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Learning from the Past: How Prior Federal Legislative Efforts Can Inform Future Legislative Strategies

Implications for National Paid Family and
Medical Leave Legislation

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We have made every effort to consider information and analyses from a wide variety of published sources including official government reports, bill texts and congressional documents; peer-reviewed articles and other scholarly work; news articles, published interviews conducted by journalists and op-eds; and publications by think tanks, advocacy organizations and other interest groups. We also gathered information from interviews with a small number of individuals who had direct knowledge of the proposals considered within this report. The conclusions drawn throughout this report were made based on the sources studied. Despite the care that was taken to examine resources from a holistic range of sources, it is possible that important themes, events, and statements were overlooked that could alter our findings.

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About Better Life Lab

The Better Life Lab works in solidarity with the movement for work-family justice to transform culture so that people across race, class, ethnicity and gender thrive across the arc of their lives.

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Executive Summary

Among high-wealth countries, the United States stands out as the only one to not guarantee new mothers access to paid maternity leave, one of a handful not to guarantee non-birth parents access to parental leave, and one of only a few to not guarantee access to medical or sick leave benefits (OECD, 2019; Raub et al., 2018). The Family and Medical Leave Act (FMLA) of 1993 – which provides for up to 12 weeks of unpaid, job-protected leave to address a personal health condition or to care for a new child or seriously ill family member – covers less than 60 percent of private-sector workers, and the unpaid nature of this leave makes the benefit inaccessible to many (Brown et al., 2020; Klerman et al., 2012).

In the absence of a federal paid leave law, several states have adopted paid family and medical leave programs over the past 18 years, creating a growing body of evidence that paid leave has myriad health, economic, and labor force benefits (Shabo, 2020a).¹ Prior to the COVID-19 pandemic, this momentum – spurred by decades of hard work by advocates – created growing receptivity among private-sector leaders and members of Congress towards advancing a national-level paid leave program.

The COVID-19 pandemic has only underscored the broader public health implications of the status quo. For the first time, Congress guaranteed access to paid leave for some private-sector workers, but only for a limited period of time and for pandemic-specific purposes. At the beginning of the pandemic, Congress included a COVID-related paid sick leave benefit for employees in covered workplaces as a part of the Families First Coronavirus Response Act (FFCRA). Congress also considered a longer duration of family and medical leave for COVID-19 purposes but only adopted an extended paid leave benefit for parents who are unable to access child care or whose children are out of school as a result of the pandemic. Even as the devastating consequences of the spread of COVID-19 make the necessity of widely accessible paid leave increasingly clear, significant barriers to the passage and implementation of a national paid family and medical leave program remain.

This report analyzes the key features of six legislative efforts from the late 1980s to 2018 and the strategies that contributed to their success or failure, in order to guide the development of future legislative campaigns and, more specifically, efforts to advance national paid family and medical leave legislation. We rely on a diverse set of case studies to identify common factors that helped proposals through to passage and factors that were obstacles to legislative success. The cases cover a variety of policy areas from different modern political eras: the Medicare Catastrophic Coverage Act of 1988; the Medicare Catastrophic Coverage Repeal Act of 1989; the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003; the failed 2009 cap-and-trade effort; the Healthy, Hunger-Free Kids Act of 2010; and the FIRST STEP Act of 2018.

Informed by foundational and contemporary work in the fields of political science, public policy and sociology, we analyzed the role that 1) government actors, 2) individuals and organizations outside of government, 3) the broader political and policy context, 4) contextual factors and focusing events, and 5) policy frames played in the passage or failure of each legislative effort. We present key takeaways for each category of analysis to present lessons that may be applied to future legislative efforts. Although our analyses were conducted with an eye towards the enactment of a national paid family and medical leave proposal, we believe these insights and lessons may also help advocates and practitioners interested in pursuing other legislative policies.

This report illustrates the importance of relationship building, strategic thinking, flexibility in seizing unexpected opportunities, deliberate marketing, and creativity in pursuing legislative objectives. It also provides advocates and policymakers with tangible examples of how these dynamics can help create incentives among members of Congress and other key stakeholders to reach agreement on legislation.

Our case study analyses suggest:

- **Political actors' investment in the consideration and passage of legislation is critical.** Having well-placed congressional champions who are deeply invested in an issue and able to build coalitions within Congress is extremely important. The support of party leaders and the president as well as bipartisan buy-in, particularly during the committee phase, can also improve the chances of legislative success; this is especially true when Congress is divided but is also applicable even when one party controls Congress.
- **Advocacy groups can play an instrumental role in educating and mobilizing key political actors and the public.** Effective strategies for gaining the support of influential actors and stakeholders within and outside of government include: building political momentum; demonstrating the policy and electoral benefits of legislation; identifying policymakers whose personal experiences enhance their commitment to policy reform; sharing policy expertise and amplifying success stories from local and state-level initiatives; translating research into products that support policy arguments and refute opposition claims; and designing effective public mobilization campaigns.
- **Advocates should consider the benefits and risks of building coalitions that represent a range of ideological perspectives.** Doing so may amplify mobilization efforts and help to facilitate bipartisan support for a proposal, but can also contribute to the development of weaker legislation that is less likely to garner enthusiastic support from

strong partisans and activists. Being strategic about the timing, scope and purpose of developing multi-stakeholder or “unusual ally” coalitions is essential to achieving legislative goals.

- **Advocates should continuously evaluate how political and policy considerations within Congress and the broader social, political and demographic environment can affect the trajectory of a legislative campaign.** Developing strategies for moving a bill through each chamber of Congress is critical, as is assessing the overall feasibility of a proposal and the quality of its substantive content as economic, political, electoral and social conditions shift. Compromises that would have been considered unacceptable during a policy’s development may become realistic concessions under certain conditions, and unexpected events may open doors to new ideas previously thought to be out of reach.
- **Shifts in the partisan control of Congress – especially the impending shift in control of a congressional chamber from one party to the other – can provide unique action-forcing opportunities for bipartisan agreement.** In three of our case studies, a shift in partisan power within Congress created new pathways for political actors to exert leverage over the content of a proposal and new incentives to bring a proposal to a vote.
- **Messaging campaigns are critical to the successful passage and implementation of legislative proposals.** Messaging is most likely to be effective when framed around a proposal’s fiscal benefits, its protection of vulnerable and sympathetic populations, and its relationship to proven state-level policy successes. Messaging campaigns should also be flexible, responding to new opportunities as well as to challenges and attacks from legislative opponents.

In Part I, we discuss the need for paid family and medical leave and provide an overview of our legislative case studies, the political science and sociology theory that ground our analyses, and the methodology that we use to study each case.

In Part II, we report the findings of our case study analyses for each of the five categories of influential factors that we studied.

In Part III, we apply the findings from our case study analyses to national paid family and medical leave legislative advocacy and policymaking, framing this section around conclusions for advocates. Advocates who are steeped in paid leave policy and strategy may well see other applicable lessons as well.

I. Overview

1. Paid Family and Medical Leave in the United States

The United States is the only one of 36 members of the Organisation for Economic Cooperation and Development (OECD) to not guarantee new mothers access to paid maternity leave and one of a few not to guarantee paid parental leave to non-birth parents (OECD, 2019). The United States is also one of few OECD countries to not guarantee workers access to paid leave for a personal illness or health condition (Raub et al., 2018).

Until the COVID-19 pandemic spurred Congress to enact a temporary paid sick and family leave policy limited to COVID-19 quarantine or self-isolation, diagnosis and child care, the only federal law in the United States that was explicitly designed to help workers and their loved ones manage the complex and often conflicting demands of work, health, and family is the Family and Medical Leave Act (FMLA) of 1993, which covers less than 60 percent of private-sector workers (Brown et al., 2020; Kamerman & Kahn, 1997; Klerman et al., 2012). The FMLA provides an entitlement to up to 12 weeks of *unpaid*, job-protected leave to eligible employees for addressing a serious health condition or for caring for a new child or for a seriously ill or injured parent, spouse, or child, and up to 26 weeks for the care of a wounded service member or veteran.²

The FMLA was passed after years of intricate political negotiations within and across partisan coalitions and interest groups, and it represented an important milestone in the development of American family policy (Wisensale, 2001). A 1996 report by the federal Commission on Family and Medical Leave estimated that the 1993 law led to workplace policy changes in about two-thirds of businesses covered by the policy. Following the law's implementation, substantial numbers of employers expanded the reasons for which employee leave was available, increased the length of time that employees could take leave, and provided for job protections during periods of leave (U.S. Commission on Family and Medical Leave, 1996). Others have noted the law's symbolic significance in terms of pushing employers to recognize the family and medical needs of workers (Vogel, 1995).

About 15 percent of private-sector workers report taking leave for an FMLA reason each year (Brown et al., 2020).³ The majority of these workers do so to address a personal health condition (51 percent), but many (25 percent) use FMLA leave to care for a new child, many others (19 percent) use FMLA leave to care for a sick or injured parent, child or spouse covered by the law, and some (6 percent) report taking an FMLA-type leave to care for another family member with a serious health issue (Brown et al., 2020).⁴ The FMLA touches the lives of

tens of thousands of people each year – both workers directly and the loved ones for whom they care.

