commerce
United Steelworkers
UniteWomen.org ACTION
USAction
Voter Participation Center
Wellstart International
Women Donors Network
Women Employed
Women's Media Center
Women's Voices Women Vote Action Fund
YWCA USA
ZERO TO THREE: National Center for Infants, Toddlers, and Families

ALABAMA
American Association of University Women of Alabama
UniteWomen.org AL

ALASKA
Alaska Breastfeeding Coalition
UniteWomen.org AK

ARIZONA
American Association of University Women of Arizona
Nuts On Nutrition
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Phoenix
UniteWomen.org AZ

ARKANSAS

American Association of University Women of Arkansas
Arkansas Breastfeeding Coalition
UniteWomen.org AR

CALIFORNIA
9to5 California
American Association of University Women of California
BreastfeedLA
California Breastfeeding Coalition
Central California Coalition of Labor Union Women Chapter
Equal Rights Advocates
Legal Aid Society—Employment Law Center
National Council of Jewish Women California State Policy Advocacy Network
Restaurant Opportunities Center Bay Area
Restaurant Opportunities Center Los Angeles
United Food and Commercial Workers Local 5
UniteWomen.org CA

COLORADO
9to5 Colorado
13th Moon Midwifery
American Association of University Women of Colorado
Boulder County Breastfeeding Coalition
Colorado American College of Nurse Midwives
Colorado Breastfeeding Coalition
Colorado Fiscal Institute
Colorado Organization for Latina and Reproductive Rights (COLOR)
Colorado Progressive Coalition
Denver Health Medical Center
Gate City Moving
Mesa County Health Department
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Denver
The Women's Clinic of Northern Colorado
UniteWomen.org CO

CONNECTICUT
American Association of University Women of Connecticut
Connecticut Breastfeeding Coalition
Connecticut Permanent Commission on the Status of Women
Hartford Coalition of Labor Union Women Chapter
UniteWomen.org CT

DELAWARE
American Association of University Women of Delaware
Breastfeeding Coalition of Delaware
UniteWomen.org DE

DISTRICT OF COLUMBIA
District of Columbia Breastfeeding Coalition
District of Columbia Chapter, National Organization for Women
District of Columbia Employment Justice Center
Restaurant Opportunities Center Washington, D.C.

FLORIDA
American Association of University Women of Florida
Central Florida Coalition of Labor Union Women Chapter
Central Florida Jobs with Justice
Farmworker Association of Florida
Florida Consumer Action Network
Institute for Science and Human Values, Inc.
Organize Now
Palm Beach County Chapter, National Organization for Women
Restaurant Opportunities Center Miami
South Florida Voices for Working Families
UniteWomen.org FL
Women, Infants, and Children (WIC) Florida

GEORGIA
9to5 Atlanta
American Association of University Women of Georgia
Georgia Rural Urban Summit
Georgia Women for a Change
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Atlanta
UniteWomen.org GA

HAWAII
American Association of University Women of Hawaii
Breastfeeding Hawaii Coalition
Domestic Violence Action Center
Hawaii State Commission on the Status of Women
Healthy Mothers Healthy Babies Coalition of Hawaii
Share the Care, Kauai
UniteWomen.org HI
YWCA of Kauai
YWCA of Oahu

IDAHO
American Association of University Women of Idaho
United Action for Idaho
UniteWomen.org ID

ILLINOIS
AIDS Foundation of Chicago
American Association of University Women of Illinois
Arise Chicago
Chicago Lawyers' Committee for Civil Rights Under Law, Inc.
EverThrive Illinois
Federation of College Clerical and Technical Personnel, Local 1708, AFT, IFT, AFL-CIO
HIV Prevention Justice Alliance
Illinois Caucus for Adolescent Health
National Council of Jewish Women Illinois State Policy Advocacy Network
ParentsWork
Project IRENE
Restaurant Opportunities Center Chicago
UniteWomen.org IL

INDIANA
American Association of University Women of Indiana
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Indianapolis
UniteWomen.org IN

IOWA
American Association of University Women of Iowa
Equality Iowa
Iowa Citizen Action Network
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Iowa
UniteWomen.org IA

KANSAS
American Association of University Women of Kansas
Kansas Breastfeeding Coalition, Inc.
UniteWomen.org KS

