our moment
an economic agenda for women & families
ABOUT THE CENTER
The National Women’s Law Center is a non-profit organization that has been working since 1972 to advance and protect women’s legal rights. The Center focuses on major policy areas of importance to women and their families, including employment, education, reproductive rights and health, and family economic security – with special attention given to the needs of low-income women.

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BY NANCY DUFF CAMPBELL
Introduction

In the last four decades the educational levels and work experiences of women have increased dramatically. Women are over half of college graduates and nearly half the workforce. But although women have better credentials than ever before, they typically are paid less than men, are more likely than men to work in low-wage jobs, often lack the affordable and high-quality child care, health care—including reproductive health care—and other supports they need to work and care for their families, and are more likely to live in poverty. An economic agenda to address these and other barriers to women’s advancement is essential, not only for women and their families, but for the nation as a whole.

Women increased their educational attainment in the 1970s and 1980s, and today more women than men graduate college. Women also increased their labor force participation during this period, from 38 percent in 1970 to 47 percent in 2014.

The importance of women’s income to their families and to the U.S. economy has also increased over the last 40 years. For example, the share of mothers who are sole breadwinners or co-breadwinners increased from about 28 percent in 1967 to over 63 percent in 2012. Mothers are primary breadwinners in 41 percent of families with children and co-breadwinners—contributing between 25 percent and 50 percent of family earnings—in another 22 percent of families with children. In fact, most of the growth in family income over the last several decades has been the result of women’s increased earnings. As the Council of Economic Advisers has observed, “Without the gains women have made since 1970, median family income would be $13,000 less today and our overall economy would be $2 trillion dollars [sic] smaller.”

Despite women’s increased education and participation in the labor force, and the importance of women’s income to their families and the overall economy, there are still wide disparities in income between women and men. In 2013, the median income of women working full time, year round was $40,597, compared to $50,943 for men. The median income of African-American women and Latinas was even lower—$35,381 and $30,799, respectively. These disparities not only especially hurt families who rely on women’s earnings for all or part of their income; they also contribute to poverty rates for women that are substantially higher than the poverty rates for men. The poverty rate for women in 2013 was 14.5 percent, compared to 11.0 percent for men. The poverty rates for Latinas, African-American women and Native-American women were even higher—23.1 percent for Latinas, 25.3 percent for African-American women, and 26.8 percent for Native-American women.

The poverty rate for families with children headed by a woman only in 2013 was 39.6 percent, compared to 19.7 percent for families with children headed by a man only and 7.6 percent for families with children headed by a married couple. The poverty rate for Latina, African-American and Native-American families with children headed by a woman only was nearly 50 percent. More than half of all poor children (58.8 percent) lived in families headed by a woman only.

Even with Social Security, more than 11.6 percent of women ages 65 and older lived in poverty in 2013, compared to 6.8 percent of men ages 65 and older. The poverty rate for women ages 65 and older living alone was 19.0 percent compared to 11.3 percent for men ages 65 and older living alone. The poverty rates for women of color ages 65 and older living alone were higher, at 20.4 percent for African-American women, 20.8 percent for Native-American women and 23.0 percent for Latinas. More than two-thirds of the poor ages 65 and older were women.

This report explains the factors that contribute to the economic insecurity of women and their families and highlights key components of a federal agenda that are both under consideration and achievable.
The need for an economic agenda for women and families

SEVERAL FACTORS CONTRIBUTE TO THE DISPARITIES IN INCOME AND POVERTY LEVELS BETWEEN WOMEN AND MEN.

DISCRIMINATION IN EMPLOYMENT
Despite the importance of women’s earnings to family income and the economy, women who work full time, year round, are typically paid only 78 cents for every dollar paid to men.23 For African-American women and Latinas, the gap is even larger—they are typically paid only 64 cents and 56 cents, respectively, for every dollar paid to white, non-Latino men.24

The pay gap between women and men exists in nearly every occupation,25 across all education levels,26 and affects women at all income levels.27 Job segregation and the fact that female-dominated jobs pay less than male-dominated jobs contribute to the pay gap,28 but even when women are working in the same jobs as men, they are often paid less.29 Sex stereotyping and other forms of discrimination contribute to the pay gap. For example, employers sometimes perceive women as not tough enough for some jobs,30 or not needing raises or promotions because they aren’t breadwinners,31 or less committed to their jobs than men—usually because of women’s caregiving responsibilities.32 Sexual harassment is a persistent problem, too, particularly among low-wage workers, and workers in traditionally male occupations, such as construction, firefighting, and law enforcement.33

The Equal Pay Act of 1963, which requires that women and men who are performing essentially the same jobs be paid equally,34 and Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in employment,35 including compensation, have helped reduce pay discrimination. But court decisions have created loopholes in the protections offered by the Equal Pay Act and Title VII, and in several instances these laws provide incomplete remedies. For example, employers have been permitted to escape accountability for pay disparities even when the reasons for the disparities are not related to business needs.36 In addition, too often employees are in the dark about pay disparities because employers have policies that prohibit employees from voluntarily sharing salary information with their co-workers.37

Although Title VII’s prohibition on sex discrimination in employment protects most women, it does not protect one large group of women—those serving in our nation’s Armed Forces.38 In fact, until quite recently, the Direct Ground Combat Definition and Assignment Rule expressly excluded women from assignments in which the primary mission is to engage in direct ground combat, and it permitted women to be excluded from a range of other assignments in certain circumstances—in both instances solely because of their gender.39 Then-Secretary of Defense Leon Panetta and Chairman of the Joint Chiefs of Staff Martin Dempsey rescinded this rule in January 2013, and directed the military Services to open all positions and units to women by no later than January 1, 2016.40 If any Service wishes to recommend that a position or unit remain closed to women, that recommendation must be personally approved first by the Chairman of the Joint Chiefs and then by the Secretary of Defense, and it must be based on “a rigorous analysis of factual data regarding the knowledge, skills and abilities needed for the position.”41 At issue is the opening of some 237,000 positions closed to women as of January 2013.42

Two years into the implementation period and despite the Panetta-Dempsey directive to open positions and units “as expeditiously as possible,”43 progress in integrating women into previously closed positions and units has been slow.44 As part of the implementation of the directive, the Services
must have in place “validated, gender-neutral” standards for all military jobs, but there has been little to no transparency about the process the Services are using to establish and/or validate these standards, or the process the Services are using to decide whether to recommend that any positions or units remain closed to women. To the extent that a light has been shown on the implementation process, it suggests that in some instances the performance of one particular group of women is being used to evaluate the performance of all women, and that unless a sufficient number of women can “pass muster,” a Service may recommend that certain positions and/or units remain closed. To do so would not only deny women the same opportunity to serve their country as men, but also limit the nation’s ability to ensure it has the best military possible by excluding half the population from competing for its positions.

**CONCENTRATION IN THE LOW-WAGE WORKFORCE**

Women’s concentration in minimum-wage jobs contributes to the pay gap and to their economic insecurity.

The federal minimum wage sets a national floor below which employers generally cannot pay their workers. However, because the federal minimum wage is set by Congress, its value remains the same unless Congress acts, and its purchasing power erodes as the cost of living increases. Congress has raised the federal minimum wage only three times in the last 30 years, and it is currently just $7.25 an hour. If the minimum wage had kept pace with inflation since 1968, it would be nearly $11.00 an hour today. The separate federal minimum wage for tipped workers is currently just $2.13 an hour, less than one-third of the federal minimum wage. Congress has not raised the federal tipped minimum wage in over 20 years. Women are two-thirds of minimum-wage workers. A woman working full time, year round at the federal minimum wage of $7.25 an hour earns just $14,500—more than $4,500 below the poverty line for a mother with two children in 2014. Women constitute two-thirds of the workers in tipped occupations. For example, women make up about 70 percent of restaurant servers and nearly 60 percent of bartenders, which are two groups that together make up nearly 60 percent of the tipped workforce. Servers and bartenders also experience poverty at more than double the rate of the workforce as a whole.

Women’s concentration in minimum-wage jobs also contributes to the pay gap. Women’s concentration in all low-wage jobs, defined as those that typically pay less than $10.10 an hour, is also high—women are two-thirds of these workers. They work in jobs such as home health aides, child care workers, fast food workers, cashiers, restaurant servers, and maids and housekeeping cleaners.

Many people think that a low-wage worker is someone young, maybe just starting out in work, or working part time while in school. But low-wage women workers do not fit this profile. Only one in ten is a teenager and more than one-quarter are ages 50 and older. Four out of five women in low-wage jobs have a high school degree or higher; in fact, more than four in ten have some college or higher. Close to one-third are mothers—and 40 percent of these mothers have family incomes below $25,000. Nearly half of mothers of children under age 18 in the low-wage workforce are single. More generally, most women in the low-wage workforce do not have a spouse’s income to rely on—two thirds are single. Half of women in the low-wage workforce work full time and one-quarter of those who work part time do so because they cannot secure full-time work.

Women’s shares of the low-wage workforce are larger than men’s, even though women’s shares of the overall workforce are almost always similar to or smaller than men’s shares of the overall workforce. In fact, whether comparing by educational level, age, marital or parental status, race, ethnicity or national origin, women make up larger shares of the low-wage workforce than men. The only group of women that is underrepresented in the low-wage workforce is women with a bachelor’s degree or higher: they are 17 percent of the overall workforce, but only 5 percent of the low-wage workforce. Their representation is still higher than men’s, however. Men with a bachelor’s degree are 18 percent of the overall workforce but only 3 percent of the low-wage workforce.

In short, women need a bachelor’s degree to avoid being overrepresented in low-wage jobs, but men only need to finish high school.
Even in low-wage jobs, women working full time, year round typically face an 8 percent wage gap, and the gap is even larger for African-American women (19 percent) and Latinas (26 percent) when compared to white, non-Latino men. More than one in six (18 percent) of women in low-wage jobs is poor and nearly one in three lives in a family with income of less than $25,000.

Sexual harassment remains a persistent problem in workplaces overall, particularly in low-wage workplaces and nontraditional occupations. In Fiscal Year 2013, the combined total number of harassment charges filed with the federal Equal Employment Opportunity Commission (EEOC) and state and local Fair Employment Practices Agencies was over 30,000. More than 10,000 of these charges involved sexual harassment, and 82 percent were brought by women. But these numbers probably do not come close to reflecting the extent of sexual harassment. In a 2011 survey, 25 percent of women in the workforce reported experiencing sexual harassment. In a 2013 survey, 70 percent of workers who experienced harassment said they never reported it. Sexual harassment of low-wage workers is particularly pervasive. For example, a survey of 150 female farmworkers in California’s Central Valley found that 80 percent had experienced some form of sexual harassment. A review of EEOC charge data by the Restaurant Opportunities Centers United over an eleven-month period in 2011 found that nearly 37 percent of EEOC sexual harassment charges came from women in the restaurant industry. Sexual harassment of women in nontraditional jobs also occurs at high rates. For example, a study by the U.S. Department of Labor reported that 88 percent of women construction workers experience sexual harassment at work.

More than fifteen 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. 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 employee failed unreasonably to take advantage of the opportunities provided by the employer to report and address the harassment. 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 undermined this longstanding principle in 2013 in the narrow 5-4 decision in Vance v. Ball State University. The Court held that heightened protections from harassment no longer apply to harassment by those higher-ups who direct an employee’s daily work activities but do not have the power to hire and fire. Now, workers who are harassed by their boss must proceed under the more difficult negligence standard that applies in co-worker harassment cases, unless that boss has the power to hire and fire. And workers’ cases may be thrown out as a result. In fact, as of November 2014, at least 43 sexual harassment cases had been dismissed on grounds that the defendant did not meet the Vance definition of supervisor and the plaintiff could not meet the co-worker harassment negligence standard.

Unfortunately the Vance decision has the potential to have negative consequences for millions of workers, and especially for low-wage workers. There are more than six million lower-level supervisors in our nation’s workplaces, and more than half of these oversee low-wage workers. Although lower-level supervisors typically have significant responsibility for directing entry-level workers’ day-to-day activities, most of these lower-level supervisors have no formal authority to hire or fire workers. In sum, most employees who exercise 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.

**GAPS IN CRITICAL DIRECT TAX ASSISTANCE**

Federal income tax policies play an important part in the economic security of women and their families by basing taxation on an individual’s or family’s ability to pay, by raising sufficient revenue to fund government programs and
activities that particularly benefit women and their families, and by providing direct tax assistance to women and their families in the form of tax credits.