However, the FMLA includes limitations that affect its utility and impact. Importantly, the FMLA's eligibility conditions require that an individual has worked at least 1,250 hours for the same employer for at least 12 months and that their employer has 50 or more employees within 75 miles of the employee's worksite, which leaves an estimated 44 percent of workers ineligible (Brown et al., 2020).

Even when workers meet the FMLA's eligibility requirements, the unpaid nature of the FMLA's leave entitlement can make it difficult or impossible for people to take time away from work. This is particularly true for low-wage and part-time workers, who are least likely to have access to paid time off through their employers (Mathur et al., 2017). A 2018 survey found that over 60 percent of low-income workers received no pay while taking necessary leave, compared to about 20 percent of non-low-income workers (Brown et al., 2020). As compared with the results of a similar survey conducted in 2012, a slightly larger share of workers reported having an unmet need for taking leave in 2018 (5 percent in 2012 compared to 7 percent in 2018) (Brown et al., 2020). According to the same survey, about two-thirds of eligible workers in 2018 reported not taking needed leave because they could not afford to do so – a substantial increase from those who said the same in 2012 (46 percent) (Brown et al., 2020; Klerman et al., 2012).

In many cases, workers have no choice but to take leave from work to address a critical family and medical situation. Workers who take FMLA leave but do not have access to adequate paid leave through their employer may be forced to rely on savings that were intended for another purpose, borrow money, put off paying bills, or even go on public assistance to make ends meet (Brown et al., 2020; Klerman et al., 2012). A lack of access to paid leave and the high cost of child and family care can also lead workers – particularly women of color – to face economic insecurity or leave the workforce entirely (National Partnership for Women & Families, 2018; U.S. Department of Labor, 2015). As a result, inequalities in access to paid leave build on and contribute to existing income, gender, and racial inequalities in the United States (Grant et al., 2019; Jorgensen & Appelbaum, 2014; National Partnership for Women & Families, 2018).

Over the past two decades, states have worked to fill the gaps left by the FMLA. As of September 2020, five states (California, New Jersey, New York, Rhode Island and Washington) and the District of Columbia had paid family and medical leave insurance programs in place; three additional states are in the process of implementing programs that will begin making benefits available in January 2021 (Massachusetts), 2022 (Connecticut) and 2023 (Oregon). The existing state paid leave programs provide partial wage replacement to workers who take leave for FMLA reasons; each is funded through small payroll deductions. All of the state leave programs that are currently in place have

expanded on the FMLA in terms of the family members for whom one can take leave to provide care, and several have included additional circumstances for which one may take paid leave (Shabo, 2020b).

The implementation of paid leave in U.S. states and in other countries has been shown to improve health and economic outcomes, particularly for women and children. A great deal of research associates paid leave with positive public health outcomes including lower child mortality rates, reductions in infants born with low birthweights, a higher likelihood of breastfeeding among mothers, and even increased rates of child immunization (Burtle & Bezruchka, 2016; Van Niel et al., 2020). Studies of the implementation of state laws in California and New Jersey also suggest that the availability of paid leave can increase women's labor force attachment and wages, and can increase rates of caregiving among men (Appelbaum & Milkman, 2011; Byker, 2016; Jones, 2020; National Partnership for Women & Families, 2019; Rossin-Slater et al., 2013; Saad-Lessler & Bahn, 2017). Increasing the formal participation of women in the labor market through providing access to paid leave and other work-family supports also has the potential to grow the economy by as much as \$500 billion per year (U.S. Department of Labor, 2015).

There is also broad support among the American public for expanded access to paid family and medical leave. A 2017 Pew Research Center survey found that a majority of Americans support access to paid leave for addressing a serious medical condition (85 percent), caring for a new child (82 percent for a mother, 69 percent for a father), or caring for an ill family member (67 percent) (Horowitz et al., 2017). In line with public opinion and the enactment of state-level programs in the "laboratories of democracy," an ideologically diverse group of scholars from AEI and Brookings concluded in their 2017 working group report that a federal paid family leave policy is necessary for workers in the United States – although there was disagreement about the scope and structure that such a program should take (Mathur et al., 2017).

Federal policymakers have taken some limited recent action. In 2017, as part of the Tax Cuts and Jobs Act, Congress adopted a time-limited tax credit to businesses for offering limited paid leave, which expired in 2019. And, in 2019, Congress granted 12 weeks of paid leave to new parents within the federal workforce as part of the National Defense Authorization Act, beginning October 1, 2020. In response to the COVID-19 pandemic, in March 2020, lawmakers enacted a time-limited national paid sick days and paid family leave guarantee through the end of 2020, which covers up to 10 days of personal and family care needs related to COVID-19 and up to 10 additional weeks of paid leave for parents whose children are out of school or unable to access child care. It provides reimbursement to employers for the cost of employees' leave and to self-employed people who must miss days of work (Shabo, 2020c). However, the law applies to only half of the workforce at most and – with exemptions by business size and job type – as few as one quarter may be able to use the coverage

(Glynn, 2020). More expansive provisions providing for 12 weeks of paid family and medical leave for COVID-related personal or family health issues were stripped from the original bill.

In addition to these legislative enactments, several diverse paid leave proposals have been put forward by policymakers to make paid leave more available to private sector workers on a temporary or permanent basis. The Family and Medical Insurance Leave (FAMILY) Act (sponsored by Sen. Kirsten Gillibrand (D-NY) and Rep. Rosa DeLauro (D-CT)), would create a national social insurance program to permanently provide paid family and medical leave to the vast majority of the U.S. workforce for all FMLA-covered reasons; it currently has support from the vast majority of the Democratic caucus in the House (214 Democrats and one Republican) and Senate (36 Democratic co-sponsors).

Other proposals focus on new parents, rather than all FMLA circumstances, and offer income but do not guarantee job-protected leave. The Advancing Support for Working Families Act (sponsored by Sens. Bill Cassidy (R-LA) and Kyrsten Sinema (D-AZ) and endorsed by President Trump during his 2020 State of the Union Address) would establish a pilot program to allow parents \$5,000 in income support upon the birth or adoption of a child; this proposal would be funded by reducing the money that parents who opt for this advance receive through the Child Tax Credit for the next 10 years. The proposed CRADLE Act (sponsored by Sens. Joni Ernst (R-IA) and Mike Lee (R-UT)) and the New Parents Act (sponsored by Sen. Marco Rubio (R-FL) and Rep. Ann Wagner (D-MO)) would each give new parents the option of drawing on Social Security benefits for up to three months after the birth or adoption of a child; this would be funded by a delay in recipients' eligibility for Social Security retirement benefits and, as a result, would provide them with lower lifetime Social Security benefits. None of these approaches have secured substantial support beyond a handful of members of Congress.

Growing bipartisan interest in Congress on the issue of paid leave has not yet manifested in bipartisan coalescence around a permanent national paid family and medical leave program or approach. Getting to that point will require a combination of inside-the-Beltway work, coalition-building, and public pressure, deployed strategically in the right political and policymaking moment to create incentives for lawmakers to reach agreement. This report seeks to uncover and apply key lessons from other federal legislative initiatives to assist advocates in their ongoing efforts to advance a well-designed, sustainable approach to national paid family and medical leave.

2. Legislative Case Studies: Learning from the Past to Design and Advance Legislative National Paid Family and Medical Leave

Although every legislative effort is shaped by the unique political, economic and social context in which it is developed, close examination of prior policy initiatives – both those that succeeded and those that have not – has the potential to reveal important lessons for building relationships and coalitions, designing legislative strategies, responding to internal and external political pressures, and framing issues in ways that contribute to legislative success.

This report considers five large-scale policy initiatives (six pieces of legislation) across a range of political contexts and issues. All gained at least some bipartisan support within Congress. Each case was chosen with the goal of extracting big-picture lessons that can guide the development of successful legislative strategies for paid family and medical leave legislation based on key policy and political factors. The cases selected were not intended to be, and are not, representative of all legislation. They come from diverse policy areas touching on health care, international development, energy and the environment, food and child nutrition, and law enforcement that span a 30-year period between 1988 and 2018:

- The Medicare Catastrophic Coverage Act of 1988 (MCCA) and the Medicare Catastrophic Repeal Act of 1989
- The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (the legislative vehicle for the President’s Emergency Plan for AIDS Relief or PEPFAR)
- The American Clean Energy and Security Act of 2009 (H.R. 2454) / The Clean Energy Jobs and American Power Act (S.1733) (failed attempt to pass Cap & Trade legislation that died in 2010)
- The Healthy, Hunger-Free Kids Act of 2010 (HHFKA)
- The Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act of 2018 (FIRST STEP Act)

A brief snapshot of each of the five case studies that are included in this report follows to provide a summary of the policy content and an overview of some of the key political dynamics that were at play during the proposal’s consideration. More details about relevant aspects of the case studies are also included throughout the report where illustrative of important lessons learned.

The chart below provides an overview of the partisan composition of the legislative and executive branches of government during the Congress in which

each of our case study bills passed or failed to advance (U.S. House of Representatives, 2020; U.S. Senate, 2020a; U.S. Senate, 2020b).