KENTUCKY
American Association of University Women of Kentucky
UniteWomen.org KY

LOUISIANA
American Association of University Women of Louisiana
Restaurant Opportunities Center New Orleans
UniteWomen.org LA

MAINE
American Association of University Women of Maine
Direct Care Alliance Maine
Maine Children's Alliance
Maine People's Alliance
Maine Women's Lobby
UniteWomen.org ME

MARYLAND
American Association of University Women of Maryland
Family Caregiver Advocacy
Job Opportunities Task Force
Progressive Maryland
Public Justice Center
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Baltimore
UniteWomen.org MD

MASSACHUSETTS
American Association of University Women of Massachusetts
Coalition for Social Justice
Greater Boston Legal Services
Healthy Children Project, Inc.
Jewish Alliance for Law and Social Action
Massachusetts Breastfeeding Coalition
Massachusetts Paid Leave Coalition
New England United for Justice
Promise the Children
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Boston
UniteWomen.org MA

MICHIGAN
American Association of University Women of Michigan
Metro-Detroit Coalition of Labor Union Women Chapter
Michigan Breastfeeding Network
Michigan League for Public Policy
Mothering Justice
Restaurant Opportunities Center Michigan
UniteWomen.org MI

MINNESOTA
American Association of University Women of Minnesota
Neighborhoods Organizing for Change
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Indianapolis
TakeAction Minnesota
UniteWomen.org MN

MISSISSIPPI
American Association of University Women of Mississippi
Every Mother, Inc.
UniteWomen.org MS

MISSOURI
American Association of University Women of Missouri
Greater Kansas City Coalition of Labor Union Women Chapter
Missouri Progressive Vote Coalition
National Council of Jewish Women
State Policy Advocacy Network, St. Louis Section
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Kansas City
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of St. Louis
UniteWomen.org MO

MONTANA
American Association of University Women of Montana
The Arc Montana
UniteWomen.org MT

NEBRASKA
American Association of University Women of Nebraska
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Omaha
UniteWomen.org NE

NEVADA
American Association of University Women of Nevada
UniteWomen.org NV
Women, Infants and Children (WIC) Nevada

NEW HAMPSHIRE
American Association of University Women of New Hampshire
New Hampshire Breastfeeding Task Force
New Hampshire Citizens Alliance for Action
UniteWomen.org NH

NEW JERSEY
American Association of University Women of New Jersey
American Federation of Teachers New Jersey
AMThomas & Associates, LLC
Columbia University, Medical Center
Family Voices New Jersey
Greater New Jersey Coalition of Labor Union Women Chapter
La Casa de Don Pedro
Laundry Workers Center
National Council of Jewish Women
New Jersey State Policy Advocacy Network
New Jersey Administrative Legislative Council 1, American Federation of State, County, and Municipal Employees
New Jersey Chapter, National Organization of Women
New Jersey Citizen Action
New Jersey Policy Perspective
New Jersey State Conference of the NAACP
New Jersey State Industrial Union Council
New Jersey State Policy Advocacy Network
New Jersey Tenants Organization
New Jersey Time to Care Coalition
New Jersey Women in the NAACP
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of New Jersey
South Jersey National Organization of Women – Alice Paul Chapter
Statewide Parent Advocacy Network
UniteWomen.org NJ

NEW MEXICO
American Association of University Women of New Mexico
Restaurant Opportunities Center Albuquerque
UniteWomen.org NM

NEW YORK
Align: The Alliance For A Greater New York
American Association of University Women of New York
Brooklyn Postpartum
Center for Popular Democracy
Citizen Action of New York
Docs for Tots
ECE PolicyWorks
Greater New York Labor-Religion Coalition
ImmerseNYC
New York Committee for Occupational Safety and Health
New York Paid Leave Coalition
New York Union Childcare Coalition
Restaurant Opportunities Center New York
UniteWomen.org NY
Worksites for Wellness, Inc.