Tax credits, in particular, especially if they are refundable and thus available as a tax refund to individuals and families without tax liability, can provide important cash assistance.

For example, the federal Earned Income Tax Credit (EITC) is designed to supplement the earnings of low-wage workers, especially those supporting families, and helps offset a portion of the payroll taxes that these workers pay. The amount of the EITC depends on income, number of children, and tax filing status. The maximum benefit for 2015 for families with qualifying children is $6,242, and families with such children and adjusted gross incomes of up to $53,267 are eligible for the EITC. The maximum benefit in 2015 for individuals and couples without qualifying children is $503, and individuals and couples without qualifying children and adjusted gross income of up to $20,330 are eligible for the EITC. The credit is refundable, so if a tax filer owes less in federal income taxes than the amount of the EITC for which the filer is eligible, the filer will receive some or all of the credit as a cash tax refund.

The EITC is particularly important to women, who typically earn less than men and are more likely to bear the expenses of raising children on their own. In 2013 more than 29 million tax filers received more than $69 billion from the EITC. A large majority—82 percent—of these tax filers had adjusted gross income of less than $30,000, and 43 percent of families whose income was $30,000 or less in 2013 were families headed by a woman only. The EITC lifted the income of more than 5.3 million people out of poverty in 2013, including more than 2.7 million children and almost 1.5 million adult women.

Considerable research demonstrates the EITC’s effectiveness in encouraging work, especially among low-income single mothers, and reducing poverty among families with children. The average benefit for families with qualifying children was $2,982 in 2012. In contrast, the EITC for workers without qualifying children (including workers without children, non-custodial parents, and parents whose children are no longer dependent) does not provide a meaningful work incentive or poverty-reducing benefit. The average benefit for an individual or couple without children in 2012 was just $277.

The federal Child Tax Credit (CTC) is designed to help families meet the costs of raising children and helps offset the taxes that families with children pay. The amount of the CTC generally depends on income and number of children. The maximum benefit is $1,000 per child; for families with adjusted gross income above specified levels, depending on tax filing status, the amount per child is reduced, eventually to zero, as income rises above $75,000 for heads of household, $110,000 for married couples filing jointly, and $55,000 for married individuals filing separately. The credit is partially refundable; families with earned income above a $3,000 threshold can receive 15 percent of their earnings above the threshold as a tax refund, up to the maximum $1,000 per child. In 2013 nearly 23 million tax filers received more than $27 billion from the non-refundable component of the Child Tax Credit. Forty-four percent of these tax filers had adjusted gross income of less than $50,000 in 2013, and 34 percent of families whose income was $50,000 or less in 2013 were families headed by a woman only. More than 21 million tax filers received more than $28 billion from the refundable component of the Child Tax Credit in 2013. Three-quarters (75 percent) of these tax filers had adjusted gross income of less than $30,000 in 2013, and 43 percent of families whose income was $30,000 or less in 2013 were families headed by a woman only.

Improvements to both the EITC and CTC in 2009 that increased the tax assistance they provide were also especially beneficial to women and their families. The 2009 improvements to the EITC increased the amount of the credit for families with three or more children, recognizing that larger families have higher living expenses than smaller families, and reduced the marriage penalties for all families. The 2009 improvements to the CTC lowered the earned income threshold at which families may claim the refundable component of the credit from above $10,000 (indexed for inflation for years 2002 through 2008) to $3,000 (not indexed for inflation), making more low-income families eligible for its benefits and increasing the amount of the credit for families with low earned income. Nearly 12 million tax filers in 2013...
had more money to support their families because of the EITC improvements, and more than half of those tax filers were women. Over 12.7 million tax filers in 2013 had more money to support their families because of the CTC improvements, and more than two-thirds of those tax filers were women. However, these improvements to the EITC and the CTC will expire in 2017, unless extended by Congress.

**CHILD AND DEPENDENT CARE CHALLENGES**

In addition to the challenges of unequal pay and low wages, women are the principal caregivers in most families, often responsible not only for children but also for older individuals and individuals with disabilities, including adult children, spouses, siblings and other family members. And many women don’t have a partner or other adult who can share these responsibilities. In order to participate in the workforce, they need child and other dependent care.

Many families struggle to afford this care. The average fee for full-time child care ranges from over $4,000 to over $16,500 a year, depending on where a family lives, the type of care, and the age of the child. For example, the average fee for center care for an infant ranges from over $5,496 a year in Mississippi to over $16,549 a year in Massachusetts. The average fee for full-day, adult day care is $70 a day, or $18,200 a year.

Low-wage workers particularly struggle to afford the safe and stable child care they need to be able to work, much less the high-quality care their children need to be successful in school. More than one in six employed mothers of very young children (ages three and under) worked in a low-wage job in 2013, and finding and affording care for infants and toddlers is particularly difficult.

The primary source of federal funding for child care assistance is the Child Care and Development Block Grant (CCDBG) program, but federal assistance is also provided by the Child and Dependent Care Tax Credit, as well as several smaller programs.

The CCDBG program provides federal funds to states to help low- and moderate-income families pay for care and to increase the quality and supply of care. States determine eligibility for and the amount of assistance provided, within federal parameters, and must match the federal funding provided. The state and federal funding provided under CCDBG and related programs is not sufficient to serve all eligible children, however. Only one in six children federally eligible for child care assistance under CCDBG and related programs receives it, and in 2014 eighteen states had waiting lists or had frozen intake for child care assistance because of inadequate funds.

The Child Care and Development Block Grant Act of 2014, signed into law in November 2014, renews and strengthens the CCDBG program, which was established in 1990 and last reauthorized in 1996. It includes provisions to improve the health and safety of child care, facilitate families’ access to care, and improve the quality of care, especially for infants and toddlers, but it does not include provision for the federal funding needed to ensure its effective implementation, much less meet the significant unmet need for child care assistance.

The federal Child and Dependent Care Tax Credit provides families with a tax credit of between 20 and 35 percent of their employment-related child and dependent care expenses, based on up to $3,000 in expenses for one child or dependent and $6,000 in expenses for two or more children or dependents. Families at all income levels are eligible for the credit, but the credit is designed to give lower-income families a credit amount based on a higher percentage of their expenses than it gives higher-income families. Families with adjusted gross income below $15,000 are entitled to a credit amount of 35 percent of their expenses; families with adjusted gross income above $15,000 are entitled to a credit amount of a declining percentage of their expenses, reaching 20 percent of expenses for families with adjusted gross income above $43,000. Accordingly, the maximum value of the credit ranges from $600 to $1,050 for families with one child or dependent, and from $1,200 to $2,100 for families with two children or dependents. However, lower-income families are often not able to actually receive all—or any—of the credit’s value because they do not have enough tax liability to offset with the credit, and the credit is not refundable. Moreover, both the maximum expense limits and the income levels at which the credit percentages decline were last updated in 2001 and are not indexed for inflation.
Although several states and cities have initiated programs to expand access to preschool, and the federal Head Start program has provided early learning opportunities for many low-income children, many families do not have access to preschool. Only 52 percent of three- and four-year olds (not yet in kindergarten) are enrolled in public or private preschool programs. Approximately 53 percent of African-American three- and four-year olds (not yet in kindergarten) are enrolled in preschool, and 41 percent of Latino three- and four-year olds (not yet in kindergarten) are enrolled in preschool.

Low-income children are less likely to be enrolled in preschool than higher-income children. For example, only 45 percent of three- and four-year olds (not yet in kindergarten) with family income under $20,000 are enrolled in preschool, compared to 66 percent of such children with family income of $75,000 or more.

These gaps make it difficult for children to have the care and early learning experiences that are critical to their development and future success, and for parents to have the care arrangements that are critical to their success in the workforce and beyond.

**INADEQUATE PAID SICK LEAVE AND PAID FAMILY AND MEDICAL LEAVE**

Even workers with stable child and dependent care arrangements may need to take time off from work because of their own illness or injury, a family illness or injury, or—more happily—because of the addition of a child to a family by birth or adoption. But few workers have access to paid family leave and many don’t even have paid sick days.

Only 13 percent of workers have access to paid family leave and only 65 percent of workers have access to paid sick days through their employers. Fewer than 40 percent of workers have access to paid medical leave through employer-provided, short-term disability insurance. The numbers are even starker for low-wage workers. Of workers in occupations in the bottom 10 percent of the average wage distribution, only 21 percent have access to paid sick days and a paltry 4 percent have access to paid family leave. Only 13 percent of workers in the bottom 10 percent of the average wage distribution have access to paid medical leave through employer-provided, short-term disability insurance.

The Family and Medical Leave Act (FMLA) provides important job protection for workers who take time away from work to address a serious health condition, care for a family member with a serious health condition, or care for a new born or newly adopted child. But because it only covers employers with at least 50 employees and employees who have worked a requisite number of hours for the same employer, the FMLA’s protections are available to fewer than 60 percent of workers. In addition, because it only guarantees unpaid leave, many workers who are covered by the law can’t afford to take full advantage of its provisions.

It is startling that the United States is only one of the fifteen most competitive countries that does not guarantee paid parental leave to new mothers, and one of only two of these countries that does not guarantee paid parental leave to new fathers. Equally as startling, the United States is the only highly competitive country that does not guarantee paid medical leave for serious illnesses.

**LACK OF CONTROL OVER WORK SCHEDULES OR ABILITY TO ADJUST WORK HOURS**

Other working conditions in some jobs often make meeting family responsibilities more difficult, too. All parents are sometimes faced with situations in which school closes early, child care plans fall through at the last minute, or a parent-teacher conference is scheduled during the work day. Without workplace flexibility, these situations can result in unpaid leave and its concomitant loss of income, or other penalties at work, up to and including job loss.

For low-wage workers, the need is not just for workplace “flexibility” in these situations, but for workplace schedules with predictability and stability. Low-wage jobs in particular often have schedules over which workers have little or no control. Many workers in low-wage jobs experience 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. Increasingly
Employers—especially in restaurant and retail work—are using sophisticated computer technology to determine when they need workers and when they don’t. Employers using this technology often have so-called “just-in-time” scheduling practices, which involve giving workers their schedules with very little notice to try to match labor costs to consumer demand. Or they may send workers home during lag times, or require them to work split shifts, where they work for a few hours, are off for a few hours, and then work for a few hours more. These workers receive no payment for the middle hours when they are off, and they have no ability to do anything else during that time. Or workers may be 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 two hours. These kinds of jobs also often require working evenings, 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 and their families. They result in variable and uncertain incomes, yet their unpredictability makes it impossible for a worker to take a second job, or to participate in education programs that will advance the worker’s skills. They make it extremely difficult to arrange child care, especially on nights and weekends. They put severe strains on family and other relationships. Yet many workers are unable to ask for even minor adjustments to their work schedules without suffering retaliation, often in the form of reduced hours.

**DISCRIMINATION ON THE BASIS OF PREGNANCY AND CAREGIVING RESPONSIBILITIES**

The Pregnancy Discrimination Act of 1978 provides that employment discrimination on the basis of pregnancy, childbirth, or related medical conditions is sex discrimination prohibited by Title VII of the Civil Rights Act, and that pregnant workers must be treated the same as other workers who are not pregnant but are “similar in their ability or inability to work.” Yet women continue to face pregnancy discrimination on the job. In recent years, between 3,000 and 4,000 charges of pregnancy discrimination have been filed with the Equal Employment Opportunity Commission each year.

Although many women work through their pregnancies without any need for accommodation, some women have a medical need for a temporary adjustment in their job duties or work rules in order to continue to work safely. This is especially true for women in jobs that require lifting, long periods of standing, or repetitive motions. However, too often when pregnant women ask for even modest accommodations, such as the opportunity to sit on a stool or drink water during a long shift, they are instead forced onto unpaid leave, or even fired.

Women working in low-wage jobs, which are often physically demanding—for example, jobs in housekeeping, nursing assistance, or the retail or food service sectors—are especially likely to need some sort of accommodation during pregnancy. Yet these same sectors are often marked by inflexible workplace cultures in which employers refuse to make reasonable accommodations, even when they provide these accommodations to workers with similar limitations arising out of disabilities or injuries unrelated to pregnancy. A 2013 survey estimated that more than a quarter of a million pregnant workers are denied their requests for reasonable accommodations nationally every year.