Legislative Effort	Congress	House Majority	Senate Majority	President
Medicare Catastrophic Coverage Act of 1988	100th (1987-1988)	Democrat 258-177	Democrat 55-45	Ronald Reagan (R)
Medicare Catastrophic Coverage Repeal Act of 1989	101st (1989-1990)	Democrat 260-175	Democrat 55-45	President George H.W. Bush (R)
United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003	108th (2003-2004)	Republican 229-205 ⁵	Republican 51-48 ⁶	George W. Bush (R)
American Clean Energy and Security Act of 2009 (H.R. 2454) / Clean Energy Jobs and American Power Act (S.1733)	111th (2009-2010)	Democrat 257-178	Democrat 57-41 ⁷	Barack Obama (D)
Healthy, Hunger-Free Kids Act of 2010	111th (2009-2010)	Democrat ⁸ 257-178	Democrat 57-41 ⁹	Barack Obama (D)
FIRST STEP Act of 2018	115th (2017-2018)	Republican ¹⁰ 241-194	Republican 51-47 ¹¹	Donald Trump (R)

A. Medicare Catastrophic Coverage Act of 1988; Medicare Catastrophic Coverage Repeal Act of 1989

The Medicare Catastrophic Coverage Repeal Act of 1989 (P.L. 101-234), passed in December 1989, repealed the Medicare Catastrophic Coverage Act (MCCA) of 1988 (P.L. 100-360). Both the 1988 law and its 1989 repeal are part of this report’s analyses. The 1988 law passed with bipartisan support, 86-11 in the Senate and 328-72 in the House; it represented the first significant expansion of the Medicare program since 1973, when Medicare began covering individuals with disabilities (CBO, 1988; Aaron et al., 2008; U.S. Congress, 1988).

The MCCA expanded Medicare benefits to cover outpatient prescription drugs, lowered some copayment caps, removed the time limit on coverage for inpatient and hospice care, increased the maximum amount of home health and skilled nursing care covered, and added coverage for mammograms and in-home

personal services (CBO, 1988; Aaron et al., 2008). The law also expanded Medicaid benefits for low-income senior citizens by increasing the asset limit for individuals with a spouse in long-term care (Christensen & Kasten, 1988). To cover the cost of increased benefits (an estimated \$30.8 billion in 1988 dollars), the 1988 law established a monthly fixed premium on Medicare's optional Part B coverage as well as a new income-based supplemental premium (CBO, 1988; Morreale, 1991).

Most of the MCCA's key provisions were repealed by the Medicare Catastrophic Coverage Repeal Act of 1989, also with overwhelming bipartisan support, fewer than 18 months after the enactment of the 1988 MCCA law (Himelfarb, 1995; Aaron et al., 2008; U.S. Congress, 1989). Congress spared from repeal only provisions related to Medicaid eligibility for seniors with spouses in long-term nursing home care (Rice et al., 1990; Moon, 1990).

The passage and subsequent repeal of the MCCA illustrates the challenges and complexities of bipartisan negotiations over expansions to social insurance programs. President Reagan had laid the groundwork for the development of the MCCA when he directed his secretary of Health and Human Services, Dr. Otis Bowen, to study catastrophic health care costs in his 1986 State of the Union address (Himelfarb, 1995). Democrats seized on Reagan's interest in health care, and they became better positioned to exert control over the substance of a bill in 1987 when a change in party control of the Senate strengthened their bargaining position; the looming 1988 presidential election created incentives for Republican compromise so that the Reagan-Bush team could claim success.

The bipartisan bill that was introduced in the House by Reps. Pete Stark (D-CA) and Bill Gradison (R-OH) was an attempt to balance competing partisan demands: the president's requirement that the proposal not increase the deficit and Democrats' desire to make the financing mechanism progressive and to provide more comprehensive benefits than had been initially proposed (Aaron et al., 2008; Diamond, 2011; Milius, 1988; Oliver et al., 2004). Some suggest that the result was a confusing "Christmas tree bill" that did not have strong supporters in Congress or among the general public, many of whom were unhappy with the modest scope of the law's benefits and its front-loaded costs (Moon, 1990, p. 380; Morreale, 1991). Opposition to the law's funding structure, seen by many as a violation of the Social Security social insurance principle of universal contributions, also activated sustained negative campaigning. Numerous advocacy organizations helped to mobilize opposition from seniors – particularly from affluent seniors who were slotted to pay more than they would receive in benefits under the law – and contributed to the law's repeal (Cox, 1993; Moon, 1990; Morreale, 1991).

B. United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (The Leadership Act) of 2003 (P.L. 108-25), which was enacted in May 2003, authorized funding for the President's Emergency Plan for AIDS Relief (PEPFAR) and established the Office of the Global AIDS Coordinator within the State Department (CRS, 2007). Announced during President Bush's 2003 State of the Union Address, he envisioned PEPFAR as a "medical version of the Marshall Plan" to combat HIV/AIDS, tuberculosis, and malaria globally (Boonstra, 2003; Friedman, 2012). It passed with overwhelming bipartisan support in the House (375-41) where it originated and by voice vote in the Senate several weeks later, before being signed into law by President Bush on May 27, 2003 (GovTrack, 2003; Sorrells, 2003a).

The Leadership Act authorized \$15 billion in funding for research, treatment, care, education, and local capacity building for the period 2004 through 2008 in 15 countries significantly affected by HIV/AIDS (CRS, 2007).¹² The law allocated the largest share of funding (\$9 billion) for HIV/AIDS, tuberculosis, and malaria programs in the 15 target countries, \$5 billion for additional research and programming, and \$1 billion for the Global Fund to Fight AIDS, Tuberculosis, and Malaria, an independent multilateral organization established in 2002 through a founding donation by the United States (KFF, 2019b; CRS, 2012b). The Leadership Act prioritized the use of programming funding for treatment services (55 percent) and prevention initiatives (20 percent) (Boonstra, 2003). PEPFAR has been reauthorized three times since the passage of the Leadership Act (in 2008, 2013, and 2018) and represents the largest single bilateral global health initiative in the world (CRS, 2012c). Research suggests that PEPFAR has been successful in building health-aid networks within and between countries as well as increasing access to antiretroviral medications and reducing mortality rates in the program's focus countries (Bendavid, 2016).

The passage of the Leadership Act and continued support for PEPFAR represent the success of a major new initiative that started with, and continues to have, strong Republican and Democratic champions. President George W. Bush's prioritization of the issue during his 2003 State of the Union address and his sustained public pressure on Congress boosted the issue's profile, made the initiative politically safe for Republicans to support, and accelerated negotiation efforts across chambers (Anglin, 2007; Boonstra, 2003; Sorrells, 2003a; 2003b). Early supporters of the bill were also effective in leaning on a diverse set of influencers outside of government, from faith-based organizations to celebrities to academic researchers, and framing the bill's contents around an appeal to "Christian values" and an urgent need to protect vulnerable populations such as women and children (Boonstra, 2003; Kreps, 2018; Loconte, 2003a). The law's passage ultimately required concessions from members of both parties: faith-based organizations eventually dropped their push to include a global gag rule that would have made organizations that perform abortion care ineligible for funds, while Democrats were forced to accept the House Pro-Life Caucus'

demand that a portion of prevention funding be reserved for abstinence-only programming (Anglin, 2007; Boonstra, 2003; Sorrells, 2003b, 2003c).¹³

C. The American Clean Energy and Security Act of 2009 (H.R. 2454) / The Clean Energy Jobs and American Power Act (S.1733)

The American Clean Energy and Security Act of 2009 (H.R. 2454), introduced on May 15, 2009, would have amended the Clean Air Act of 1963 to establish a cap-and-trade program for greenhouse gas (GHG) emissions (U.S. Congress, 2009). The proposal built on the 1990 Clean Air Act amendments, which established a cap-and-trade system to curb acid rain for emissions of sulfur dioxide and nitrogen oxides. It would have allowed the government to issue a gradually-decreasing number of emission allowances for carbon on which companies could bid, thereby generating revenue for the government and reducing emissions over time (CRS, 2009; CRS, 2019a). The proposed legislation was intended to reduce carbon dioxide emissions 17 percent below 2005 levels by 2020 and would have increased federal revenue by an estimated \$846 billion between 2010-2019 (CBO, 2009; Bartosiewicz & Miley, 2013). The proposal would also have established a refundable energy tax credit and rebate program for low-income consumers to offset the estimated increase in the costs of energy and consumer goods associated with the cap-and-trade elements of the bill (CBO, 2009).

The bill was backed by President Obama and passed the House by a narrow margin in June 2009 (219-212, with eight Republicans joining Democrats to vote in favor and 44 Democrats joining most Republicans to vote against) (U.S. Congress, 2009). However, the Senate companion bill (S. 1733) was never brought to the floor for consideration, despite months of intense bipartisan negotiations. At the time, many environmental advocates believed cap-and-trade legislation to be the most politically feasible approach to addressing climate change and carbon emissions (Broder, 2010a). However, despite substantial concessions made by Democrats to incorporate industry demands into an already moderate proposal, neither chambers' bill garnered significant Republican support (Bartosiewicz & Miley, 2013; Lizza, 2010; Samuelsohn, 2010).