NORTH CAROLINA
American Association of University Women of North Carolina
Coalition for Improving Maternity Services
North Carolina Breastfeeding Coalition
North Carolina Justice Center
North Carolina Women United
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of North Carolina
UniteWomen.org NC
Women AdvaNCe

NORTH DAKOTA
American Association of University Women of North Dakota
UniteWomen.org ND

OHIO
American Association of University Women of Ohio
Progress Ohio
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of CincinnatiUnited Church of Christ Justice and Witness Ministries
UniteWomen.org OH

OKLAHOMA
American Association of University Women of Oklahoma
Coalition of Oklahoma Breastfeeding Advocates (COBA)
Oklahoma BirthNetwork
UniteWomen.org OK

OREGON
American Association of University Women of Oregon
Breastfeeding Coalition of Oregon
Family Forward Oregon
Main Street Alliance of Oregon
Oregon Action
UniteWomen.org OR

PENNSLYVANIA
American Association of University Women of Pennsylvania
Center for Jewish Ethics, Reconstructionist Rabbinical College
Keystone Progress
Maternity Care Coalition
National Council of Jewish Women
Pennsylvania State Policy Advocacy Network
PathWays PA
Pennsylvania Breastfeeding Coalition
Pennsylvania Direct Care Worker Association
Pennsylvania Chapter, National Organization for Women
Restaurant Opportunities Center Philadelphia
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Pittsburgh
Southwestern PA Coalition of Labor Union Women Chapter
UniteWomen.org PA
Women's Law Project

RHODE ISLAND
American Association of University Women of Rhode Island
UniteWomen.org RI
Women's Fund of Rhode Island

SOUTH CAROLINA
American Association of University Women of South Carolina
South Carolina Breastfeeding Coalition
UniteWomen.org SC

SOUTH DAKOTA
American Association of University Women of South Dakota
UniteWomen.org SD

TENNESSEE
American Association of University Women of Tennessee
National Council of Jewish Women
Tennessee State Policy Advocacy Network
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Memphis
Tennessee Breastfeeding Coalition
Tennessee Citizen Action
UniteWomen.org TN

TEXAS
American Association of University Women of Texas
National Council of Jewish Women
Texas State Policy Advocacy Network
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Dallas
Restaurant Opportunities Center Houston
UniteWomen.org TX

UTAH
American Association of University Women of Utah
The Utah Breastfeeding Coalition
UniteWomen.org UT

VERMONT
American Association of University Women of Vermont
UniteWomen.org VT
Vermont Breastfeeding Network
Vermont Federation of Nurses and Health Professionals, Local 5221
Vermont Lactation Consultant Association, Inc.
Voices for Vermont's Children

VIRGINIA
American Association of University Women of Virginia
UniteWomen.org VA
Virginia Breastfeeding Task Force
Virginia Organizing

WASHINGTON
American Association of University Women of Washington
Economic Opportunity Institute
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Seattle
Seattle University
United Food and Commercial Workers Local 21
UniteWomen.org WA
Washington Community Action Network
Washington Work and Family Coalition

WEST VIRGINIA
American Association of University Women of West Virginia
UniteWomen.org WV
West Virginia Breastfeeding Alliance
West Virginia Citizen Action Group
West Virginia Planned Parenthood Health Systems, Inc

WISCONSIN
9to5 Wisconsin
American Association of University Women of Wisconsin
Citizen Action of Wisconsin
Coalition of Wisconsin Aging Groups
Mid-Day Women's Alliance of Appleton
Milwaukee Muslim Women's Coalition
ROC Supporting the Transformation of America's Restaurants (ROC STARS) of Milwaukee
Society of Friends
UniteWomen.org WI
Urban Underground
Voces de la Frontera
Wisconsin Jobs Now
Wisconsin Religious Coalition for Reproductive Choice
Wood County Breastfeeding Coalition
Wood County Health Department

WYOMING
American Association of University Women of Wyoming
UniteWomen.org WY

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RESPONSE BY ELLEN BRAVO TO QUESTIONS OF SENATOR HARKIN

Question 1. Many businesses provide leave from work through a PTO (or paid time off) policy, which allows a limited amount of leave but for a wide variety of purposes.

Could you please clarify whether companies that provide significant PTO would be compliant with the Healthy Families Act? How would the HFA apply to a company like Globe Manufacturing, which offers PTO (called Globe Time Off), which includes 6 paid and 6 unpaid days, as well as 10 to 20 paid vacation days, in addition to other types of paid leave?

Answer 1. The Healthy Families Act states,

> "An employer with a leave policy providing paid leave options shall not be required to modify such policy, if such policy includes provisions for the provision, use, and administration of paid sick leave that meet the requirements of subsections (a) through (f)."