Some women also face discrimination expressly because of their caregiving responsibilities. One study found that employers recommended mothers for hire less often, recommended lower starting salaries for them, and rated them less competent than non-mothers with nearly identical resumes. In contrast, employers rated fathers for hire more often, regarded them as more competent, and recommended them for higher salaries than non-fathers. Motherhood also accounts for a large proportion of the wage gap between women and men. Among full-time, year-round workers, mothers typically earn only 70 cents for every dollar paid to fathers, compared to the 78 cents women overall typically earn for every dollar paid to men. A 2013 study documented an average wage penalty for mothers overall of approximately 4 percent per child, rising to 6 percent for low-wage mothers.
GAPS IN ACCESS TO HEALTH CARE, INCLUDING REPRODUCTIVE HEALTH CARE

Many women don’t have affordable, employer-provided health care that meets their needs, including their need for reproductive health care. For example, only 33 percent of firms with large shares of low-wage workers offered health benefits to their employees in 2014.167

The Affordable Care Act (ACA)168 both expands access to health care and corrects many of the long-standing gender inequities in the U.S. health insurance system, including by requiring health plans to cover maternity care,169 providing coverage for well-women visits and other preventive services important to women without cost-sharing,170 ending gender rating and other insurance practices in the individual and small-group market that have limited women’s access to health insurance,171 and generally prohibiting sex discrimination in health care and in the health insurance industry.172 The ACA also helps make health coverage more affordable through a combination of tax credits to purchase private insurance, reductions in cost sharing, and expanded Medicaid eligibility.

The United States Supreme Court in its October 2014 term is considering a challenge173 to the Internal Revenue Service’s determination that eligible residents of all states may receive ACA-authorized tax credits to help them purchase health insurance.174 The plaintiffs in King v. Burwell argue that the tax credits are only available in states that have established their own health insurance exchanges, not states in which the federal government has established and is running the state exchange because the state elected not to do so.175 A decision in favor of the plaintiffs would mean the loss of the ACA’s financial assistance in purchasing health insurance for individuals in the 37 states that turned to the Department of Health and Human Services to set up and operate their health insurance exchanges. Fifty-four percent of the individuals who purchased coverage on the federally facilitated exchanges for 2015 are women.176 Overall, 87 percent of enrollees are receiving financial assistance to purchase their health coverage on the exchanges, receiving an average of $263 per month toward the cost of their premiums.177 Without this financial help, approximately 4.2 million women are at risk of losing their health insurance because they can not afford the full cost of monthly health insurance premiums.178 A decision in favor of the plaintiffs in King would have both severe consequences for millions of women and their families and destabilize the entire operation of the health care law.

Even with premium assistance, health care costs can be high. For example, a single woman making $29,175 in 2014 who qualified for a premium tax credit still paid over 8 percent of her income in health care premiums.173 In addition, she faced the full cost of applicable deductibles, co-payments and co-insurance, which can amount to thousands of dollars. With plans at the most popular level in 2014 offering a median annual deductible of $2,500,180 this woman could have paid close to 17 percent of her income in health care expenses (8 percent in premiums and 9 percent in deductibles) and had inadequate resources to meet other needs.181 Premium and cost-sharing help also phases out quickly,182 leaving moderate-income women and their families with significant responsibility for these costs.

In addition, because of a provision known as the “family glitch,” the ACA is not reaching as many families as it should.183 Under this provision, individuals offered affordable coverage through an employer are not eligible for subsidized care under the ACA.184 The Treasury Department has interpreted the provision to mean that as long as the cost to an employee for employee-only coverage meets the ACA’s affordability test, all members of the family are ineligible for financial assistance in the health insurance marketplace—even if family coverage through the employer costs far more.185 One study estimates that 3.9 million individuals are caught in this “glitch” and ineligible for federal tax credits to help them buy coverage in the health care marketplace.186 As a result, they have to pay, on average, 14 percent of their income to purchase family coverage through an employer.187

Moreover, in the wake of the Supreme Court decision allowing states to opt out of the ACA’s expanded Medicaid coverage, National Federation of Independent Business v. Sebelius,188 the refusal of 22 states as of January 2015 to expand coverage has left approximately 3 million low-income women without health insurance.189 This gap in coverage leaves many women and their families without coverage for critical benefits like physician visits, prescription drugs, birth control, and maternity care, which poses real risks to their health.
The ACA has made great strides in promoting women’s health and economic security by ensuring insurance coverage of all FDA-approved methods of birth control without a co-pay, yet not all women are able to obtain this important benefit. The Supreme Court recently ruled in *Burwell v. Hobby Lobby Stores, Inc.* that under the federal Religious Freedom Restoration Act, certain for-profit companies can refuse to comply with the ACA’s birth control coverage requirement because of the owners’ religious beliefs. This decision puts the health of women employees (and potentially women family members of all employees) at risk by allowing their employers to deny them insurance coverage for birth control. Without insurance coverage, women may not be able to afford the birth control they need; the cost of an IUD can be as much as a full month’s pay for a minimum-wage worker. Losing this critical coverage and being forced to pay out-of-pocket thus directly affects a woman’s economic stability.

The *Hobby Lobby* decision has potentially far-reaching consequences in other respects as well. At both the federal level and in the several states that have enacted their own Religious Freedom Restoration Acts (RFRAs), it could open the door to challenges to the application of coverage requirements for other health services, such as vaccines or blood transfusions, or of anti-discrimination laws. As Justice Ginsburg said in her dissent, “The court, I fear, has ventured into a minefield.”

In addition to the women who lost insurance coverage of birth control because of *Hobby Lobby*, there are certain populations, such as women in the military (and family members of military men and women), who are not reached by the ACA and therefore do not have comprehensive contraceptive coverage and counseling. Having to pay out of pocket for these services can put an additional strain on their economic security. Across the country, women have also been punished or fired, or threatened with punishment or firing, by their employers for using birth control, for undergoing in vitro fertilization in order to get pregnant, or for having sex without being married.

Failing to provide women with the ability to control and space pregnancy or punishing them when they do become pregnant not only jeopardizes their ability to advance their education and employment, but could result in an increased need for abortion services. But these services, too, have become harder to obtain and pay for because of restrictive federal and state laws. At the federal level, laws that strictly limit insurance coverage of abortion keep federal employees (including women in the military), low-income residents of the District of Columbia, Medicaid-eligible women and Medicare beneficiaries, Peace Corps volunteers, Native-American women, and women in federal prisons from accessing all medically necessary abortion services. At the state level, too, abortion restrictions prevent women from obtaining medically necessary services. Between 2011 and 2014, states adopted 231 new abortion restrictions. These include outright bans on abortion, laws that take away insurance coverage of abortion, unnecessary and burdensome restrictions on abortion providers that are meant to shut them down, and laws forcing a woman to wait a specified amount of time and undergo counseling meant to dissuade her from obtaining an abortion. These barriers are difficult for any woman to overcome, but especially affect low-income women who have little ability to absorb the attendant costs.

**INADEQUATE ACCESS TO EDUCATION AND TRAINING**

Because for women it takes a bachelor’s degree to avoid overrepresentation in low-wage jobs, ensuring women’s access both to college and to higher-paying jobs that are nontraditional for women is important. The rising cost of college education, coupled with the recession, has meant that postsecondary education is out of reach for many students unless they rely on student loans. This can, in turn, mean taking on massive amounts of debt and devoting high percentages of later earnings to loan repayment. For example, on average, women who borrow to attend community college take out $2,000 more in student loans than men who borrow to attend community college. One study found that among full-time workers repaying their loans one year after college graduation, almost half of women were paying more than 8 percent of their earnings towards student loan debt, as were about 40 percent of men.

Sexual harassment and sexual assault on college campuses also threaten women’s educational success. Studies have found that one in five women is a survivor of...
sexual assault or attempted sexual assault while in college, but fewer than five percent of college women who are survivors of rape or attempted rape report their assaults to the police. Unfortunately, in too many instances, college and school officials have failed to protect students from sexual assault and to promptly and effectively address it when it occurs, although required to do so by Title IX of the Education Amendments of 1972, which prohibits sex discrimination—including sexual harassment and sexual assault—in federally funded education programs. The emotional and physical effects of sexual harassment and violence can be devastating, disrupting a student’s educational trajectory, leading some students to drop out of school altogether. The 2013 Violence Against Women Act amendments to the Clery Act and its implementing regulations have resulted in new reporting and training requirements on schools for acts of violence, but more needs to be done to prevent and respond to sexual harassment and sexual assault on college campuses.

Pregnant and parenting students face particular educational barriers. Despite the prohibition against discrimination on the basis of pregnancy or parenthood in Title IX of the Education Amendments of 1972, some schools fail to ensure equal educational opportunities for these students. One study found that in 2008 nearly half of student parents also worked full time while enrolled. In addition to shouldering caregiving responsibilities, which are heavier for enrolled mothers than for fathers, student parents often have great difficulty finding affordable, good-quality child care. On-campus child care is limited, and student parents may also be unable to receive financial assistance to help pay for off-campus child care because some states set limits on child care assistance for parents in college or do not provide any assistance for parents working toward a four-year degree.

Women also remain underrepresented in education and workforce training programs that provide pathways to higher-wage jobs. For example, women are rarely in the pool of individuals considered for construction apprenticeship opportunities, which offer necessary education and training to secure construction jobs. And when women participate in construction apprenticeships, they are less likely to complete their apprenticeships than men due to pervasive harassment and lack of child care, among other barriers. These roadblocks to higher-wage, higher-skill jobs are detrimental to the economic security of women and their families.

LIMITED RETIREMENT SECURITY
These many barriers to economic security continue to affect women as they age. Women’s lower lifetime earnings and longer lifespans than men mean they have fewer resources to rely on as they age, and are more likely than men to spend years alone, without the support of a spouse.

Social Security is the foundation of women’s economic security in retirement, providing secure benefits for workers and their families that can’t be outlived and are adjusted for inflation. However, Social Security benefits, which are based on lifetime earnings, are modest, especially for women. The average Social Security benefit for women ages 65 and older in 2013 was about $13,500 per year, compared to about $17,600 for men ages 65 and older. Yet women are more reliant on Social Security than men are. On average, women beneficiaries ages 65 and older receive 61 percent of their family income from Social Security, compared to 56 percent for men beneficiaries ages 65 and older. Indeed, for 30 percent of women—as compared to 23 percent of men—beneficiaries ages 65 and older, Social Security provides 90 percent or more of their family income.

For many women of color, the reliance on Social Security is even higher. Social Security provides 90 percent or more of family income for 37 percent of African-American women beneficiaries ages 65 and older, and for 35 percent of Latina beneficiaries ages 65 and older.

Other sources of retirement income are limited for many. Defined benefit pensions are disappearing; only 19 percent of private-sector workers have access to a defined benefit pension. Forty-five percent of families headed by working-age individuals (ages 25 to 64), and 40 percent of families headed by near-retirement-age individuals (ages 55 to 64), have no retirement savings. When all families are considered—including those without retirement accounts—the median account balance for all families headed by individuals ages 25 to 64 is $3,000; the median
Low-wage workers are even less likely than other workers to participate in a retirement plan at work. Among women ages 21 to 64 earning less than $10,000 a year, only 9.6 percent participate in an employer-offered plan; among women ages 21 to 64 earning between $10,000 and $20,000 a year, only 20.3 percent participate. Many women work part time, but even employers who offer retirement plans are not required to include part-time workers in the plan. Just 24.2 percent of part-time, year-round women workers participate in employer-offered retirement plans, compared to 56.4 percent of full-time, year-round women workers.

The Saver’s Credit provides low- and moderate-income individuals with a tax credit of between 20 and 50 percent of their contribution, up to $2,000 ($4,000, if married and filing jointly), to a retirement plan or Individual Retirement Account, with the percentage varying by income. For 2015, the maximum income a tax filer could have and be eligible for the credit ranges from $30,500 to $61,000, depending on tax filing status. Because the credit is not refundable, however, it provides little or no help to many individuals who have low or no tax liability but are otherwise eligible for its benefits.

**DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY**

Although federal law prohibits sex discrimination in employment, housing, and education it does not specifically prohibit discrimination on the basis of sexual orientation or gender identity. It also does not prohibit discrimination in public accommodations on the basis of sexual orientation or gender identity—or sex. Moreover, in a key instance—the Social Security Act—federal law prevents some individuals from receiving federal benefits because of their sexual orientation, by providing that the validity of a marriage—and thus eligibility for marriage-based Social Security benefits—is determined by the law of the state in which an individual is domiciled at the time she or he applies for benefits, which may be a state that does not recognize same-sex marriage. Although the Supreme Court’s decision in *United States v. Windsor* declared unconstitutional the provision of the Defense of Marriage Act that defined marriage, for purposes of federal law, as “only a legal union between one man and one woman as husband and wife,” it did not reach the question of whether a state may constitutionally prohibit marriages between two people of the same sex or refuse to recognize marriages validly performed in another state between two people of the same sex. The Supreme Court in its October 2014 term is considering these questions in four companion cases in which the United States Court of Appeals for the 6th Circuit ruled against the same-sex couples seeking to marry or to have their out-of-state marriages recognized.

As with discrimination on the basis of sex, discrimination on the basis of sexual orientation or gender identity often rests on gender stereotypes about supposedly appropriate behavior for women and men. Both sex discrimination and sexual orientation or gender identity discrimination often take the form of punishing or burdening individuals who fail to conform to gender stereotypes. Despite this close relationship, courts have split on whether discrimination on the basis of sexual orientation or gender identity is discrimination on the basis of gender stereotypes prohibited under federal sex discrimination law. As a result, individuals who face discrimination because of who they are or who they love may be without recourse.

In addition, *Burwell v. Hobby Lobby Stores, Inc.*, by upholding the right of a for-profit business to rely on the federal Religious Freedom Restoration Act to justify its refusal to provide contraceptive coverage to its employees, has given new life to efforts to rely on state RFRA's to justify actions that discriminate on the basis of sexual orientation or gender identity. Indiana’s RFRA, for example, expressly defines a person who may assert the protection of its law to include individuals and businesses, and provides that they may assert this protection against other private parties, even when the government is not involved. Widespread criticism of a March 2015 version of Indiana’s RFRA led to April changes in the law to clarify its application. The changes, however, did not expressly prohibit such discrimination, but only removed reliance on RFRA as
an authorized justification for it or as a defense to it. The changes also did not affect the ability of private individuals and businesses to rely on RFRA to refuse to provide health care coverages or services, such as contraception.

Discrimination on the basis of sexual orientation or gender identity inflicts specific harm on women. Nationwide, a higher proportion of lesbians live in poverty (nearly 23 percent) than heterosexual women (about 21 percent), heterosexual men (about 15 percent), or gay men (almost 21 percent). Women in same-sex couples have a median annual personal income of $38,000, compared to $47,000 for men in same-sex couples, and $48,000 for men in heterosexual couples. Further, among those under age 50, lesbian, gay, bisexual and transgender (LGBT) women are far more likely than LGBT men to be raising children—48 percent compared to 20 percent—and LGBT parents are more likely than heterosexual parents to live close to poverty. In addition, 47 percent of transgender individuals report they were either fired, not advanced, or not hired due to their gender identity, and one study found that the earnings of transgender women fell by nearly one third following their gender transition.

**ATTACKS ON UNIONIZATION AND COLLECTIVE ACTION**

Unionization can provide important benefits and protections to women in many jobs. Union members make more than their non-union counterparts, and the difference is especially pronounced for women. Women in unions earn 32 percent more than their non-union counterparts; in contrast, men in unions earn 21 percent more than their non-union counterparts. These benefits are even greater for some women of color. For example, Latinas in unions earn a whopping 46 percent more than their non-union counterparts. Women in unions not only earn more, they are paid more equally. Among union members, the wage gap between women and men is 40 percent smaller than the wage gap between women and men who are non-union members.

Collective bargaining also empowers women and men to have a voice in work hours, scheduling practices, and time off so they can better attend to both their work and family responsibilities. One study found that private-sector union workers are far more likely than non-union workers to have access to paid sick days, paid family leave, paid vacation time, and retirement and comprehensive health insurance benefits that cover all of their needs. Another study found that women who are union workers are 36 percent more likely to have health insurance through their job than non-union workers.

Although collective action is a clear pathway to good jobs, today only 10.5 percent of employed women are union members.

Although there are several reasons for the overall decline in union membership, including the decline of manufacturing jobs, attacks on organizing and collective bargaining rights at both the state and federal levels are an important factor.

Under the National Labor Relations Act (NLRA), most workers in the private sector have the right to organize and bargain collectively, but in practice the law provides limited protection of these rights. For example:

The time between worker petitions for representation elections and the elections themselves can take many months. The environment surrounding the election can be intimidating since there are no constraints on employer-initiated captive-audience speeches and penalties for firing union supporters and other acts of coercion are minimal. There is strong empirical evidence that coercion is widespread and has increased in frequency over time. When representation elections are won, there are no real remedies when an employer fails to bargain in good faith.

Although the law itself could be stronger, continuing efforts by some lawmakers to undermine the agency that enforces the Act, the National Labor Relations Board—by blocking nominations, cutting funding, and interfering with investigations—have also taken a toll.

Some states have enacted so-called right-to-work laws that hinder workers’ efforts to organize and bargain collectively. These laws make it illegal for unions to negotiate a contract that allows them to collect “fair share” dues from all of the employees who benefit from the union contract.

The organizing and bargaining rights of public employees are a particular target; in 2011 and 2012, fifteen state legislatures passed laws limiting public employees’
rights to bargain collectively, although in three of those
states the laws were vetoed or overturned by a voter
referendum.268 The weakening of public employee unions
is a particular concern for women, because over half
(60 percent) of unionized women are in the public sector.269

In addition, a recent 5-4 Supreme Court decision,
Harris v. Quinn, limited the rights of home care
workers—who provide services to older individuals
and individuals with disabilities through the Medicaid
program—to form strong unions, on the grounds they are
not “full-fledged public employees.”270 This decision not only
adversely affects this group of predominantly female
workers but also unionized child care providers who are
paid with public funds or publicly regulated—another group
of predominantly female workers.271

These are the reasons for a women’s economic agenda.
An economic agenda for women and families

RECOGNIZING THAT WHEN WOMEN SUCCEED, THEIR FAMILIES AND THE NATION AS A WHOLE PROSPER, legislators and executives at both the federal and state levels are proposing and implementing measures to address the economic challenges facing women and their families. For example, House Minority Leader Nancy Pelosi and several other women legislators in July 2013 released “When Women Succeed, America Succeeds: An Economic Agenda for Women and Families,” which includes measures to improve pay, combat employment discrimination, provide paid family and medical leave and expand access to high-quality, affordable child care and preschool. In October 2013, Senator Kirsten Gillibrand unveiled a similar “American Opportunity Agenda.” And in July 2014, several members of the House of Representatives released the House Republican Women’s Package: “Solutions to Empower Americans At Work and At Home.” President Obama’s White House Summit on Working Families, held in June 2014, also shone a spotlight on these challenges and what could be done to address them. And, with polls showing the popularity of measures designed to increase economic security, particularly among women voters in national, state, and local elections, this is an opportune time to define and press an economic agenda for women and families.

There are many measures that could and should be part of a comprehensive economic agenda for women and families. This report is not intended to be an exhaustive discussion of these measures, but rather to highlight some key components of such an agenda at the federal level that are both currently under consideration and potentially achievable, noting, in appropriate places, efforts that have been made to address them. Although largely beyond the scope of this report, it is important to acknowledge that states and localities have taken the lead on several of these issues. Minnesota, for example, enacted a Women’s Economic Security Act in 2014 that contains provisions addressing several of the issues discussed in this report. In many instances there are analogous measures that have been, or could be, part of similar state- or local-level women’s economic agendas.

CLOSING THE WAGE GAP, ENSURING EQUAL PAY, AND OTHERWISE INCREASING PROTECTIONS AGAINST SEX DISCRIMINATION IN EMPLOYMENT

The proposed Paycheck Fairness Act would strengthen the Equal Pay Act in a number of 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. 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 individuals who win their equal pay cases to recover compensatory and punitive damages, and tighten the defenses available to employers who claim a business justification for providing unequal pay.

The Paycheck Fairness Act (PFA) passed the House of Representatives twice but, although commanding a majority, failed to secure the 60 votes necessary to overcome a filibuster in the Senate four times, including twice in 2014.

The proposed Fair Pay Act would address the devaluation of women’s work simply because it is performed by women. The bill would require that female-dominated jobs receive the same pay as male-dominated jobs that require equivalent skill level, effort, responsibility and working conditions.

The proposed Fair Employment Protection Act would address the ruling in Vance v. Ball State University by amending Title VII of the Civil Rights Act and similar
non-discrimination laws to restore strong protections against harassment. It would make clear that employers may be vicariously liable for harassment by individuals with the authority to undertake or recommend tangible employment action or with the authority to direct an employee’s daily work activities. Robust protection against sexual harassment is essential to women’s success in the workplace.

Administrative actions can help improve efforts to secure equal pay, too. For example, in April 2014, President Obama issued an Executive Order prohibiting federal contractors from retaliating against employees who voluntarily discuss their compensation, and a Presidential Memorandum instructing the Secretary of Labor to promulgate new regulations requiring federal contractors to submit summary data “on employee compensation, including data by sex and race.” Both of these measures are intended to provide greater information on pay disparities so that these disparities can be remedied.

The Department of Defense took action against one of the last instances of express sex discrimination in federal law and policy when it rescinded the Direct Ground Combat Definition and Assignment Rule in 2013 and directed the opening of all military positions and units to women by no later than January 1, 2016. The full implementation of this directive will require that military assignments be based on individual merit and ability, not gender.

States have also taken steps to improve their equal pay laws. Vermont, Minnesota, and Louisiana have recently amended their laws against sex discrimination in employment to tighten the defenses available to employers who pay male and female employees different wages for the same job. And New Jersey and New Hampshire recently banned punitive pay secrecy policies. These are important steps toward addressing both the lower pay that women receive when performing the same jobs as men and the effect of job segregation by gender on the pay gap and women’s opportunity to succeed, both of which devalue women’s work simply because it is performed by women.

**INCREASING THE MINIMUM WAGE**

The proposed Raise the Wage Act would restore the value of the federal minimum wage, beginning in 2016, by raising it to $12.00 an hour by 2020, then indexing it to keep pace with wages overall by maintaining a constant ratio between the minimum wage and the median wage. The bill would also phase out the federal tipped minimum wage, gradually increasing it until it is equal to the regular minimum wage.

If there were only one federal minimum wage and it were $12.00 an hour today, the annual earnings for a full-time minimum wage worker would increase by $9,500—and the annual earnings for a full-time tipped minimum wage worker would increase by $19,740—to $24,000, enough to more than lift a family of three out of poverty. The proposed Original Living Wage Act would go further, raising the minimum wage in 2015 to above $12.00 an hour, under a formula that would ensure a full-time minimum-wage worker enough to more than lift a family of four out of poverty. Because women are the majority of workers who would get a raise under these proposals, they would also narrow the wage gap. For example, the average wage gap in states with a minimum wage at or above $8.00 an hour (17.7 cents) is 22 percent smaller than the average wage gap in states with a minimum wage of $7.25 an hour (22.7 cents).

The Economic Policy Institute estimates that if the minimum wage were increased to $12.00 an hour by 2020, more than 35 million workers would get a raise, including nearly 6.7 million workers earning between $12.00 and $13.00 an hour, who would see their pay increase due to the higher floor set by the new minimum wage. Women are nearly 20 million (55.9 percent) of all affected workers, including more than 6.3 million mothers—representing 27.3 percent of all mothers in the workforce with children under 18. Of the more than 9.7 million total workers affected who are parents, 31.4 percent are the sole providers for their families.

Eliminating the tipped minimum wage is particularly important for women. In the eight states that have only one minimum wage instead of a separate minimum wage for tipped workers, women fare considerably better on two key measures: the overall wage gap and poverty rates for tipped workers. Women working full time, year round in
these states have an average wage gap that is 14 percent smaller than the average wage gap in the states that follow the federal standard. In states with only one minimum wage, average wage gaps among full-time, year-round workers are also smaller for African-American women—9 percent smaller—and Latinas—6 percent smaller—than they are among states that follow the federal standard. The average poverty rate for women tipped workers in these states is 33 percent lower than in states that follow the federal standard (14.9 percent v. 22.1 percent). The average poverty rate for women servers and bartenders—the largest group of tipped workers—is 37 percent lower in these states than in states that follow the federal standard (17.9 percent v. 28.3 percent).