Several political factors likely hurt the proposal's chances of success. Its failure may be primarily attributed to a lack of bipartisan leadership during the development of the legislation in the House, a lack of support from party leaders in the Senate, and the decision of President Barack Obama and other policymakers to prioritize stimulus legislation and health care reform (Bartosiewicz & Miley, 2013; Goodell, 2010; Lizza, 2010). The proposal also floundered due to powerful opposition from grassroots Tea Party activists as well as from industry groups, many of whom had a double-say in policymaking due to their involvement with the U.S. Climate Action Partnership (USCAP), a coalition of environmental and business groups that had published the report upon which the House proposal was based (Bartosiewicz & Miley, 2013; Goodell, 2010; Loewentheil, 2013). In addition, opponents were effective at framing the proposal

as a tax, and without grassroots public support to pressure policymakers, early bipartisan momentum in the Senate failed to yield legislative results (Bartosiewicz & Miley, 2013; Goodell, 2010; Lizza, 2010; Loewentheil, 2013; Skocpol, 2013).

D. The Healthy, Hunger-Free Kids Act of 2010

The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) (P.L. 111-296) was the most recent reauthorization of the Richard B. Russell National School Lunch Act and the Child Nutrition Act, the major pieces of legislation that govern the child nutrition programs administered through the U.S. Department of Agriculture's Food and Nutrition Service (USDA-FNS) (CRS, 2012a).¹⁴ Although due for reauthorization in 2009, congressional disagreement over funding sources for programmatic expansions led to a one-year funding extension to allow additional time for policy negotiations (CRS, 2012a). Bipartisan cooperation in the Senate contributed to the 2010 bill's success, which passed through unanimous consent (Black, 2010). It also passed the House (264-157), albeit with little Republican support but with the tacit agreement to proceed from the then-current House Minority Leader (and incoming House Speaker) John Boehner (R-OH), before being signed into law by President Obama on December 13, 2010 (GovTrack, 2010).

The HHFKA made the most significant changes to national child nutrition programs since the 1970s (CRS, 2019b). Among its major provisions, the law gave the USDA-FNS purview over regulating the nutritional content of non-meal foods and beverages served in schools, increased funding for school meals contingent on providers implementing new nutrition standards, expanded access to meals during and outside of school hours, established minimum prices for "priced" school lunches for paying students, and expanded direct certification options to streamline application processes for low-income students and low-income schools (CRS, 2012a).¹⁵

The passage of the HHFKA can be attributed to strategic bipartisan cooperation during the committee phase in the Senate as well as the concerted efforts of a diverse set of influencers outside of Congress that included First Lady Michelle Obama, a long-standing coalition of several hundred public health, health-professional, and consumer organizations (National Alliance for Nutrition and Activity), and a group of retired military leaders (Black, 2010; Bottemiller, 2010; Confessore, 2014; Lincoln, 2010; Schwartz & Wootan, 2019). Although the proposal encountered unexpected intra-party conflict in the House related to its proposed offsets, targeted presidential engagement and the sustained involvement of activists helped to maintain a strong coalition of support for the legislation (Haberhorn et al., 2010; Paulson, 2010; Phillip, 2010). Momentum from prior legislative efforts, as well as the impending partisan change in the House following the 2010 midterm elections, additionally put pressure on House Democrats to act (Schwartz & Wootan, 2019). Finally, the case of the HHFKA

reveals the importance of framing – around cost concerns, vulnerable beneficiaries, and federalism issues – and highlights the ways in which the implementation and regulatory enforcement of a law can activate new opponents and require advocates to design reactive mobilization and media strategies (Confessore, 2014; Schwartz & Wootan, 2019).

E. The Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person (FIRST STEP) Act of 2018

The FIRST STEP Act of 2018 (P.L. 115-391) was a bipartisan effort to improve the treatment of federal inmates and reduce the number of individuals incarcerated in facilities operated by the federal Bureau of Prisons (BOP). Despite initial disagreement within and across party lines about an early bill draft's exclusion of sentencing reform provisions, a law including some of these measures ultimately passed both chambers with substantial bipartisan support (87-12 in the Senate, 358-36 in the House) and was signed into law by President Trump on December 20, 2018 (GovTrack, 2018).

The FIRST STEP Act authorized \$50 million in appropriations annually (for 2019-2023) to create a new risk and needs assessment system to match incarcerated individuals with recidivism-reduction program opportunities that allow participants to earn credit towards prerelease custody (CBO, 2018; CRS, 2019c).¹⁶ It also reduced mandatory minimum sentences for certain drug convictions,¹⁷ allowed for retroactive application of the Fair Sentencing Act of 2010 (which reduced the disparity between sentences for powder and crack cocaine possession), reauthorized the Second Chance Act of 2007 (which authorized a number of offender reentry grant programs), and included provisions to improve the care of inmates, for example by barring restraints on inmates who are pregnant, and requiring inmates to be incarcerated within 500 miles of their home addresses when possible (CRS, 2018b; CRS, 2019c). As a result of shortened sentences and predicted reductions in recidivism rates, the FIRST STEP Act is estimated to lead to a net reduction in discretionary costs of about \$342 million between 2019 and 2028 (CBO, 2018).

Although initially proposed in the House as a moderate prison reform bill, the draft that emerged following negotiations in the Senate was a more comprehensive piece of legislation that also included significant sentencing reform provisions, largely because of bipartisan cooperation within committee in both chambers as well as strong Republican leadership on the issue both inside and outside of Congress (Berman, 2018; Dolven, 2018; Grassley & Durbin, 2018a; Lopez, 2018; Restuccia et al., 2018). Also critical to the legislation's success were the persistent efforts of White House senior adviser Jared Kushner, who had a personal interest in the issue due to his own family's interaction with the criminal justice system (George, 2017; Karni, 2018; Kushner, 2019). Kushner's engagement, along with the influence of prominent Republican lawmakers as well as celebrities such as Kim Kardashian, contributed to President Trump's

willingness to prioritize the issue despite intra-party opposition from Senate Majority Leader Mitch McConnell, former Attorney General Jeff Sessions, and Sen. Tom Cotton (Diamond & Collins, 2018; Diamond & Rogers, 2018; George, 2017; Grawert & Lau, 2019; Karni, 2018; Schor, 2018a). A diverse coalition of faith-based organizations, racial justice and civil rights advocates, and libertarian organizations were also crucial in putting pressure on members of Congress to pursue criminal justice reform (Ball, 2015; Head, 2018; LCCHR, 2018; McFarlan Miller, 2018). The framing of the bill as an opportunity to build on policy successes in conservative states and around the concept of redemption also played an important role in maintaining the legislation's bipartisan support (Cornyn, 2018; Fandos, 2018; Malcolm & Seibler, 2018; McCammon, 2018; NGA, 2018a; 2018b; Nwanevu, 2018).

3. Theoretical Underpinnings

Making federal policy in the United States was never supposed to be easy. The framers designed a system of checks and balances to ensure the formation of a government that was forced to constrain itself. The distinct authorities granted to each branch of government, not only through the Constitution, but also by way of legislative and legal precedent, place numerous barriers in the way of radical change.

In an age of increasing legislative gridlock, we often wonder at how so little gets done (Binder, 2014). However, we may just as readily ask why significant legislation is ever able to overcome the many obstacles that stand in the way of passage. In fact, political scientists and sociologists have long wrestled with the ways in which various actors, institutions, and conditions can overcome structural inertia. Scholars have identified multiple elements that affect policy change, including the role that individual legislators, the president, parties, interest groups, social movements, the media, public opinion, external events and conditions, and framing efforts play in supporting or impeding the policymaking process.

In this report, we sort those components seen as critical to the legislative process into five groups of forces that political scientists and sociologists have identified as important: government actors; individuals and organizations outside of government; factors related to the political and policy context at the time a policy is being considered; external economic, social and demographic contextual factors and focusing events; and policy frames. By examining these areas for each of our case studies, we are able to identify the components that most helped and hindered past legislative efforts. Our goal is to use these insights to inform a legislative strategy designed to lead to the enactment of a national paid family and medical leave program. A summary of these five categories of study and why they are relevant to the aims of this report follows below.

A. Government Actors

As the core of the legislative branch, members of Congress are the primary agents of the legislative process. Political scientist David Mayhew's (1974) classic study posits that legislators are "single-minded seekers of reelection" who are motivated to take credit for policies they believe will improve their electoral prospects. The ever-present question that most members of Congress must confront is, what kinds of policy positions and legislative efforts will help them to be reelected? Political scientists have also homed in on the important influence that other members of Congress, committees, parties, and the president can all have on the actions that members of Congress take as legislators (Cox & McCubbins, 2005; Fenno, 1978; Kingdon, 1989; Maltzman, 1997; Neustadt, 1990). Politicians are, themselves, complex individuals with personal experiences, identities, and relationships that may shape which ideas, constituents, and political actors they follow, and thus which policies they choose to prioritize and support (Minta, 2009; Reingold, 2000; Swers, 2013). In Part II.1. of this report, we consider the roles that various government actors played in shaping the case studies that we examined including committee leaders, party leaders, other engaged members of Congress, partisan congressional teams, the president, and government actors who have the president's ear.