As long as employees may use the time to care for a sick family member as well as themselves and are not given disciplinary points for taking the time, the Globe Time Off policy should be in compliance.

Question 2. Some business organizations, such as the Society for Human Resource Management, have advocated for a policy known as "comp time" or compensatory time off, in lieu of traditional overtime pay. Ms. Troy also lauded the concept of "comp time" in her testimony. However, I am concerned that what results is not paid time off when workers need it, but rather unpaid overtime that keeps workers away from their families without any guarantee they can use their "comp time" when they most need it.

What are your thoughts on the concept of "comp time"? Do you believe it would help working families? Do you have concerns about the proposal and if so, please explain those.

Answer 2. All employees need flexibility to manage work and family responsibilities. What people want is more time to spend with their families. Under the comp time bill, however, individuals get more time with family only after they have been forced to spend more time away from their family, working extra hours. Overtime pay was meant as a disincentive for employers to require overtime. By removing the pay penalty, this measure would lead to an increase in overtime and in burdens on families.

In addition, flexibility requires control, but the control in this initiative rests with the employer. The employer choose whether to offer comp time, who gets to work overtime and when workers may take their comp time.

Comp time could easily result in loss of pay for those who need extra money. In assigning overtime, the employer might well favor those who agree to take comp time rather than overtime pay.

Finally, employers right now can offer, as many do, flexibility in schedules so that workers can take time to attend a school play and come in earlier or stay later to make up the time. Employers right now can ensure, as many do, that workers earn paid sick days to use when they or a loved one is ill. We do not need to open the floodgates for unscrupulous employers by weakening overtime protections.

Proponents of comp time argue that government workers have such a program and employees in the private sector should as well. But *many government workers feel cheated by comp time*. When that provision was added in 1985, it was framed as a cost-saving measure for cash-strapped government agencies, not as a form of flexibility for families. The U.S. Department of Labor had to sue to *recover over $35 million* in back wages—unpaid comp time—from the Department of Corrections and Rehabilitation of the Commonwealth of Puerto Rico.

A *similar lawsuit* is pending in Mississippi. According to the Clarion Ledger, State prison guards have been forced to work more than 135 hours of overtime with a promise of time off. Myia Norwood has already banked the hours but she was denied the comp time. If the amount of overtime worked were paid as overtime, Norwood would have received $7,100 last year. Her family could use this money.

Importantly, many government workers participate in collective bargaining and have union representatives to negotiate fair use of comp time provisions. Most employees of private companies have no such protections.

RESPONSE BY RHEA LANA RINER TO QUESTIONS OF SENATOR HARKIN

Question 1. Rhea Lana's, Inc., is a for-profit company, and your testimony notes its growing financial success and expanding business.

Could you please provide your gross revenues and profits for 2013?

Answer 1. A 2013 audit of Rhea Lana, Inc. by an independent accounting firm shows gross revenues of about $1.4 million, of which about $1.0 million were promised payments to moms, grandmoms and dads who consigned in our events. We returned approximately 70 percent of sales to the families who participate. These families use these funds to clothe and buy toys for their children. Rhea Lana's is a small business which had less than $200,000 in profits in 2013.

Question 2. Based on the agreements you reached with the Arkansas and Federal Departments of Labor, could you please confirm whether you had been properly paying overtime to employees dubbed "managers."

Could you please share the total amount of back wages owed to these workers? Have you changed your policies to ensure that these workers will be paid overtime when they work more than 40 hours per week?

Answer 2. The Arkansas Department of Labor affirmed in their 2012 audit that our original payment of "managers" was a correct business practice. However, the DOL determined we should have classified our managers as employees. The DOL then calculated back wages owed. Rhea Lana, Inc. agreed to pay this $6,400 amount for the DOL audit period. However, we categorically disagree with any attempt of the DOL to classify our consignor-volunteers as employees.

Rhea Lana's has always strived to treat both our customers and employees fairly and according to the law. Since the DOL investigation Rhea Lana, Inc. has modified its policies related to "managers" while our complaint against the DOL is being considered in Federal court.

We ask the Senate HELP committee to approve S. 1656, which would provide much-needed clarity in the Fair Labor Standards Act as to the nationwide children's consignment event industry. S. 1656 is co-sponsored by Ranking Member Lamar Alexander. S. 1656 is industry-specific. S. 1656 has bi-partisan support and would help any American family with children. S. 1656 would give guidance to both the DOL and small businesses while allowing this important industry to continue to serve families.