Administrative actions can also help more workers benefit from a higher minimum wage. For example, in regulations effective January 1, 2015, the Department of Labor extended minimum-wage and overtime protections to home care workers—a poorly paid group of workers that is overwhelmingly female and disproportionately women of color. In February 2014, President Obama issued an Executive Order raising the minimum wage for workers on new federal contracts to $10.10 an hour, annually adjusted for inflation. The Executive Order also raised the minimum wage for tipped workers on new federal contracts, which will gradually reach 70 percent of the minimum wage and increase by inflation as the minimum wage increases.

Many states are ahead of the federal government here. As of February 2015, twenty-nine states and the District of Columbia have minimum wages above the federal level, including ten states that index the minimum wage to keep pace with inflation. Some municipalities have minimum wage levels as high as $15.00 an hour. But all state minimum wages are below $12.00 an hour, and only a federal minimum wage increase can ensure a minimum wage of at least that amount for workers across the country. Eliminating the pay gap and increasing the minimum wage would increase women’s cash income and reduce poverty, but still fall short of what many women and their families need to achieve a basic level of economic security. Indeed, a recent study estimated that two parents must each earn at least $16.79 an hour to provide economic stability in a family with two children. Thus, ensuring basic economic security for women and their families requires a combination of higher cash wages, child support, cash income supports, assistance to meet critical needs such as child care, health care, and education, and measures to increase asset building and retirement security.

INCREASING THE EARNED INCOME TAX CREDIT AND PROTECTING THE VALUE OF THE EARNED INCOME TAX CREDIT AND CHILD TAX CREDIT

President Obama’s proposed Fiscal Year 2016 budget would reform the Earned Income Tax Credit for workers without qualifying children. It would double the maximum credit amount (from $503 in 2015 to about $1,000 in 2016), increase the amount of income that individuals and couples can earn and remain eligible for the credit (from $14,820 in 2015 to $18,173 in 2016, for a single individual, and from $20,330 in 2015 to $23,763 in 2016, for a married couple), and expand the age range of workers who are eligible for the credit (from ages 25 through 64 to ages 21 through 66). Other recent bills have proposed similar reforms. The Administration estimates that the similar reforms it proposed in 2014 would benefit 13.5 million low-income workers. Approximately 6.1 million of these workers are women, 44 percent of whom are women of color. Of the 3.3 million adults aged 21 to 24 who would be helped by the proposal, nearly half (45 percent) are women; of the 300,000 workers ages 65 or 66 who would be helped, two-thirds are women. The proposed expansion would particularly help young women entering the labor force and students working to support themselves, as well as older women approaching retirement, all groups of women who are often financially strapped.

The President’s proposal, and the proposed legislation, would also make permanent the improvements to the EITC and Child Tax Credit enacted in 2009, currently in effect only through 2017. Making these improvements permanent would ensure they continue to reduce marriage penalties and increase benefits for many low-income families. Women are more than one-half of the beneficiaries of the EITC improvements and more than two-thirds of the beneficiaries of the Child Tax Credit improvements.
ENSURING ACCESS TO CHILD CARE AND EARLY LEARNING

President Obama’s proposed Fiscal Year 2016 budget would significantly increase funding for the Child Care and Development Block Grant Program. It would provide an additional $82 billion over ten years to make child care assistance available to all children under age four in families with incomes at or below 200 percent of poverty—and require states to develop plans for improving the supply of high-quality care. This proposal would expand access to child care assistance to over 1.1 million more children by 2025, bringing to more than 2.6 million the number of children who would receive assistance each month. It would provide an additional $266 million increase in funding to help states meet the cost of the new requirements of the 2014 CCDBG reauthorization and $100 million for competitive grants to “test and evaluate innovative child care models that better meet the needs of working families, including those who work non-traditional hours.” It would also increase funding for Head Start by $1 billion in Fiscal Year 2016, to allow all Head Start programs to operate for a full school day and full school year.

President Obama’s proposed Fiscal Year 2016 budget would increase the federal Child and Dependent Care Tax Credit, especially for families with young children—but would not make the credit refundable. The proposed Child and Dependent Care Tax Credit Enhancement Act is modeled on President Obama’s proposal—and would make the expanded credit fully refundable. It would increase the maximum credit amount for families with children under age five to $3,000 for families with one child (based on 50 percent of up to $6,000 in expenses) and $6,000 for families with two or more children (based on 50 percent of up to $12,000 in expenses). The percentage of expenses that determines the credit amount would not begin to decline until adjusted gross income exceeds $120,000, and families with adjusted gross income up to $148,000 would be eligible for a credit amount that is higher than under current law. Both the maximum expense limits and the income levels at which the credit percentages change would be indexed for inflation so the credit does not continue to lose value over time.

The proposed Strong Start for America’s Children Act builds on a proposal by President Obama in his 2013 State of the Union address and included in his subsequent budget proposals. It would provide $75 billion over ten years to make high-quality preschool available to all four-year-old children in families with incomes at or below 200 percent of poverty. It would also expand early learning opportunities for infants and toddlers by allowing states to set aside a portion of the funds for high-quality infant and toddler care and by providing grants for high-quality early care and education for children under age four through partnerships between Early Head Start and child care programs.

Hearings were held on the Strong Start legislation in 2014, but it was not scheduled for floor action.

Administrative action can also help increase families’ ability to secure child care that meets their needs. For example, the federal Office of Child Care proposed regulations for the Child Care and Development Block Grant program in 2013 that would increase health and safety protections for children and otherwise improve the quality of care and make the program more accessible for families. Although the regulations were withdrawn before they were finalized because of the need to incorporate provisions of the CCDBG reauthorization legislation signed into law in December 2014, many of their provisions will likely be proposed in the updated regulations.

Some states and cities are out ahead in their efforts to improve child care and early learning. Oklahoma and Georgia have state-funded preschool programs available to all four-year-old children. The District of Columbia and Vermont have state-funded preschool programs...
available to all three- and four-year-old children. In the past year, several other states and cities have taken major steps to establish new, or expand existing, preschool programs, including Michigan, California, and New York City. Many states, too, have child and dependent care tax credits, or child care tax credits, some of which have higher maximum values than the federal credit. New York’s Child and Dependent Child Credit, for example, has a maximum value of $2,310. Louisiana has a Child Care Credit for families with children under age thirteen, which has a maximum value of $2,100, and a separate school readiness Child Care Expense Credit for families with children under age six enrolled in child care centers rated by the state’s Quality Start rating system, which has a maximum value of $2,100 per child. Families eligible for both Louisiana credits may claim both. The New York credit, the two Louisiana credits, and the child care credits of ten other states are refundable.

PROVIDING PAID SICK DAYS AND PAID FAMILY AND MEDICAL LEAVE

The proposed Healthy Families Act would guarantee workers the right to earn up to seven paid sick days per year to recover from their own illness or to care for a sick family member. The proposed Family and Medical Insurance Leave Act (the FAMILY Act) would create a national family and medical leave insurance program to provide paid leave for the reasons covered by the Family and Medical Leave Act. Funded by contributions from employers and employees, it would provide partial wage replacement for up to twelve workweeks to employees to address their own serious health issues, including pregnancy or childbirth; to address the serious health issues of a parent, spouse, domestic partner or child; to care for a new child; and/or for specific military caregiving and leave purposes. Workers would be allowed to contribute and benefit from the paid leave provided regardless of their employer’s size or their length of time on the job.

A number of states and localities have passed laws requiring employers to permit workers to earn paid sick days. In 2011, Connecticut became the first state to do so, and California and Massachusetts have since done so. In 2006, San Francisco became the first locality to do so, and several other localities have since done so as well.

Three states, California, New Jersey, and Rhode Island, offer paid family and medical leave, funded through employer-employee or employee-only payroll contributions and administered through the state’s disability insurance program.

ENSURING FAIR WORK SCHEDULES

The proposed Schedules That Work Act would give employees the right to request a change in their work schedules and clear protection from retaliation for those making such requests. It would also give employees who need a schedule change in order to accommodate certain critical needs and obligations—caregiving, a serious health condition, pursuit of education or training, or (for a part-time worker) a second job—a right to receive that change if the employer does not have a business reason for denying it. And it would give employees in certain industries in which scheduling abuses have been well documented—restaurant, retail, and building cleaning services—a right to two weeks’ advance notice of work schedules and extra pay if they are sent home without being allowed to work their scheduled shifts, given less than 24 hours’ notice of whether they have to report for work, or assigned to work a shift of non-consecutive hours with an unpaid break of more than one hour.

A number of states have laws or regulations that provide workers with protection against certain scheduling practices. For example, Massachusetts, Connecticut, New Hampshire, New York, New Jersey, Oregon, Rhode Island and the District of Columbia require employers to pay additional compensation to employees who are sent home before the conclusion of their scheduled shifts. California and the District of Columbia require employers to provide additional compensation to workers required to work a split shift—a schedule of daily hours in which the hours worked are not consecutive. Vermont and San Francisco have recently enacted laws that require employers to consider requests from employees for changes in their schedules and protect employees making those requests from retaliation. And in 2014, San Francisco passed the Retail Workers Bill of Rights, becoming the first locality to require
certain large retail and restaurant employers to provide two weeks’ notice of schedules to employees, with additional compensation for changes in shifts and for on-call shifts for which the employee is required to be available but not called in to work.373

ENDING DISCRIMINATION ON THE BASIS OF PREGNANCY AND CaringResponsibilities

The United States Supreme Court, in Young v. United Parcel Service, recently confirmed the important protection that the Pregnancy Discrimination Act (PDA) provides to pregnant workers who need changes in their job duties because of physical limitations arising from pregnancy, and provided a road map for establishing a claim that an employer violated the PDA by refusing to accommodate a pregnant worker when the employer accommodated many other workers with similar limitations.374 The proposed Pregnant Workers Fairness Act (PWFA) would strengthen and simplify the rights of pregnant workers by providing a clear rule that workers who need changes in job duties because of physical limitations arising from pregnancy, childbirth, or related medical conditions are entitled to reasonable accommodations—the very same types of accommodations that employers routinely provide for workers with non-pregnancy-related disabilities under the Americans With Disabilities Act.375 The PWFA is a response to court decisions, including the decisions of the lower courts in the Young case,377 seen as misinterpreting the language and intent of the Pregnancy Discrimination Act to permit employers to refuse accommodations to pregnant workers who need them.378

Administrative action can help as well. The Equal Employment Opportunity Commission recently issued strong guidance addressing the right of pregnant workers to receive the accommodations they need under both the Pregnancy Discrimination Act382 and the Americans with Disabilities Act.381 Under the PDA, as the EEOC guidance explains, employers must make accommodations for pregnant workers who need them if they accommodate workers with needs arising out of on-the-job injuries or non-pregnancy-related disabilities.382 Under the ADA, employers must make reasonable accommodations for employees who have pregnancy-related impairments that substantially limit a major life activity and thus qualify as disabilities under the ADA.383 The Office of Federal Contract Compliance Programs has recently proposed regulations that similarly would make clear that employers with federal contracts must provide the same accommodations for pregnant workers who need them that they provide or are obligated to provide to other workers with similar inability to work, such as workers with disabilities or occupational injuries.384 Although some changes in these administrative pronouncements may occur to ensure their consistency with the Young decision, they are important examples of the ways in which administrative actions can address the need for pregnancy-related accommodations.

Some states, too, have acted to specifically protect the right of pregnant workers to secure job accommodations. Twelve states explicitly require some forms of accommodation for at least some pregnant workers.385 Eight of these states—California, Delaware, Hawaii, Illinois, Maryland, Minnesota, New Jersey, and West Virginia—have adopted broad pregnancy accommodation laws similar to the federal Pregnant Workers Fairness Act, requiring covered employers to provide reasonable accommodations for limitations arising out of pregnancy, unless the accommodation would pose an undue hardship to the employer.386 The laws in Delaware, Illinois, Maryland, Minnesota, New Jersey, and West Virginia were all passed since 2013, and garnered unanimous support in Delaware, Illinois, and West Virginia, and near-unanimous support in New Jersey (only one legislator voted against).387 Alaska, Connecticut, Louisiana, and Texas offer narrower protections in that they apply only to certain categories of public employees, or require accommodation only in the form of transfer to an available position.388 Since 2013, broad pregnancy accommodation laws have also passed in New York City, Philadelphia and Pittsburgh, Pennsylvania, and Providence and Central Falls, Rhode Island, as well as the District of Columbia.389

There are few explicit protections against caregiver discrimination in federal law, but in 2007 the EEOC issued enforcement guidance to educate employers and employees about caregiver discrimination, detailing examples of when employer conduct may run afoul of Title VII’s prohibition on sex discrimination in employment, such as by treating fathers differently from mothers in the
workplace or relying on assumptions about the “commitment” of mothers to their job when determining job assignments or making promotion decisions.390

Some state laws include explicit protections against caregiver discrimination, including Alaska, the District of Columbia, Minnesota and New Jersey.391 Over sixty localities also prohibit some form of caregiver discrimination in their employment nondiscrimination statutes.392

ENSURING ACCESS TO HEALTH CARE, INCLUDING REPRODUCTIVE HEALTH CARE
Enhanced federal funding for premium tax credits and cost-sharing reductions would provide greater help to families with their health insurance costs and improve their access to health care services when they need them. In addition, fixing the ACA’s “family glitch” would make more families eligible for premium tax credits. The expansion of Medicaid coverage permitted by the ACA in the states that have not yet adopted such coverage would both reduce the cost and increase the coverage of care for the many families that would become eligible for its benefits. And if the Supreme Court rules in King v. Burwell393 that premium tax credits are only available in states that have established their own health insurance exchanges, unless policymakers take further actions, millions of individuals and their families would lose their health insurance.