B. Individuals and Organizations Outside of Government

Individuals and organizations outside of government can shape the behavior of those who operate inside of it. Their actions help to set agendas, develop key pillars of policy proposals, create outside pressure as legislation moves or stalls, and influence legislative outcomes. Research suggests that interest groups, economic elites, advocates and their coalitions, and thought leaders may all have opportunities to place policies on the agenda, lobby members of Congress, and influence the content of legislation (Amenta & Elliott, 2019; Amenta et al., 2010; Gilens & Page, 2014; King et al., 2007; Noel, 2013; Schattschneider, 1960). Individuals and groups outside of government may also work together to form "issue networks" to advocate for certain policies within a shared policy subsystem (Hecl, 1978).

Such coalitions may be comprised of any number or combination of interest or advocacy groups, think tanks, private industry representatives, and even specific researchers who may shape narratives around given policy ideas. In this report, we look at both individual actors outside of government and formally established, named coalitions of multiple actors. Some of the coalitions mentioned were established specifically to advance the policy in question, while others were already-existing networks that became activated as a given policy proposal made its way through the legislative process. By evaluating the involvement of key actors and coalitions outside of government, Part II.2. examines how our case studies provide a more holistic perspective on the

effectiveness of the strategies utilized by different policy players as well as the dynamics of the interactions between them.

C. Political and Policy Context

An early trailblazer in the field of political science, E.E. Schattschneider, famously wrote that “modern democracy is unthinkable save in terms of parties” (1942). Parties serve a variety of functions in our political system because they organize the ideological and policy platforms upon which we orient our political thinking (Key, 1942). Not only are partisanship and ideology strong determinants of the voting behavior of individual legislators, but the benefits of having majority status can also drive party organizations to make policy decisions based on their perceived electoral impact (Cox & McCubbins, 2005; Poole & Rosenthal, 2007). Recent work finds that the growing partisan divide can further exacerbate partisan gridlock as members of Congress perceive the risks of working across party lines to outweigh the benefits of passing bipartisan policies (Binder, 2014; Lee, 2016; Mayhew, 2005). Therefore, we closely considered partisan demands, including the timing of elections and the strategic consideration of legislative pathways in analyzing the strategies employed by key actors and coalitions for each piece of legislation.

Even beyond the pressures of partisanship, no policy is drafted or negotiated in a vacuum. Instead, legislative success often depends on the ability of key actors to choose the right political moment and legislative vehicle to present their proposal as a necessary solution to a problem that is viewed as pertinent at the time (Kingdon, 1995). Research also suggests that policymaking is often rooted in “path dependent” processes, defined as the idea that certain policy proposals are inherently less costly due to the civil, administrative, and budgetary infrastructure formed out of prior legislative efforts (Pierson, 2000; Hacker, 2002). In other words, the extent to which new proposals build on existing legislative ideas and policy content may also explain why the strategies utilized by key political actors, coalitions, and party agents carry a bill through to passage (or not). In Part II.3., we therefore consider the ways in which a policy’s trajectory was influenced by its timing and content within the broader political and policy context.

D. Contextual Factors and Focusing Events

Much of policymaking is characterized by incrementalism, or the process of “muddling through” complex problems in a piecemeal fashion (Lindblom, 1959). However, this is not always the case. Comprehensive policy change does occur, as evidenced by five of the six pieces of legislation selected for this report (although one of the successful efforts was later repealed). The consideration and passage of large-scale policies is theorized to be driven by a collective shift in perspectives among the public and policymakers regarding the importance of a given problem and proposed solution (Baumgartner & Jones, 1993). Shifts in the

country's political mood could be due to the release of new information; economic, demographic or social dynamics; fluctuation in public attention; international or domestic crises; or other kinds of dramatic happenings. This vein of research suggests that so-called "focusing events" may help to move forward significant legislation when supporters of a policy are able to effectively use these events symbolically to highlight institutional flaws inherent within the status quo (Birkland, 1998; Kingdon, 1995).

Although focusing events do not necessarily lead to collective shifts in the national mood or guarantee substantive policy change, there is evidence that these kinds of factors may open the door for the consideration of proposals that may otherwise not have made it onto the policy agenda (Birkland, 1998). In contrast, external events can also create new barriers to achieving policy goals. Therefore, in Part II.4., we examine potential contextual factors and focusing events that appear to have contributed to a given policy's legislative outcome.

E. Policy Framing

At the core of our democratic process is the belief that what the public thinks matters to those who hold positions of political power. In the candid words of an early scholar of public opinion, V.O. Key Jr., "unless mass views have some place in the shaping of policy, all the talk about democracy is nonsense" (1961). In line with this perspective, a great deal of scholarship suggests that the views of the public influence the policy preferences held by politicians (Canes-Wrone, 2006; Erikson et al., 2002) and that this can have an impact on policy formation, bill introduction and movement through a legislature, and legislative outcomes (Burstein, 2003; Fassiotto & Soule, 2017; Soule & King, 2006). On the other hand, it is also possible that many voters follow the lead of political actors in developing their views on policy (Brody & Page, 1972; Jacobs & Shapiro, 2000; Lenz, 2012). If this is the case, it follows that the ways in which politicians and the media frame policy can meaningfully affect the public's perception of those issues (Chong & Druckman, 2007; Iyengar & Kinder, 2010). With this theoretical grounding in mind, we consider in Part II.5. the possible interactions between political framing, media coverage, and the public mood that proved to be potential determinants of legislative outcomes in our case studies.

4. Methodology

This report relies on qualitative case studies of large-scale policy proposals that received bipartisan support over a portion or the entirety of their consideration and is grounded in theories drawn from the political science, public policy and sociology literatures. The five cases, which include six legislative efforts, were selected to capture key policy and political parallels that may be useful when developing features of a legislative strategy or strategies for a national paid family and medical leave proposal; they are not intended to be representative of all

legislation. Our five cases represent a diverse set of policy areas that span a thirty-year period between the late 1980s to 2018:

- The Medicare Catastrophic Coverage Act of 1988 (MCCA) and the Medicare Catastrophic Repeal Act of 1989
- The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (the legislation implementing the President’s Emergency Plan for AIDS Relief, or PEPFAR)
- The American Clean Energy and Security Act of 2009 (H.R. 2454) / The Clean Energy Jobs and American Power Act (S.1733) (“cap-and-trade” policy)
- The Healthy, Hunger-Free Kids Act of 2010 (HHFKA)
- The Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act of 2018 (FIRST STEP Act)

Data for the case studies in this report come from a wide variety of published sources including official government reports, bill texts, and congressional documents; peer-reviewed articles and other scholarly work; news articles, published interviews conducted by journalists, and op-eds; and publications by think tanks, advocacy organizations, and other interest groups. Additional information for this report came from filmed news reports, campaign materials available online (e.g., pictures, videos) and interviews with a small number of individuals with direct knowledge of the proposals and their legislative trajectories.

To identify relevant government-related sources, keyword searches were conducted using a comprehensive set of platforms including: Congressional Research Service, Congressional Budget Office, Congressional Quarterly Weekly, the Congressional Record, and Google searches for relevant reports and press statements. We located peer-reviewed articles and books using online search engines and university library search tools, and news materials from Google and Lexis key-word searches targeted to specific time frames before and during the consideration of a given proposal. The reports and materials from think tanks, advocacy or interest groups, and coalitions included as sources for this report were primarily those mentioned in government, academic, or news sources, although some were located using Google searches. The analyses and conclusions in this report were made based on the sources studied. Despite the care that was taken to examine resources from a holistic range of sources, it is possible that important themes, events, and statements were overlooked that could alter our findings.

II. Key Drivers of Legislative Campaigns: Components of Winning Strategies & Core Challenges

Recognizing that each of the legislative initiatives that we examined has unique dynamics, we identified thematic patterns common to some or all of our case studies in order to identify factors that paid leave campaigners and strategists should consider in pursuing a successful legislative effort.

The discussion below is divided into five sections that follow the theoretical discussion in section 3 of Part I, above. First, we discuss the significant roles that government actors within Congress and the executive branch played across our case studies. Second, we analyze the various kinds of coalitions, groups and individuals that were able to influence the legislative process from outside of government. Third, we draw out notable findings related to the political and policy contexts surrounding the cases studied in this report. Fourth, we describe important external contextual factors and focusing events. Fifth, we analyze the effectiveness of common policy frames used by supporters and opponents.

1. Government Actors

Because of the formal powers that government actors hold, we start by categorizing and analyzing important legislative roles that various actors within government can play in the development, passage, and implementation of policy proposals. In this section, we discuss the ways in which committee and party leaders can shape legislation and hasten its consideration. We also look at the influence that members of Congress who do not hold these types of formal positions of authority can have by acting as dedicated champions or opponents. In some of our cases, the engagement of congressional actors took the form of bipartisan partnerships, which we also discuss. Finally, we consider the multitude of ways in which presidents can affect the legislative process as well as the impact that influencers within the executive branch can have on the president, members of Congress, and the public.