RESPONSE BY NEERA TANDEN TO QUESTIONS OF SENATOR ALEXANDER

Question 1. Do you believe private sector workers should be allowed to request compensatory time off in lieu of overtime pay or work flex-time schedules, i.e., 80-hour bi-weekly schedules, as a means to better balance work and family life?

Answer 1. The Center for American Progress believes that effective workplace policy solutions must recognize and respond to the needs of both employers and employees. Strong policies that offer employees greater flexibility to address the dual demands of work and family without jeopardizing their family's economic stability are critical—and forcing employees to choose between caring for their families and making ends meet is not a real solution. The most recent so-called "comp time" proposals that have been debated in Congress would do more harm and less good by requiring employees to work for no pay for the hope—but not the promise—that the time worked could be used for other purposes later. Greater workplace flexibility and fair pay for time worked are not mutually exclusive goals, rather both are critically important to creating strong workplaces and strengthening working families.

Question 2. If compensatory time off in lieu of overtime pay is working for Federal and other government workers, why shouldn't private sector workers have the same option?

Answer 2. The impact of compensatory time policies in the public sector merits close scrutiny and study, particularly to examine workers' experiences and the scope of potential barriers to flexibility in how such policies are implemented. The assumption that such policies should be replicated in the private sector in their entirety without such rigorous analysis is misguided. This is particularly true given the fact that nearly one-third (31.4 percent) of Federal Government workers are represented by unions and thus covered under collective bargaining agreements that provide them with additional protections against abuse.

Question 3. Do you believe mandated sick leave should be limited to full-day increments? If not, how small should the allowable time increments be?

Answer 3. Adopting a unilateral rule mandating that all sick leave be limited to full-day increments is inconsistent with other laws, such as the Family and Medical Leave Act, which allow for leave increments of less than a full day for medical purposes. Workers who need to make use of sick leave, for example to receive medical treatment or take a family member to a doctor's appointment, should not be penalized because they do not need a full day off from work. FMLA leave may be taken in the smallest increment of leave that an employer allows for other forms of leave, as long as that increment is no longer than 1 hour. Determining the appropriate time increments for sick leave should be guided, in part, by factors such as legislative history, consistency with other rules, and reasonable employer practice, all of which can inform the regulatory process.

Question 4. Some of the legislative proposals presented here today have varying levels of applicability to small employers, presumably due to the high cost and compliance burden they would impose on these employers. What do you believe is an appropriate small business exemption threshold?

Answer 4. Legislation promoting better work-life balance for workers should always begin with the goal of extending benefits as equitably and universally as possible. Exemptions for small businesses should be analyzed on a case-by-case basis, as the costs and impacts of different proposals vary. Because the funding mechanisms work so differently, work-family policies that are controlled by the employer, such as sick leave, should be considered separately from social insurance programs, such as a Federal paid family and medical leave program.

RESPONSE BY ELLEN BRAVO TO QUESTIONS OF SENATOR ALEXANDER

Question 1. Do you believe private sector workers should be allowed to request compensatory time off in lieu of overtime pay or work flex-time schedules, i.e., 80-hour bi-weekly schedules, as a means to better balance work and family life?

Answer 1. All employees need flexibility to manage work and family responsibilities. What people want is more time to spend with their families. Under the comp time bill, however, individuals get more time with family only after they have been forced to spend more time away from their family, working extra hours. Overtime pay was meant as a disincentive for employers to require overtime. By removing the pay penalty, this measure would lead to an increase in overtime and in burdens on families.

In addition, flexibility requires control, but the control in this initiative rests with the employer. The employer choose whether to offer comp time, who gets to work overtime and when workers may take their comp time.

Comp time could easily result in loss of pay for those who need extra money. In assigning overtime, the employer might well favor those who agree to take comp time rather than overtime pay.

Finally, employers right now can offer, as many do, flexibility in schedules so that workers can take time to attend a school play and come in earlier or stay later to make up the time. Employers right now can ensure, as many do, that workers earn paid sick days to use when they or a loved one is ill. We do not need to open the floodgates for unscrupulous employers by weakening overtime protections.