The proposed Protect Women’s Health from Corporate Interference Act (known colloquially as the “Not My Boss’s Business” bill) would address the Supreme Court’s decision in Hobby Lobby by specifically prohibiting employers from discriminating against employees because of a reproductive health decision.396

Lifting restrictions on insurance coverage of abortion at the federal and state level would ensure that a woman is able to make a real decision about whether or not to end a pregnancy. Eliminating the other types of state and federal restrictions on abortion would protect women’s access to essential reproductive health care. The proposed federal Women’s Health Protection Act would make unlawful limitations or requirements that single out the provision of abortion services for restrictions that are more burdensome than restrictions imposed on medically comparable services, do not significantly improve women’s health or the safety of abortion services, and make abortion services more difficult to access.397

IMPROVING EDUCATION AND TRAINING
Addressing the student debt crisis is important to ensure higher education is more accessible for women—and men. The expansion of Pell grants, which help low-income students attend college without burdening them with debt, would help, as would allowing individuals with outstanding student loan debt to refinance at the lower interest rates currently offered to new borrowers.

President Obama’s proposed Fiscal Year 2016 budget would index Pell grant awards for inflation, maintaining their value over time.398 It would also provide $60 billion over ten years for two years of free tuition to students enrolled at least half-time in a community college and on track to earn an associate’s degree, the first half of a bachelor’s degree, or a training certificate for a job in a high-growth field.399 Such an investment would help make college more affordable for low- and middle-income families—particularly women, who make up 56 percent of community college students.400 Federal funding would cover 75 percent of the cost, with states making up the difference.401 If every state participated, an estimated 9 million students could benefit each year from the proposal.402

Administrative actions can also help students pay for schooling. For example, President Obama’s proposed Fiscal Year 2016 budget would simplify the federal
The proposed Campus Accountability and Safety Act would create incentives for schools to take proactive steps to address sexual assault on their campus. The bill establishes new resources for student survivors, requires additional training of campus personnel, establishes an annual, anonymous survey about student experience with sexual assault, and adds additional penalties for failing to comply with existing federal requirements. The proposed Survivor Outreach and Support Campus Act would require colleges and universities to establish an independent, on-campus advocate to support survivors of sexual assault.

Administrative action can also help prevent and respond to sexual harassment and sexual assault on campuses. The Office for Civil Rights of the Department of Education in 2014 provided new guidance to schools on their obligations to comply with Title IX in their response to sexual assault. The Obama Administration has also used an interagency task force, the White House Task Force to Protect Students from Sexual Assault, to improve and better coordinate its response to Title IX complaints and to provide resources to colleges and universities in their efforts to prevent and respond to sexual harassment and sexual assault. President Obama’s proposed Fiscal Year 2016 budget would double the funding for the Administration’s campus violence initiative to support and implement the recommendations of the White House Task Force to Protect Students from Sexual Assault.

Stronger enforcement of antidiscrimination laws, both in colleges and in career and technical education classes and apprenticeships, would improve the pipelines to better-paying, traditionally male jobs. Similarly, strengthening contractors’ affirmative action goals would increase the recruitment and retention of women in nontraditional jobs and apprenticeships.

**INCREASING RETIREMENT SECURITY**

Improving Social Security benefits would be the most effective way to increase women’s retirement security because coverage under Social Security is nearly universal and benefits are secure, life-long, and inflation-adjusted. Experts and advocates have proposed reforms, and members of Congress have introduced a variety of proposals to enhance benefits. For example, the proposed Strengthening Social Security Act would use the Consumer Price Index for the Elderly, which takes account of elders’ higher health care costs, to determine the annual cost-of-living adjustment and adjust the formula to increase benefits overall. The proposed Social Security Enhancement and Protection Act would reform the Special Minimum Benefit to improve benefits for workers with low lifetime earnings, including by giving credit for lost or reduced earnings due to caregiving, and the proposed Retirement and Income Security Enhancements (RAISE) Act would reform the benefit for surviving spouses to provide more adequate and equitable benefits for the survivors of low- and moderate-income couples. Although Social Security currently faces a long-term shortfall, with modest adjustments both the shortfall can be met and the program improved. All of the above bills would, in addition to increasing benefits, increase solvency by subjecting annual earnings above the current maximum to the payroll tax.

To expand retirement savings, President Obama’s proposed Fiscal Year 2016 budget would require employers who offer 401(k) plans to extend eligibility to part-time workers (those working 500 hours per year or just under 10 hours a week) who have worked for the same employer for at least three years, and require employers in business for at least two years with more than ten workers to offer an automatic Individual Retirement Account option to which employees could contribute by payroll deduction. These provisions would help women in particular achieve greater retirement security.

Improving the Saver’s Tax Credit for low- and moderate-income individuals who contribute to a retirement plan, and making it refundable, would increase the capacity of these individuals to save. Coupling that change with the creation of new, low-cost savings options, would further increase their retirement savings. The proposed Savings for American Families’ Future Act would make the Saver’s Credit refundable and increase the amount of the refund it provides, if the individual claiming the refund consents to its deposit in a retirement account.
PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY

The proposed Student Non-Discrimination Act would prohibit discrimination on the basis of actual or perceived sexual orientation or gender identity against students in any program or activity receiving federal financial assistance.\textsuperscript{418} The proposed Employment Non-Discrimination Act would prohibit employment discrimination on the basis of sexual orientation and gender identity.\textsuperscript{419} The Employment Non-Discrimination Act passed the Senate in 2013 but did not come to a vote in the House of Representatives.\textsuperscript{420} Because its religious exemption is broader than the religious exemption in Title VII of the Civil Rights Act,\textsuperscript{421} stronger protections are likely to be included in any new version of the bill. Strong protections are also needed against discrimination on the basis of sexual orientation and gender identity in education, housing and public accommodations. These protections are an important element of a women’s economic agenda because of the particular economic vulnerability of lesbians and bisexual and transgender women, which is both the result of such discrimination and compounds it.

The proposed Social Security and Marriage Equality Act would ensure that same-sex married couples, regardless of where they live, are eligible to receive Social Security benefits on the same basis as other married couples.\textsuperscript{422} A decision by the United States Supreme Court in favor of the same-sex couples challenging the refusal of their states to allow them to marry, or to recognize their marriages performed in other states,\textsuperscript{423} would both address the current law limitation on receipt of Social Security benefits and provide broader protection for same-sex married couples nationwide.\textsuperscript{424}

Administrative action can also help. The policy of the federal government, as stated by the United States Office of Personnel Management (OPM), is that all federal workplaces be free of discrimination, including discrimination on the basis of sexual orientation and gender identity,\textsuperscript{425} and in July 2013 President Obama issued an Executive Order prohibiting federal contractions from discriminating on the basis of sexual orientation and gender identity.\textsuperscript{426} Since the Supreme Court’s decision in United States v. Windsor,\textsuperscript{427} OPM has also extended benefits to legally married same-sex spouses of federal employees and annuitants.\textsuperscript{428}

More broadly, after the Windsor decision, President Obama directed the Attorney General to work with other members of the Cabinet “to review all relevant federal statutes to ensure this decision . . . is implemented swiftly and smoothly.”\textsuperscript{429} and the agencies have since been issuing conforming interpretations of federal laws and regulations. For example, the Department of Labor has defined spouse under the Family and Medical Leave Act\textsuperscript{430} to include a spouse in a same-sex marriage.\textsuperscript{431}

Beyond same-sex marriage, the Civil Rights Division of the United States Department of Justice has issued guidance explaining that federal employment, housing, education, and other statutes that prohibit discrimination based on sex “protect[] all people (including LGBTI people) from . . . discrimination based on a person’s failure to conform to stereotypes associated with [a] person’s real or perceived gender.”\textsuperscript{432} In addition, the Equal Employment Opportunity Commission has ruled that discrimination against transgender individuals is sex discrimination actionable under Title VII of the Civil Rights Act.\textsuperscript{433}

The laws of several states and localities are ahead of federal law; about half the states prohibit discrimination on the basis of sexual orientation or gender identity or both.\textsuperscript{434} The interrelation of these laws with state religious freedom laws continues to pose questions on the extent of their protection,\textsuperscript{435} however, and many states don’t provide any protection against discrimination on these grounds.

SUPPORTING UNIONIZATION AND COLLECTIVE ACTION

Protecting and strengthening collective bargaining rights, new forms of worker organizing, and the ability to come together to enforce employment rights in court would enhance worker protections for both women and men. Giving women a chance to make their voices heard in America’s workplaces is key to their economic success.

The proposed Employee Free Choice Act would help eliminate delays in obtaining union recognition by establishing that if over 50 percent of employees sign valid authorization cards, a union would automatically be
formed. The proposed Employee Empowerment Act would provide workers subjected to unfair labor practices with remedies in addition to those provided by the National Labor Relations Act, including, for example, the protections of the civil rights laws for workers who are retaliated against because they engage in organizing activities. It would also require automatic arbitration of first contracts after six months of unsuccessful bargaining, a provision designed to encourage good-faith bargaining.
Conclusion

THE NEED IS GREAT, BUT AN ECONOMIC AGENDA FOR WOMEN AND FAMILIES IS ACHIEVABLE because the issues it addresses are central to the lives of women and their families. Indeed, the centrality of the issues is the reason for the broad public support for the components of the agenda. What is needed now is to turn that support into a demand for action—and into action itself. Senator Kirsten Gillibrand has expressed it well:

> We need a “Rosy the Riveter” moment . . . .
> If you remember that iconic image, sleeves rolled up, slogan, “We can do it!” Women in America responded because the American people needed them. It was a call to action to say, we need you to work in these industries because men are fighting during World War II. Women responded. They responded because they were told two things: that they could do it and that they would make a difference. . . . We need a call to action today. . . . So every woman in America, every man in America . . . need[s] to speak up, need[s] to demand action [on women’s economic issues], . . . that’s what our democracy is about.440

This is our moment.
Endnotes


5. Id. at 6.


7. Id. at 3.


9. Id.


11. Id.

12. Id.


14. Census Bureau, U.S. Dep’t of Commerce, Current Population Survey, 2014 Annual Social and Economic Supplement, Tbl. POV-04: Families by Age of Householder, Number of Children, and Family Structure (2014), available at http://www.census.gov/hhes/www/cpstablecreator.html. This report uses the terminology “families headed by a woman only” or “families headed by a man only” as equivalent to the Current Population Survey’s terminology of “families headed by a woman” or “families headed by a man,” respectively, defined as an individual who either does not have a spouse because she or he is never married, divorced, widowed, or separated from her or his spouse, or her or his spouse is absent. See Census Bureau, U.S. Dep’t of Commerce, Current Population Survey, Definitions (2014), available at http://www.census.gov/cps/about/cpsdef.html.


Id.

Id.


Id. Here, too, figures are for full-time, year-round workers.


See infra notes 74-80 and accompanying text.