A. Committee Leadership

Committees have important agenda-setting and gatekeeping powers that allow them to strategically control which proposals are considered by the full chamber and the form these proposals take (Cox & McCubbins, 2005; Shepsle & Weingast, 1987). The case studies examined for this report illustrate both the promise and risks associated with leveraging the unique authorities held by committees. We find that committee chairs and champions who are motivated to work with colleagues across the aisle to develop both strong policy proposals and thoughtful

strategies for moving legislation are helpful, if not essential, to legislative success.

→ CONGRESSIONAL LEADERSHIP

Key Roles for Congressional Leadership:

- Shaping proposal's content and legislative compromises
- Championing and promoting proposal
- Building bipartisan alliances

Watch Out for Congressional Leadership:

- Undermining individual ownership over proposal
 - Politicizing proposal
 - Overseeing negotiations that lead to disjointed proposal
-

First, **several of the case studies underscore the ways in which committee champions can attract public attention to an issue and political support for a proposal.** Committee leaders were important in each of the case studies, but three stand out as examples of the different ways in which committee chairs can leverage their position of leadership to positively affect their colleagues, other key policymakers and the public. For example, the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (Leadership Act), the 2003 bill, and its precursor in 2002 were both introduced by Henry Hyde (R-IL), chair of the House Committee on International Relations (now the House Committee on Foreign Affairs) that had jurisdiction over the bill. The issue was a priority for Rep. Hyde, who independently advocated for legislative action on the issue of HIV/AIDS as early as 2001 despite encountering resistance from both Democrats and Republicans (Diamond, 2001).

In the fight for the Healthy, Hunger-Free Kids Act of 2010, Sen. Blanche Lincoln (D-AR), chair of the Senate Agriculture, Nutrition, and Forestry Committee, was

similarly important. By speaking on the Senate floor, holding press conferences, appearing on morning shows, and publishing op-eds on the issue's importance to children, she became an outspoken advocate for the bill and key Senate negotiator (Bottemiller, 2010; Lincoln, 2010).

The Senate Judiciary Committee chair Chuck Grassley (R-IA) was also instrumental in delicate intra- and inter-party political negotiations that led to the inclusion of sentencing reform provisions in the final version of the FIRST STEP Act (Restuccia et al., 2018), using some of the goodwill he had built with the Trump administration on other Judiciary Committee matters, such as the swift confirmation of judicial nominees, to insist that sentencing reform be included in the Senate version of the bill (Carney, 2018). Sen. Grassley had been a supporter of changes to sentencing guidelines since at least 2015 when he first introduced the Sentencing Reform and Corrections Act and began to make public appearances to advocate for Congress to consider passing a sentencing bill (Everett & Schor, 2018; Grassley, 2018b).¹⁸ Together with the ranking committee member, Sen. Dick Durbin (D-IL), Grassley insisted that the FIRST STEP Act include these provisions after the House-passed bill focused only on prison reform.

Second, **several case studies illustrate specific ways in which key committee members and leaders can use their roles to affect legislative design and establish bottom lines, giving them significant control over a bill's scope and content.** Both the oldest and most recent pieces of legislation we studied exemplify the influence of committee and subcommittee chairs and committee issue experts. For example, Rep. Henry Waxman (D-CA), chair of the House Energy and Commerce Committee's Subcommittee on Health and the Environment, was a driving force behind the addition of key provisions of the Medicare Catastrophic Coverage Act of 1988 (Rovner, 1987d; 1987e). Once the House Ways and Means Committee had approved its proposal, Rep. Waxman began working on amendments to add during the Energy and Commerce committee markup, which would have expanded Medicare benefits to cover costs associated with long-term care and prescription drugs – the latter of which was added before the bill was approved by the committee (Rovner, 1987d; Rovner, 1987e).

In the case of the FIRST STEP Act, a bipartisan group of senators on the Senate Judiciary Committee was the driving force behind substantial changes made to the House prison reform bill. Sen. Grassley (R-IA) and fellow committee members Sen. Dick Durbin (D-IL), Sen. Cory Booker (D-NJ), and Sen. Kamala Harris (D-CA) made it clear through public statements, posts on social media, and a “Dear Colleague” letter that proposals without sentencing provisions, such as the bill passed by the House, would not make it through their committee (Dolven, 2018; Grassley & Durbin, 2018a; Lopez, 2018). Their steadfast efforts led to the inclusion of provisions that made meaningful changes to several mandatory minimum sentencing guidelines.

Third, **four of our case studies show how proposals that receive bipartisan support during the committee phase are more likely to rise to the top of the policy agenda and advance through the legislative process.** In the case of the Medicare Catastrophic Coverage Act (MCCA) of 1988, the bill's two lead sponsors were the chair and ranking members of the House Ways and Means Health Subcommittee, Rep. Pete Stark (D-CA) and Rep. Bill Gradison (R-OH). Bipartisan committee activism also proved essential to the repeal of the original legislation, which was led by a team of House Ways and Means Committee members including Rep. Brian Donnelly (D-MA) and ranking member Rep. Bill Archer (R-TX).¹⁹

Rep. Henry Hyde's (R-IL) 2003 proposal to provide global aid to combat HIV/AIDS was co-sponsored by two Republicans on the House Committee on International Relations as well as by two Democrats on the committee, Rep. Tom Lantos (D-CA) and Rep. Barbara Lee (D-CA).²⁰ The Healthy, Hunger-Free Kids Act of 2010 also benefitted from bipartisan cooperation in committee. There, the efforts of ranking member Sen. Saxby Chambliss (R-GA) to support Sen. Blanche Lincoln's (D-AR) proposal through committee and to advocate for its consideration on the floor were cited as important factors in the eventual passage of the bill using unanimous consent, a procedure that is unusual for large-scale bills that involve new expenditures (Black, 2010). Similarly, the FIRST STEP Act was co-sponsored by a bipartisan group of House Judiciary Committee members, and – as noted above – the bill's passage in the Senate can largely be attributed to the cooperative efforts of Senate Judiciary Committee chair Sen. Chuck Grassley (R-IA) and ranking member Sen. Dick Durbin (D-IL) (Grassley & Durbin, 2018a; Grassley & Durbin, 2018b; Lopez, 2018).²¹

In contrast, ownership by committee members from only one party can make it more difficult for the bill to garner bipartisan support in the full chamber. The unsuccessful 2009 cap-and-trade effort, for example, was led by Rep. Henry Waxman (D-CA), the chair of the House Energy and Commerce committee, without the support of the ranking member Rep. Joe Barton (R-TX) (Bartosiewicz & Miley, 2013). The bill that Waxman sponsored, the American Clean Energy and Security Act of 2009, relied heavily on a 2009 report published by the U.S. Climate Action Partnership (USCAP), a coalition of large environmental organizations and industry groups including General Electric, Dupont, and PG&E (Bartosiewicz & Miley, 2013; Loewentheil, 2013).²² Despite efforts to make the content of the bill appealing to industry groups, some members of USCAP expressed concern that the leadership of Rep. Waxman, a Democrat, without a Republican partner would make it difficult to gather and maintain bipartisan support (Bartosiewicz & Miley, 2013). At the same time, several Republicans expressed confusion over the energy industry's support for the proposal and refused to sponsor the bill. The House bill ultimately failed to gain the votes of moderate Democrats and found support among only eight Republicans (Lizza, 2010), providing a thin, seven-vote margin of victory in the

House. The partisan dynamics of the drafted bill carried over to negotiations in the Senate, where – despite initial bipartisan discussions – The Clean Energy Jobs and American Power Act (S.1733) ultimately failed to gain any Republican co-sponsors.²³

Finally, **while committee negotiations are an essential ingredient to crafting legislation, they can also undermine support for legislation by bogging down the legislative process.** For example, prolonged consideration of the Medicare Catastrophic Coverage Act provides a warning about how extended inter- and intra-committee negotiations can lead to disjointed proposals that lack support from individual members and may be more easily dismantled by their critics. The intense involvement of various committee members and “careful working of the committee structure” that led to the development of the MCCA over a drawn-out 18-month period contributed to the final bill’s lack of focus (Moon, 1990). As a result of the piecemeal development of the legislation and its overall lack of cohesion, none of the law’s authors were willing to treat the law as a “defining issue” of their political platforms (Cohn, 2010). Once the newly enacted law came under attack, the complex nature of the legislation also made it difficult for the law’s persistent champions, including Rep. Pete Stark (D-CA), Rep. Bill Gradison (R-OH) and chair of the House Ways and Means Committee Rep. Dan Rostenkowski (D-IL), to defend the law or present a straightforward and politically popular alternative to a full repeal (Rovner, 1989g). In the end, four of the eight signatories on the MCCA’s conference report from the House Ways and Means and House Energy and Commerce Committees in 1988 also supported the Medicare Catastrophic Coverage Repeal Act of 1989 (Rovner, 1989k).