Question 2. If compensatory time off in lieu of overtime pay is working for Federal and other government workers, why shouldn't private sector workers have the same option?

Answer 2. *Many government workers feel cheated by comp time*. When that provision was added in 1985, it was framed as a cost-saving measure for cash-strapped government agencies, not as a form of flexibility for families. The U.S. Department of Labor had to sue to *recover over $35 million* in back wages—unpaid comp time—

from the Department of Corrections and Rehabilitation of the Commonwealth of Puerto Rico.

A *similar lawsuit* is pending in Mississippi. According to the Clarion Ledger, State prison guards have been forced to work more than 135 hours of overtime with a promise of time off. Myia Norwood has already banked the hours but she was denied the comp time. If the amount of overtime worked were paid as overtime, Norwood would have received $7,100 that year. Her family need this money.

Importantly, many government workers participate in collective bargaining and have union representatives to negotiate fair use of comp time provisions. Most employees of private companies have no such protections.

Question 3. Do you believe mandated sick leave should be limited to full-day increments? If not, how small should the allowable time increments be?

Answer 3. Increments for paid sick time should match the need. If an employee needs to go to or take a child or parent to a doctor's appointment or procedure and can come back to work, that helps the employee and their co-workers. Requiring a full day for such an event is not cost-effective or beneficial to employee or employer.

Question 4. Some of the legislative proposals presented here today have varying levels of applicability to small employers, presumably due to the high cost and compliance burden they would impose on these employers. What do you believe is an appropriate small business exemption threshold?

Answer 4. The business partners in Family Values @ Work coalitions are often quite small. They feel strongly that these provisions are the smart as well as the right thing to do because they lower turnover, boost productivity and quality, and lead to greater sales by ensuring that workers can keep their pay and their jobs. Proposals can take into account smaller businesses in various ways, including the amount of time to implement, but all should be covered.

RESPONSE BY FATIMA GOSS GRAVES TO QUESTIONS OF SENATOR ALEXANDER

Question 1. Do you believe private sector workers should be allowed to request compensatory time off in lieu of overtime pay or work flex-time schedules, i.e., 80-hour bi-weekly schedules, as a means to better balance work and family life?

Answer 1. Women make up the majority of workers in low-wage jobs, and hold these jobs while also shouldering most family caregiving responsibilities. And unfortunately too many of these women struggle with employment practices that shift the risk of doing business onto workers and make no accommodation for workers' lives outside of their jobs. In many workplaces, all of the flexibility is in the hands of the employer—leaving employees in search of predictability and stability, not just flexibility.

Enabling private sector workers to work flexible schedules can generally be beneficial to both employees and their employers, so long as the decision to request and accept a flexible schedule remains solely with the workers, and the worker cannot be forced to exchange other critical employment benefits for flexibility. The Flexibility for Working Families Act (H.R. 2559/S. 1248)—which would protect workers' rights to request changes in their work schedules without fear of retaliation—is one example of a policy that would increase flexibility for workers who need it.

The concept of compensatory time in lieu of overtime pay sounds like a good idea in the abstract, but the current legislative proposals would fail to meet the work and family needs of many low-wage workers and would undermine many of the existing critical protections guaranteed by the Fair Labor Standards Act by forcing employees to work unwanted overtime without the financial benefit overtime work is supposed to provide.

For example, the Working Families Flexibility Act (H.R. 1406/S. 1623) could encourage employers to force their employees to take on unwanted overtime. Although the bill states that accepting compensatory time off in lieu of overtime pay should be voluntary, private sector workers often lack basic workplace protections that public sector workers typically have—such as unionization and job security—and so a voluntary measure like this one could be perceived as a mandate. In addition, legislation like the Working Families Flexibility Act could discourage employers from providing paid time off. The bill would enable, and may even encourage, employers to force their employees to earn all of their time off by working extra hours instead of providing paid time off as part of a standard employee benefits package or paid sick, medical or family leave to meet the urgent needs of employees. Furthermore, the Working Families Flexibility Act does not allow employees to use their earned compensatory time at a time of their choosing. Instead, employers are allowed to deny employees' request to use their compensatory time if the employer feels it would "unduly disrupt" the business.

Question 2. If compensatory time off in lieu of overtime pay is working for Federal and other government workers, why shouldn't private sector workers have the same option?