See generally Nat’l Women’s Law Ctr., Paycheck Fairness: Closing the “Factor Other Than Sex” Gap in the Equal Pay Act (2011), available at http://www.nwlc.org/resource/paycheck-fairness-closing-factor-other-sex-gap-equal-pay-act-o (discussing several decisions in which courts have accepted a “factor other than sex” defense from employers as explaining the alleged pay discrimination, without examining whether the proffered factor was job related or consistent with business needs, or whether the factor had roots in sex-based discrimination).
37 See INST. FOR WOMEN’S POLICY RESEARCH, PAY SECRECY AND THE WAGE GAP (2014), available at http://www.iwpr.org/publications/pubs/pay-secrecy-and-wage-discrimination-1 (finding that nearly half of all employees across the workforce report that discussing or asking about their wages is either directly prohibited or otherwise discouraged by their employers); cf. Ledbetter v. Goodyear Tire & Rubber Co., 550 U.S. 618 (2007), in which the plaintiff did not learn of the discrepancy between her pay and the pay of several of her male counterparts until late in her career, which, the Supreme Court held, barred her from filing a Title VII claim because of the statute’s 180-day statute of limitations. Congress overrode this ruling in the Lily Ledbetter Fair Pay Act, 42 U.S.C. § 2000e-5(e) (2012), which makes clear that each time compensation is paid, the 180-day period for filing a pay discrimination lawsuit with respect to that compensation re-sets.


41 Id. at 1-2.


43 Memorandum on Elimination of the 1994 Direct Ground Combat Definition and Assignment Rule, supra note 40, at 1.

44 As of April 2015, the Department of Defense has notified Congress of its intention to open approximately 92,000 positions that were closed on January 24, 2013. Joint Case Management Statement 8, Hegar v. Carter, No. 12-CV-06005 (N.D. Ca. Apr. 23, 2014). Hegar challenges, on constitutional grounds, the categorical exclusion of women on account of their sex from “entire military career fields, from all-male units, from certain schools and training programs, and from thousands of jobs.” Id. at 1.

45 Memorandum on Elimination of the 1994 Direct Ground Combat Definition and Assignment Rule, supra note 40, at 1.


29 U.S.C. § 203(m) (2012). Under federal law, an employer may pay a tipped employee a minimum cash wage of $2.13 per hour and count the employee’s tips to satisfy the remainder of its minimum wage obligation, taking a “tip credit” of up to $5.12 per hour (the minimum wage of $7.25 minus the minimum cash wage of $2.13). See id; see also Wage & Hour Division, U.S. Dep’t of Labor, Tipped Employees under the Fair Labor Standards Act (2013), available at http://www.dol.gov/whd/regs/compliance/whdfs15.pdf (discussing the “tip credit” in FLSA). If an employee’s tips combined with the employer’s direct wages do not equal $7.25 per hour, the employer must make up the difference. Id. A tipped employee is defined as “any employee engaged in an occupation in which [she or] he customarily and regularly receives more than $30 a month in tips.” 29 U.S.C. § 203(t) (2012).


Twenty-three Years and Still Waiting, supra note 51. Women are 48.3 percent of the total workforce, but 66.6 percent of the tipped workforce. Id. These figures are based on an average of three years of data for 2011 through 2013. Id.

Id. at 23.

Id. at 7.

Id. at 13.

See infra notes 296-297, 302-304 and accompanying text.


73 Id.
74 E-mail from Indu Kundra, Program Planning & Analysis Div., U.S. Equal Emp’t Opportunity Comm’n, to Lauren Khouri, Nat’l Women’s Law Ctr. (Feb. 27, 2014) (on file with the National Women’s Law Center).
75 E-mail from Indu Kundra, Program Planning & Analysis Div., U.S. Equal Emp’t Opportunity Comm’n, to Lauren Khouri, Nat’l Women’s Law Ctr. (Mar. 3, 2014) (on file with the National Women’s Law Center).
83 133 S. Ct. 2434 (2013).
84 Id. at 2443, 2448.
85 Id. at 2448.
See Steven Kerr et al., *The First-Line Supervisor: Phasing Out or Here to Stay?* 11 *Acad. of Mgmt. Rev* 103, 103-0404 (1986) (providing a list of twelve traditional functions and activities that are typically included in a lower-level supervisor’s job—referred to by the author as “first-line supervisory jobs”—including, for example, planning and scheduling, training employees, managing performance, and coordinating and controlling work, among others).


2015 *EITC Income Limits, Maximum Credit Amounts and Tax Law Updates*, Internal Revenue Serv., http://www.irs.gov/Individuals/Preview--EITC-Income-Limits (last updated Nov. 21, 2014). The 2015 maximum credit amount for individuals, heads of household, and married couples filing jointly is $3,359 for families with one qualifying child, $5,548 for families with two or more qualifying children, and $6,242 for families with three or more qualifying children. Id. The 2015 income limitation for single individuals and heads of household is $39,131 for families with one qualifying child, $44,454 for families with two or more qualifying children, and $47,747 for families with three or more qualifying children. Id. The 2015 income limitation for married couples filing jointly is $20,330 for families with one qualifying child, $44,651 for families with two qualifying children, and $53,267 for families with three or more qualifying children. Id. Married couples must file a joint return to claim the EITC. 26 U.S.C.A. § 32(d) (West 2013).

Id. The 2015 income limitation for individuals without qualifying children filing as single or as a head of household is $14,820; the 2015 income limitation for married couples without qualifying children filing jointly is $20,330. Id. Married couples must file a joint return to claim the EITC. 26 U.S.C.A. § 32(d) (West 2013).


Id.


Id.


See 26 U.S.C.A. § 24(b) (West 2013).

26 U.S.C. § 24(d)(4) (2013). Beginning in 2018, the $3,000 threshold will increase to $10,000. Id.

SOI Tax Stats, supra note 95.

SOI Tax Stats, supra note 95.

109 SOI Tax Stats, supra note 95.

110 SOI Tax Stats, supra note 95.

111 Nat’l Women’s Law Ctr. calculations based on Census Bureau, U.S. Dep’t of Commerce, Current Population Survey, 2014 Annual Social and Economic Supplement, Tbl. PINC-01: Selected Characteristics of Families by Total Money Income (2014), available at http://www.census.gov/hhes/www/cpstablestables/032014/faminc/finc01_000.htm. By comparison, 19 percent of all families in 2013 were families headed by a woman only. Id. The Census Bureau data are based on family income, which is used here as a proxy for adjusted gross income. See supra note 97.


115 Nat’l Women’s Law Ctr. calculations based on id. and Census Bureau, U.S. Dep’t of Commerce, 2010 American Community Survey (2011) (as compiled for download by Steven Ruggles et al., Univ. of Minn., Integrated Public Use Microdata Series: Version 5.0 (2010)).

116 Nat’l Women’s Law Ctr. calculations based on Tax Policy Ctr., The Numbers, supra note 114, at Tbl. 12-0246. Table T12-0246 projects number of filers in 2013.

117 Nat’l Women’s Law Ctr. calculations based on id. and 2010 American Community Survey, supra note 115.


121 Id.


32 OUR MOMENT: AN ECONOMIC AGENDA FOR WOMEN & FAMILIES
at or below the poverty line); HELEN RAIKES ET AL., CHILD CARE QUALITY AND WORKFORCE CHARACTERISTICS IN FOUR MID-WESTERN STATES 88 (2003), available at http://ccfl.unl.edu/projects_outreach/projects/current/ecp/pdf/final_11-25-03.pdf (discussing the quality of infant and toddler care); CHILD CARE SERVICES ASS’N, WHO’S CARING FOR OUR BABIES NOW?: REVISITING THE 2005 PROFILE OF EARLY CARE AND EDUCATION FOR CHILDREN BIRTH TO THREE IN NORTH CAROLINA 20 (2008), available at http://www.childcareservices.org/downloads/research/IT_State%20report_08.pdf (finding that, “[o]verall, the high demand for infant/toddler care as evidenced by requests for referrals coupled with the insufficient growth in slots for these same children has left many parents struggling to find sufficient care for their babies”); Cal. Child Care Res. & Referral Network, 2013 California Child Care Portfolio at Statewide Profiles (2013), available at http://www.rnetwork.org/2013_portfolio (presenting a portrait of child care supply, demand, and cost statewide and county by county, including infant and toddler care).


127 See generally U.S. GOV’T ACCOUNTABILITY OFFICE, EARLY LEARNING AND CHILD CARE, supra note 125, at 4, 10-11.


129 Id.

130 OFFICE OF ASS’T SEC’Y. FOR PLANNING & EVAL., U.S. DEP’T OF HEALTH & HUMAN SERVS., ESTIMATES OF CHILD CARE ELIGIBILITY AND RECEIPT FOR FISCAL YEAR 2011, at 1 (2015), available at http://aspe.hhs.gov/hsp/12/childcareeligibility/ib.pdf. This figure is the most recent year for which data are available.


133 See generally id.


143 Id.

144 Id.


See generally Nat’l Women’s Law Ctr. & A Better Balance, supra note 158.


Shelley J. Correll et al., Getting a Job: Is There a Motherhood Penalty?, 112 Am. J. Soc. 1297, 1315-17 (2007), available at http://gender.stanford.edu/sites/default/files/motherhoodpenalty_0.pdf (In addition to penalties such as lower starting salaries and lower performance ratings for women without children, mothers were judged significantly less competent and committed than women without children. Mothers were also held to harsher performance and punctuality standards. Mothers were allowed to be late to work significantly fewer times than non-mothers, and they needed a significantly higher score on the management exam than non-mothers to be considered hirable.).

Id. at 1316-17 (Rather than receiving a fatherhood penalty, fathers were actually advantaged over non-fathers. For example, applicants who were fathers were rated significantly more committed to their job than non-fathers. Fathers were allowed to be late to work significantly more times than non-fathers. Finally, they were offered significantly higher salaries than non-fathers.).


42 U.S.C. § 300gg (2012) (listing the accepted reasons a plan may vary premium rates, which do not include gender). The ACA defines the small group market as businesses with 100 or fewer employees, although states can choose to define small groups as businesses with 50 or fewer employees until 2016. 42 U.S.C. § 18024 (2012).

42 U.S.C. § 18116 (2012) (prohibiting discrimination in health programs receiving federal dollars, including insurance, and other programs conducted by the federal government, including the ACA’s health insurance exchanges).


See 26 C.F.R. § 1.36(B)-2 (2014).


Id. at 15.

Nat’l Women’s Law Ctr. calculation based on id. at Tbl 4.


185 6 C.F.R. § 1.36(B)-2 (2014).

186 Larry Levitt & Gary Claxton, supra note 183.

187 Larry Levitt & Gary Claxton, supra note 183.


189 Nat’l Women’s Law Ctr., States Must Close the Gap: Low Income Women Need Health Insurance 1 (2014), available at http://www.nwlc.org/sites/default/files/pdfs/new_nwlc_mindthegap_updateoct2014.pdf. At the time of this publication, 23 states had not adopted the ACA’s Medicaid expansion, but the publication excluded Wisconsin from its total of 22 states because the state’s Medicaid program includes coverage of adults with income below the federal poverty line, and adults with income above the federal poverty line are eligible for an ACA subsidy, so Wisconsin did not have a gap in coverage. Id. at 40 n. 4. The resulting gap in coverage in the remaining 22 states left over 3 million low-income women without health insurance. Id. at 2. With Indiana’s adoption of the Medicaid expansion in January 2015, the number of states that have not expanded Medicaid dropped to 22 and the number of low-income women who remain in the coverage gap dropped to approximately 3 million. See Id. at 3 Tbl. 1.


191 42 U.S.C. § 2000bb et seq. (2012). The Religious Freedom Restoration Act provides generally that government may not “substantially burden a person’s exercise of religion” unless the burden to the person “is in furtherance of a compelling state interest” and is the “least restrictive means of furthering that compelling state interest.” Id. § 2000bb-1 (a), (b).


197 See, e.g., Jury Rules Discrimination by Cincinnati Archdiocese, Record-Journal, June 8, 2013, available at 2013 WLNR 14096999 (describing case of Christa Dias, an unmarried teacher for two schools with the Archdiocese of Cincinnati, Ohio, who was fired after she became pregnant through artificial insemination); Statement of Michelle McCusker, Pregnant Teacher Fired by Catholic School (Nov. 21, 2005), available at http://www.nyclu.org/node/861 (explaining that, after revealing her pregnancy, preschool teacher Michelle McCusker was fired from a Catholic school in New York for becoming pregnant outside of marriage); Doug Erickson, Wisconsin Diocese Offers Birth Control
Insurance, but Warns Employees Not to Use It, WCF Courier.com (Aug. 10, 2010, 8:00 PM), available at http://wcfcourier.com/news/local/wisconsin-diocese-offers-birth-control-insurance-but-warns-employees-not/article_0b904262-a4e4-11df-bde9-001cc4c002a0.html (describing warning by the Madison Catholic Diocese to employees that if they took advantage of the birth control provided by a 2009 Wisconsin law requiring insurance coverage of birth control, they could face termination).