B. Party Leaders

Party leaders within Congress have extraordinary control over the daily legislative agenda, which they exercise with the goal of ensuring that legislation brought to the floor does not divide the party caucus and harm the party’s image (Cox & McCubbins, 2005). When parties are internally unified and polarization between parties is high, legislators may further delegate agenda-setting powers to party leadership in order to increase the chances that their party’s legislative priorities are enacted and the opposing party’s priorities are blocked (Rohde, 1991).

Several of our case studies illustrate the ways in which party leaders, such as the Speaker of the House and Senate Majority Leader, can influence the legislative trajectory of promising bipartisan proposals through the prioritization or blocking of legislative proposals. We also find that their positions give them a unique platform from which to negotiate with leaders in other chambers and the White House.

→ **PARTY LEADERS**

Key Roles for Party Leaders:

- Prioritizing consideration of proposal
- Liaising with and influencing other political actors
- Not actively opposing proposal

Watch Out for Party Leaders:

- Not prioritizing consideration of proposal
 - Blocking consideration of proposal
-

First, **party leaders can act as influential advocates in persuading other key political actors to support certain proposals.** For example, the expedient consideration of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 was made possible by Senate Majority Leader Sen. Bill Frist's (R-TN) decision to bring the House bill to the Senate floor rather than pursue a proposal sponsored by Foreign Relations Committee chair Sen. Richard Lugar (R-IN) (Sorrells, 2003a; 2003b). Both Sen. Frist and President Bush put intense pressure on Sen. Lugar and other Republican senators to accept the House version of the bill, with Sen. Frist explaining, "we can't let the perfect be the enemy of the good" (Sorrells, 2003b). Minority Leader Sen. Tom Daschle's (D-SD) public endorsement of Sen. Frist's approach, despite his co-sponsorship of Sen. Lugar's proposal, also helped to overcome the initial Democratic opposition to the House bill (Daschle, 2003; Sorrells, 2003a; 2003b).²⁴

Second, **leaders in the minority party can act as legislative allies even in divided and heavily partisan times by not actively opposing a legislative proposal.** For example, in an era of otherwise extreme partisanship, a lack of intense opposition from minority leadership in the House was one of the factors that proved critical to the consideration and passage of the Healthy, Hunger-Free Kids Act (HHFKA) of 2010. Although the Senate had passed its version of the bill by unanimous consent, negotiations in the House were more drawn out. Most Republicans were actively opposed to the bill and there were substantial divisions within the Democratic caucus for different reasons (Black, 2010;

Haberkorn et al., 2010). The Democrats' subsequent loss of the House during the 2010 midterm elections put pressure on the party to come together, but the political dynamics of the moment gave rise to concerns that House Republicans would utilize procedural interventions to prevent consideration of any child nutrition legislation during the remainder of the lame-duck session (Interview with Former Obama Administration Official, 2019). A former administration official noted that one of the primary reasons this did not occur was a lack of opposition from the-then House Minority Leader (and incoming Speaker of the House) Rep. John Boehner (R-OH), who had been involved in previous school nutrition reauthorization efforts and may have been privately sympathetic to President Obama's prioritization of First Lady Obama's initiative-turned-legislation (Interview with Former Obama Administration Official, 2019).

Finally, **agenda-setting powers held by party leaders make their support crucial to a bill being considered at all.** A party leader's decision to not prioritize a piece of legislation or to publicly oppose it can be an insurmountable obstacle for policy proposals – even those that have strong networks of support in Congress. The 2009 cap-and-trade effort and early efforts to pass a criminal justice reform bill best exemplify this point. Although House Speaker Rep. Nancy Pelosi (D-CA) was a strong supporter of the cap-and-trade bill, Majority Leader Sen. Harry Reid (D-NV) was not as enthusiastic about the proposal (Bartosiewicz & Miley, 2013; Lizza, 2010). His unanticipated and widely publicized announcement that he wanted to prioritize an immigration bill over climate-change legislation struck a critical blow to the bipartisan climate change bill being drafted by Sen. John Kerry (D-MA), Sen. Lindsey Graham (R-SC), and Sen. Joe Lieberman (I-CT) (Bartosiewicz & Miley; Lizza, 2010).

Similarly, Senate Majority Leader Sen. Mitch McConnell (R-KY) was able to prevent the consideration of criminal justice reform legislation during the 114th Congress, and nearly prevented the Senate from voting on the FIRST STEP Act during the 115th Congress (Bolton, 2018b; Schor, 2018b). As late as early December 2018, Sen. McConnell continued to refer to the bill as “extremely divisive” and expressed misgivings about bringing it to the floor because of concerns that it would split the party caucus (Bolton, 2018b; Rogers, 2018; Schor, 2018b). Just one day after President Trump had publicly endorsed the hard-won compromise bill that had been negotiated by Sen. Chuck Grassley (R-IA), Sen. Dick Durbin (D-IL) and others, the majority leader informed the president that there was not enough time left in the legislative session to bring the bill to the Senate floor (Karni, 2018). However, the FIRST STEP Act case illustrates that a party leader's opposition need not be insurmountable if other influencers can be engaged. The combination of pressure from President Trump, Sen. Chuck Grassley (R-IA), the Koch Brothers, fellow Kentuckian Sen. Rand Paul (R-KY), and Sen. Ted Cruz (R-TX) contributed to Sen. McConnell's eventual reluctant decision to bring the bill to a vote, where it passed with strong bipartisan support (Bolton, 2018b; Grawert & Lau, 2019; Diamond & Rogers, 2018).

C. Congressional Champions and Dedicated Opponents

The desire to be reelected provides a strong incentive for legislators to concern themselves with the priorities of their constituents (Fenno, 1978; Mayhew, 1974). In addition to pursuing proposals that will serve their electoral needs, legislators' behavior may also be shaped by the actions of other legislators and a desire to accrue political power within Washington (Fenno, 1978; Kingdon, 1989). Scholarly work also suggests that legislators' personal experiences play a role in their legislative behavior by influencing the kinds of issues they prioritize and support (Minta, 2009; Reingold, 2000; Swers, 2013). We find that the desire of members of Congress to represent their constituencies, influence their colleagues, and act in accordance with personal beliefs or experiences can enable legislators to influence a proposal's content and legislative prospects, even when they lack the official authority that comes from positions of committee or party leadership.

→ CONGRESSIONAL CHAMPIONS AND DEDICATED OPPONENTS

Key Roles for Congressional Champions and Dedicated Opponents:

- Leveraging representation of supportive constituencies and caucuses
- Influencing other political actors
- Pursuing legislative action because of personal experiences

Watch Out for Congressional Champions and Dedicated Opponents:

- Influencing constituencies to oppose legislation
 - Influencing other political actors and caucuses to oppose legislation and diminish bipartisan prospects
 - Opposing legislative action because of personal experiences
-

First, **beyond their roles on committees or within leadership, members of Congress can play an influential role in legislative negotiations by**

leveraging their position as representatives of vocal constituencies and congressional caucuses. Three of our case studies showcase particularly well the roles that champions or opponents can play in utilizing the caucus structure and their personal issue expertise to shape legislation. For example, several aspects of the Medicare Catastrophic Coverage Act of 1988 reflected the priorities of Rep. Claude Pepper (D-FL), chair of the House Rules Committee, the Select Committee on Aging’s subcommittee on health and long-term care, and a longtime champion for older adult (Pinsker, 2020). Rep. Pepper’s public popularity and credibility among senior citizens made it difficult for many House Democrats to openly disagree with his outspoken criticisms of the bill’s moderate approach (Rovner, 1987g). Rep. Pepper’s sway with elderly voters allowed him to pull some Democrats to the left on the proposal’s design and content, likely contributing to the inclusion of prescription drug coverage and some benefits related to home health and hospice care (Oliver et al., 2004; Rovner, 1987g). Rep. Pete Stark (D-CA), one of the bill’s sponsors and authors, reflected that “(Rep. Pepper) dreams the impossible dream, and we move once a week to accommodate him” (Rovner, 1987g). Although Rep. Pepper’s efforts were effective in seeing his priorities included into the final legislation, his influence may have also contributed to the law’s later repeal by widening the mismatch between the benefits provided by the bill and the financing necessary to pay for them. In the words of Marilyn Moon of the Urban Institute, the legislation became “a Christmas tree bill to which ornaments had been added,” that ultimately had “more ornaments than tree” (1990, p. 380).

In the case of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (Leadership Act), Rep. Joe Pitts (R-PA) and Rep. Chris Smith (R-NJ) leaned on their reputations as staunch abortion opponents to shape the legislation’s content (Boonstra, 2003). Although the two members of the House International Relations Committee were unsuccessful in adding controversial abortion-related provisions to their committee’s version of the bill, they were able to leverage the support of the House Pro-Life Caucus to get several of their priorities added to the final legislation (Anglin, 2007; Sorrells, 2003a). The Pitts Amendment required that one-third of prevention funding go towards abstinence programs and the Smith Amendment protected faith-based organizations against discrimination if they opted out of programming to which they were religiously opposed. By speaking on behalf of anti-abortion advocates during a time when Republicans held the presidency and a majority in Congress, Reps. Pitts and Smith were able to achieve what they had not been able to do through the committee process (Boonstra, 2003; Loconte, 2003a).