Answer 2. Unlike in the public sector, such a rule runs the risk of private sector employers forcing workers to accept compensatory time in lieu of overtime pay as a means of increasing profits. Employees who protest risk retaliation, and given the widespread wage theft in some industries, employees should not face yet another hurdle to being compensated for their time worked. Additionally, government employees are more likely to be unionized, enabling them to more effectively bargain for contracts that protect their interests in providing for pay or work schedule arrangements. Private employees as a whole are much less likely to belong to a union, making them more vulnerable to exploitation and abuse.

Question 3. Do you believe mandated sick leave should be limited to full-day increments? If not, how small should the allowable time increments be?

Answer 3. Paid sick leave should not be limited to full-day increments. Many cities have successfully implemented paid sick leave policies that allow workers to accrue 1 hour of paid sick leave for every 30 hours worked. These cities have placed different caps on the maximum number of paid sick days employers are required to allow an employee to accrue in a year. For example, San Francisco allows employees to earn up to 72 hours, or 9 8-hour days, worth of paid sick leave, while Portland, OR allows employees to earn up to 40 hours, or 5 8-hour days, worth of paid sick leave. The Healthy Families Act (H.R. 1286/S. 631) would implement a similar national policy, and allow employees working in businesses with 15 or more employees to accrue 1 hour of paid sick leave for every 30 hours worked, up to 56 hours (7 8-hour days) each year.

Question 4. Some of the legislative proposals presented here today have varying levels of applicability to small employers, presumably due to the high cost and compliance burden they would impose on these employers. What do you believe is an appropriate small business exemption threshold?

Answer 4. There is a longstanding tradition in our civil rights and labor laws to exclude some businesses from these protections, but studies have shown the many benefits to employers of all sizes when they do adopt measures that provide greater economic security and opportunity for their employees. As just one example, providing pregnant workers with reasonable accommodations can reduce workforce turnover, increase employee satisfaction and productivity, and save workers' compensation and other insurance costs. Regardless of the size of a small business exemption in a particular law, businesses of all sizes can reap benefits by complying.

The appropriate threshold for such a small business exemption will vary depending on the nature of the proposal at issue, the protections that it provides, and the existing laws that it amends (if any). Some States have extended protections against workplace discrimination and harassment in particular to all workers. Similarly, the Family and Medical Insurance Leave (FAMILY) Act (H.R. 3712/S. 1810)—which provides a paid leave insurance fund—applies to all companies, regardless of size.

Title VII of the Civil Rights Act of 1964 extends its protections to employers with 15 or more employees. Following that model, the proposed Healthy Families Act (H.R. 1286/S. 631), which provides for 7-earned paid sick days, and the Pregnant Workers Fairness Act (H.R. 1975/S. 942), which clarifies that pregnant workers who need accommodations must receive the same sort of accommodations as workers with temporary disabilities, both exempt private employers with less than 15 employees. The Paycheck Fairness Act (H.R. 377/S. 84), meanwhile, references the same small business exemption as the Fair Labor Standards Act, applicable to businesses with an annual gross volume of sales under $500,000.

RESPONSE BY AMY TRAUB TO QUESTIONS OF SENATOR ALEXANDER

Question 1. Do you believe private sector workers should be allowed to request compensatory time off in lieu of overtime pay or work flex-time schedules, i.e., 80-hour bi-weekly schedules, as a means to better balance work and family life?

Answer 1. Workers should be allowed to request time off *in addition* to any overtime pay they are legally owed, not in lieu of overtime. At a time when workers are struggling with both stagnant wages and work schedules that offer insufficient time to care for their families, pitting basic needs for time and income against each other would take U.S. workplaces in the wrong direction. Because most American employees lack bargaining power at work, legislation allowing compensatory time as a substitute for overtime pay would effectively enable employers—not their employees—to determine when compensatory time or overtime pay is granted, providing additional control and flexibility to employers without contributing to the work-family

balance of employees. In addition, permitting the replacement of overtime pay with compensatory time would further undermine the Fair Labor Standards Act's guarantee of a fair work week by removing the financial incentive for employers to limit work weeks to 40 hours. As a result, employees' efforts to achieve work-life balance would be impeded rather than advanced by legislation that enables employers to avoid paying overtime. Guaranteeing employees paid sick time, paid family leave, and a right to request flexible schedules without retaliation would be more effective ways to help workers balance work and family life.