207 As of February 18, 2015, there were 102 sexual violence cases at 97 postsecondary institutions under investigation by the Office for Civil Rights. E-mail from Erin Randall, Ass’t, Office for Civil Rights, U.S. Dep’t of Educ., to Helen Oh, Program Ass’t, Nat’l Women’s Law Ctr. (Feb. 23, 2015, 2:35 PM EST) (on file with the National Women’s Law Center) 208 20 U.S.C. § 1681 (2012).


211 See The Hunting Ground (CNN Films 2014) (documenting cases of campus sexual assault, institutional responses, and the effect on survivors and their families).


214 Id.

215 Id. (estimating that “only 5 percent of the child care needed by student parents is supplied at on-campus child care centers”).


217 For example, women make up more than 70 percent of secondary-level and more than 80 percent of post-secondary-level students in “Human Services” career and technical education (CTE) programs, which lead to generally low-paying occupations like child care workers, cosmetologists and nursing home workers. Nat’l Coal. for Women & Girls in Educ. & Nat’l Coal., on Women, Jobs & Job Training, Education Data Show Gender Gap in Career Preparation 2 (2013), available at http://www.nwlc.org/sites/default/files/pdfs/nwge_report_on_gender_gap_in_career_preparation.pdf. In contrast, CTE programs that train workers for higher-paying jobs are dominated by men; for example, women make up only 15 percent of secondary-level and less than 10 percent of post-secondary-level students enrolled in “Architecture and Construction” CTE programs. Id.


219 Susan Moir et al., supra note 218, at 8-9.


223 Nat’l Women’s Law Ctr. calculations based on Soc. Sec. Admin., U.S. Dep’t of Health & Human Servs., Annual Statistical Supplement to the Social Security Bulletin, 2014, Tbl. 5.A16: Number and Average Monthly Benefit for Adult Beneficiaries, by Sex, Type of Benefit, and Age, December 2013 (2015), available at http://www.ssa.gov/policy/docs/statcomps/2014/5a.html. The average monthly benefit for all women beneficiaries ages 65 and older was $1,122.20, or about $13,466 per year as of December 2013, compared to $1,466.49 per month, or $17,598 per year for all men beneficiaries ages 65 and older as of December 2013. Benefits are slightly higher for both women and men receiving benefits as retired workers.


225 Id.

226 Id.

227 See Nari Rhee, Nat’l Instt. on Ret. Sec., The Retirement Savings Crisis: Is It Worse Than We Think? 6, Fig. 3 (2013), available at http://www.copera.org/pdf/Misc/NIRS6-13.pdf. This study is based on 2010 data.


229 Nari Rhee, supra note 227, at 8.

230 Nari Rhee, supra note 227, at 12.
A spouse, surviving spouse, or divorced spouse (if the marriage lasted at least ten years) is eligible for Social Security benefits based on the earnings record of a spouse or former spouse who has retired, become disabled, or died. 42 U.S.C. § 402 (2012).


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An employee is eligible for the Saver’s Credit if the employee is covered by a retirement plan, thus, for example, a baker who refused on religious grounds to provide a wedding cake for a same-sex marriage could assert the law as a defense to a claim of discrimination based on sexual orientation.

See supra notes 191-195 and accompanying text.

250 Id. Similar criticism of an Arkansas RFRA bill sparked changes in it before it was enacted that also did not prohibit discrimination on the basis of sexual orientation or gender identity or prohibit discrimination in the provision of health care coverage or services. See 2015 Ark. Acts 975. See also Monica Davey et al., Indiana and Arkansas Revise Rights Bills, Seeking to Remove Divisive Parts, NY TIMES, Apr 2, 2015, available at http://www.nytimes.com/2015/04/03/us/indiana-arkansas-religious-freedom-bill.html.


252 Gary J. Gates, The Williams Institute, Univ. of Cal. L.A. Sch. of Law, Same-Sex and Different-Sex Couples in the American Community Survey 2005-2011, at 3-4 (2013), available at http://williamsinstitute.law.ucla.edu/wp-content/uploads/ACS-2013.pdf. Figures only include individuals in the labor force. Median annual personal income differs from median annual earnings in that it captures a broader net of incoming money—such as rent payments collected or Social Security income—than “earnings,” which only includes farm earnings, business earnings, and wages.


254 Id. at 5. Figure is based on Gallup Daily Tracking Survey, June-Sept. 2012.


258 Id.

259 Id.


266 Karla Walter & David Madland, supra note 264.


269 Janelle Jones et al., supra note 262, at 8.


277 See generally 2014 Minn. Laws Ch. 239 (Women’s Economic Security Act (WESA) various provisions established and modified, and money appropriated); 2014 Minn. Laws Ch. 312; (omnibus supplemental appropriations); 2014 Minn. Laws Ch. 166 (private and public employee labor standards provided, minimum wage regulated, and state employee use of donated vacation leave regulated); 2014 Minn. Laws Ch. 188 (landlords and tenants; victims of violence remedies established, and Housing Opportunity Made Equitable (HOME) pilot project established).

284 Id. § 3.
286 H.R. 4227, 113th Cong. § 2(b) (2014); S. 2133, 113th Cong. § 2(b) (2014).
289 Memorandum on Elimination of the 1994 Direct Ground Combat Definition and Assignment Rule, supra note 40.
293 Id.
294 Nat’l Women’s Law Ctr. calculations based on a 40-hour work week for 50 weeks per year and Census Bureau, U.S. Dept’t of Commerce, Poverty Thresholds for 2014 by Size of Family and Number of Children Under 18 Years, http://www.census.gov/hhes/www/poverty/data/threshld/ (last visited Mar. 20, 2015) (showing that the poverty threshold for three people, including two children, was $19,073 in 2014).
296 A higher minimum wage generally would narrow the wage distribution, effectively narrowing the wage gap. See Nicole M. Fortin & Thomas Lemieux, Institutional Changes and Rising Inequality, 11 J. Econ. Perspectives 75, 78 (1997), available at https://www.aeaweb.org/atypon.php?return_to=doi/pdflplus/10.1257/jep.11.2.75. See also Francine D. Blau & Lawrence M. Kahn, Gender Differences in Pay, 14 J. Econ. Perspectives 75, 93 (2000), available at http://econ2.econ.iastate.edu/classes/econ321/orazem/blau_wages.pdf (finding that “wage institutions that consciously raise minimum pay levels, regardless of gender, will tend to lower male-female wage differentials”).

Id. at Tbl. 2A.

Id.

Nat’l Women’s Law Ctr. calculations based on id.

Katherine Gallagher Robbins et al., Nat’l Women’s Law Ctr., States with Equal Minimum Wages for Tipped Workers Have Smaller Wage Gaps for Women Overall and Lower Poverty Rates for Tipped Workers (2014), available at http://www.nwlc.org/sites/default/files/pdfs/tipped_minimum_wage_worker_wage_gap_nov_2014.pdf. The eight states are Alaska, California, Hawaii, Minnesota, Montana, Nevada, Oregon, and Washington. Hawaii is included as an “equal treatment” state with no tip credit because it has a maximum tip credit of 25 cents, which is allowed only if the total wages an employee receives from her/his employer plus tips equal at least 50 cents more than the regular minimum wage. These figures are for 2013.

Id. The calculation stems from averaging the wage gaps, giving equal weight to each state.

Id. The comparison here is to the wages of white, non-Latino men. The percentage difference in poverty rates for male tipped workers between equal treatment states and states with a tipped minimum wage of $2.13 per hour is smaller than for female tipped workers but still substantial. The average poverty rate for male tipped workers is 12.2 percent in equal treatment states—28 percent lower than in states with a $2.13 tipped minimum wage (17.0 percent). Figures include all employed workers and are based on the 2008-2012 American Community Survey Five-Year Estimates.

Id.

Id.


Nat’l Women’s Law Ctr. calculations based on Census Bureau, U.S. Dep’t of Commerce, 2013 American Community Survey (2014) (using Steven Ruggles et al., Univ. of Minn., Integrated Public Use Microdata Series: Version 5.0 (2010)). “Home care workers” are individuals in the occupations “personal care aides,” and “nursing, psychiatric and home health aides” working in the “home health care services” or “individual and family services” industries. Approximately 88 percent of home care workers are women; of these, 30 percent are African-American women and 20 percent are Latinas. Id.


Id.


See 2015 Minimum Wage by State, supra note 311.


PRESIDENT’s FY 2015 EITC PROPOSAL, supra note 317, at 12; E-mail from Hallie Schneir, Exec. Office of the President, to Joan Entmacher, Nat’l Women’s Law Ctr. (Mar. 21, 2014) (on file with the National Women’s Law Center) [hereinafter E-mail from Hallie Schneir].

See supra notes 115, 117 and accompanying text.


Id.

Id. at 9-10.

Id. at 121.


See supra notes 115, 117 and accompanying text.


S. 2452, 113th Cong. (2013).


N.Y. Tax Law § 606(c) (McKinney 2010).


359 CAL. LAB. CODE § 246 (West 2015).
360 MASS. GEN. LAWS ANN. ch. 149, § 148C (West 2015).
361 S.F. Admin. Code Ch. 12W (2006); See also Sheila Bapat, Paid Sick Leave in San Francisco, Before and After the Fight to Pass It, RH REALITY CHECK (Apr. 1, 2013, 9:27 AM), http://rhrealitycheck.org/article/2013/04/01/paid-sick-leave-in-san-francisco-before-and-after-the-fight-to-pass-it/ (describing the effort to pass San Francisco’s paid sick leave law, and noting that it was the first municipality in the country to do so).
363 CAL. UNEMP. INS. CODE §§ 3300-3306 (West 2004).
374 21 S. Ct. 1338, 1353-56 (2015). The plaintiff in this case, Peggy Young, was a pregnant UPS worker whose medical provider recommended that she not lift more than 20 pounds. Id. at 1344. UPS denied her the opportunity to do light-duty work that it provided to other categories of workers with similar limitations. Id. The lower court held that the PDA did not require UPS to provide Peggy Young light duty. Id. at 1347-48 (citing Young v. United Parcel Service, 707 F. 3d 437, 446 (4th Cir. 2013)). The Supreme Court vacated the judgment of the lower court and remanded the case for further proceedings consistent with its opinion. Id. at 1355-56.
378 See, e.g., Reeves v. Swift Transp., 446 F.3d 637 (6th Cir. 2006); Serednyj v. Beverly Healthcare LLC, 656 F.3d 540 (7th Cir. 2011).


382 See EEOC Pregnancy Guidance, supra note 379.

383 Id.


387 Id.

388 Id.


398 U.S. Dep’t of Educ., Fiscal Year 2016 Budget Summary and Background Information, supra note 335, at 40.

399 Id. at 59-60.

400 Nat’l Women’s Law Ctr. calculations based on Nat’l Ctr. for Educ. Statistics, Integrated Postsecondary Education Data System (using IPEDS Data Center), available at http://nces.ed.gov/collegenet/datacenter. These data are based on interrelated surveys conducted annually by the National Center for Education Statistics. The data cited are from fall 2013 enrollment surveys.

401 U.S. Dep’t of Educ., Fiscal Year 2016 Budget, supra note 335, at 59-60.

403 U.S. Dep’t of Educ., Fiscal Year 2016 Budget Summary and Background Information, supra note 335, at 40-41.


413 S. 2455, 113th Cong. (2014).


415 General Explanations of the Administration’s FY 2016 Revenue Proposals, supra note 315, at 140. Each year in which the employee worked 500 hours would count toward vesting requirements. The retirement plan would not be required to expand eligibility for employer matching contributions. Id.

416 Id. at 135-137. Employers would not be required to contribute but could claim a temporary tax credit for establishing auto-IRAs.


423 See supra notes 238-239 and accompanying text.

424 It would, for example, also address the current limitation on receipt of Veterans benefits by same-sex married couples. See supra note 239.


427 133 S. Ct. 2675 (2013); see supra notes 240-242 and accompanying text.


431 See Definition of Spouse Under the Family and Medical Leave Act, 29 C.F.R. 3825 (2014).


435 See supra notes 244-250 and accompanying text.


439 Id.