Question 2. If compensatory time off in lieu of overtime pay is working for Federal and other government workers, why shouldn't private sector workers have the same option?

Answer 2. Dēmos has not had an opportunity to study the extent to which public sector workers feel that they genuinely benefit from receiving compensatory time off in lieu of overtime pay. However the origin of this policy is clear: in 1985 Congress amended the Fair Labor Standards Act to substitute compensatory time as part of an effort to enable Federal, State, and local government employers to save money on overtime compensation, not to improve work-life balance for employees. To the extent that government employees have found compensatory time off to be helpful, their greater workplace bargaining power is likely an important part of the reason. According to the Bureau of Labor Statistics, approximately 35.3 percent of public sector workers are union members, compared to just 6.7 percent of private sector workers. As a result, public sector employees have much greater power to negotiate contracts covering their use of compensatory time and overtime pay than the typical private sector employee, giving public workers greater ability to promote the implementation of comp time policies that work for themselves and their families.

Question 3. Do you believe mandated sick leave should be limited to full-day increments? If not, how small should the allowable time increments be?

Answer 3. Guaranteed sick leave should not be limited to full-day increments, as work days are of different lengths and employees may require only a brief leave to attend a medical appointment, take a sick child to the doctor, or cope with an illness that develops over the course of a work day. In San Francisco, the American jurisdiction with the longest-standing legislation on paid sick leave, workers earn 1 hour of paid leave for every 30 hours of paid work until they reach the maximum accrual. Leave may then be taken in increments of 1 hour, or in smaller increments if an employer permits this use. The Federal Family and Medical Leave Act also permits that leave be taken in shorter increments.

Question 4. Some of the legislative proposals presented here today have varying levels of applicability to small employers, presumably due to the high cost and compliance burden they would impose on these employers. What do you believe is an appropriate small business exemption threshold?

Answer 4. Ideally, legislation should aim to create a level playing field for businesses, improving standards for all workers without exemption. Instances where legislation would impose a disproportionately high burden on smaller firms should be evaluated on a case-by-case basis to determine the scope of any exemptions or variance in standards.

RESPONSE BY LORI PELLETIER TO QUESTIONS OF SENATOR ALEXANDER

Question 1. Do you believe private sector workers should be allowed to request compensatory time off in lieu of overtime pay or work flex-time schedules, i.e., 80-hour bi-weekly schedules, as a means to better balance work and family life?

Answer 1. No. The notion behind overtime pay is to encourage employers to hire more people to work instead of over-working their employees. "Comp time" legislation would allow management to require overtime work without paying time-and-a-half up front, and that would make mandatory overtime cheaper for employers in several ways. If you make mandatory overtime cheaper for employers, you reduce their incentive to avoid overworking their employees, leading to more unpredictable work schedules and higher day care costs for workers. Employers who want to provide more flexible work schedules—like variable start times, or compressed schedules, or split shifts—can already do that. And they can give workers paid or unpaid leave whenever they want. Flexibility can be addressed best when workers can sit down with employers as equal partners at a negotiating table. Family life is better balanced when workplaces have collective bargaining agreements.

Question 2. If compensatory time off in lieu of overtime pay is working for Federal and other government workers, why shouldn't private sector workers have the same option?

Answer 2. Really the question should be why don't Federal Government workers get overtime? When they applied the overtime law to the public sector for the first time, they wanted to reduce the cost to public employers. That's why you have comp time in the public sector. But the public sector is very different from the private sector. Public employers don't operate on the profit motive, they don't go bankrupt, you have a lot fewer overtime violations in the public sector, and public employees have more protections from abuse.

Question 3. Do you believe mandated sick leave should be limited to full-day increments? If not, how small should the allowable time increments be?

Answer 3. When I was in the shop we could get docked .1 hour (or 6 min) pay if we were late, or we had to leave early. In today's computer environment, it should be as accommodating to the employee as possible.

Question 4. Some of the legislative proposals presented here today have varying levels of applicability to small employers, presumably due to the high cost and compliance burden they would impose on these employers. What do you believe is an appropriate small business exemption threshold?

Answer 4. In today's computer age that number should be very small—like two or three, aside from the owner of the business.

[Whereupon, at 4:23 p.m., the hearing was adjourned.]

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