Similarly, Reps. Rosa DeLauro (D-CT) and Jim McGovern (D-MA) worked to leverage the opposition of the House Hunger Caucus and House Progressive Caucus to an offset within the Senate’s child nutrition bill that ended American Recovery and Reinvestment Act (ARRA) increases to Supplemental Nutrition and Assistance Program (SNAP) funding earlier than scheduled (Haberkorn et al., 2010; NSAC, 2010; Phillip, 2010). By aligning themselves with anti-hunger

advocacy groups, they put pressure on other House Democrats and President Obama to fight what they argued to be a tradeoff between food stamps and child nutrition programs (Haberhorn et al., 2010; Fulton, 2010a, 2010b).

In this case, however, members' advocacy efforts were not successful in fully accomplishing their objective to pass the bill without cutting funding for SNAP. Political timing considerations ultimately overtook substantive objections. With time running out in the legislative session and a shift in Democratic to Republican party control of the House imminent, advocates grew increasingly concerned that the bill would not see a House vote before Republicans regained control of the chamber. President Obama pledged to seek out other budgetary options for restoring the funds and pressure from advocacy groups that supported the bill intensified (Paulson, 2010; Phillip, 2010). Reps. DeLauro and McGovern consequently removed their opposition and the bill found the support of most House Democrats and advocacy groups – even though many advocates understood that the president's pledge to restore SNAP funding would likely be largely symbolic given the shifting political dynamics in Congress (Interview with Former Obama Administration Official, 2019; NSAC, 2010; Paulson, 2010; Phillip, 2010).

Second, **congressional champions and opponents, particularly those with an established interest in an issue, can shape the policy's framing and influence its legislative prospects by signaling their position to other political actors.** For example, Sen. John McCain (R-AZ) proved to be a particularly influential opponent of the Senate's cap-and-trade bill in part because he had previously collaborated with Sen. Joe Lieberman (I-CT) on climate change legislation proposals in 2003, 2005, and 2007 and had been thought by environmental advocacy groups to be a likely supporter of cap-and-trade programs (Goodell, 2010; Lerer, 2009b; Lizza, 2010). Despite initially working with Sen. Lieberman on a Senate proposal that could garner more Republican support than the pending effort in the House, McCain ultimately backed out of these talks (Lizza, 2010). Whether due to concerns about a difficult primary battle or genuine disagreement with proposed legislative content, Sen. McCain also took an active stance against the House bill and the Senate proposal that was later developed by Sen. John Kerry (D-MA), Sen. Lindsey Graham (R-SC), and Sen. Lieberman (Lerer, 2009b; Lizza, 2010). Sen. McCain publicly called the former “a 1,400-page monstrosity” and referred to the latter as “cap and tax” legislation (Lerer, 2009b). Sen. McCain's outspoken and unanticipated criticism of the cap-and-trade effort, particularly given his record of working on this issue, likely hurt the proposal's legislative prospects among Republicans – with McCain's actions contributing to the failure of a cap-and-trade deal (Lizza, 2010).

In contrast, Sen. Tom Cotton (R-AR) was a powerful opponent of the FIRST STEP Act precisely because of his well-established opposition to criminal justice reforms – yet his objections were not enough to stop passage of the FIRST STEP

Act over the support of members of his own party and pressure from the White House. In 2016, Sen. Cotton had spoken out against Sen. Chuck Grassley's proposed Sentencing Reform and Corrections Act, claiming, "...if anything, we have an under-incarceration problem" (Gass, 2016). He used his ideological opposition to the FIRST STEP Act to present it as potentially dangerous to the American public and also politically risky to President Trump, suggesting that the president would be blamed if incarcerated individuals who were eligible for early release opportunities under the proposal were to hurt someone (Caygle & Schor, 2018; Diamond & Rogers, 2018; Grawert & Lau, 2019). In addition to releasing numerous statements and writing op-eds in conservative news outlets, Sen. Cotton also allegedly asked several prominent law enforcement groups to oppose the House bill (Caygle & Schor, 2018; Cotton, 2018a; 2018b). For these efforts, Sen. Cotton was publicly chastised by several Republicans including Sen. Mike Lee (R-UT) and Mark Holden, the Koch Industries general counsel, for making false or exaggerated claims about the bipartisan compromise bill (Lee, 2018; Schor, 2018b). To avoid anticipated procedural delays that were expected from Sen. Cotton, Sen. McConnell ultimately placed the contents of the compromise bill into a separate legislative vehicle that had already moved part-way through the legislative process (Grawert & Lau, 2019; Autrey, 2018b; Pye, 2018).

Aside from policy preferences and ideology, it is important to note that legislators and other political actors may be motivated by personal considerations. Two of our cases best exemplify this lesson and show how a legislator or another political actor's personal connections to an issue may influence their position and the effort they expend supporting a proposal. For example, as discussed above, Rep. Claude Pepper (D-FL) took a personal interest in the Medicare Catastrophic Coverage Act of 1988. Rep. Pepper, the chair of the House Rules Committee and the Select Committee on Aging Subcommittee on Health and Long-Term Care, had entered Congress in 1936 and was considered a spokesperson for older Americans (Fessler, 1989). His advocacy for seniors led him to work on multiple proposals over the years that would have expanded Medicare to include broader coverage for catastrophic costs (Rovner, 1987g). He initially criticized the bill endorsed by President Reagan saying that it was too narrow in scope and he was instrumental in incorporating prescription drug coverage into the MCCA and establishing the "Pepper Commission" to explore legislative options related to long-term care costs (Fessler, 1989; Rovner, 1987b; 1987c; 1987g).

Several political actors involved in the development and passage of the FIRST STEP Act of 2018 had personal connections with the criminal justice system that contributed to their engagement on the issue. One of these was White House senior adviser Jared Kushner. Kushner's father, Charles Kushner, served two years in federal prison for making illegal campaign contributions, tax evasion, and witness tampering when Jared was in his 20s (George, 2017). The experience of navigating the prison system with his father and later experiences with supporting other families through similar situations made the issue one of

personal importance to him (Karni, 2018; Kushner, 2019). Rep. Doug Collins (R-GA), the bill's sponsor, said that his support for the legislation stemmed from the fact that his father had worked as a Georgia state trooper for 31 years, and Mark Holden, the Koch Industries general counsel, noted that working as a prison guard early in his career had helped motivate his work on behalf of Koch Industries in support of prison reform (Ball, 2015; Collins, 2018; Mayer, 2016).

D. Resilient Bipartisan “Teams”

Our case studies illustrate ways in which pairs or trios of legislators who represent different ideological viewpoints but work together closely on a proposal can foster the formation of broad coalitions within and beyond Congress and facilitate bipartisan compromise. At the same time, working across the aisle can require difficult compromises that may activate partisan opposition within Congress and among core constituencies. Importantly, we find that the presence of bipartisanship on one committee or in one chamber does not necessarily translate to widespread bipartisan support without effective, committed negotiations.

→ BIPARTISAN TEAMS

Key Roles for Bipartisan Teams:

- Building broad coalition of support
- Facilitating bipartisan compromises within committees and chambers

Watch Out for Bipartisan Teams:

- Demanding unproductive or controversial compromises
 - Providing false sense of widespread bipartisan support
 - Incorrectly assuming that intra-party unity is guaranteed within the party leading the charge
-

First, **bipartisan leadership, in its most effective form, can establish inter-party trust that lays the groundwork for bipartisan coalitions and compromise.** Two of our cases illustrate the role that early bipartisan cooperation can play, and another shows the detrimental effects of pursuing but failing to achieve bipartisan partnership.

In our oldest case study, the Medicare Catastrophic Coverage Act of 1988, Rep. Pete Stark (D-CA) and Rep. Bill Gradison (R-OH) worked together to develop and facilitate the passage of a bipartisan bill to address rising health care costs. Of the three major causes of catastrophic health costs identified in an HHS report that President Reagan had directed the agency to produce and later endorsed, Reps. Stark and Gradison saw the high cost of acute care for Medicare beneficiaries as “the most doable” and collaboratively introduced bills to address this issue (Christensen & Kasten, 1988; CQ, 1987; Moon, 1990; Rovner, 1987a, 1987b, 1987c).²⁵ The pair worked to maintain and build a strong bipartisan coalition around the issue of acute care throughout the bill’s drawn-out negotiations, balancing the demands of Reps. Henry Waxman (D-CA) and Claude Pepper (D-FL) to expand the scope of the proposal against their own concerns that doing so could risk Republican support (Rovner, 1987a; Rovner, 1987c; Rovner, 1987d). The Stark-Gradison bill ultimately gained bipartisan co-sponsorship and passed with substantial bipartisan support in the chamber.

In the case of the FIRST STEP Act, bipartisan partnership was also critical to the development of both the prison reform bill in the House and the more comprehensive bill that included sentencing reform provisions in the Senate. The House bill was introduced by Rep. Doug Collins (R-GA) and co-sponsored by Reps. Hakeem Jeffries (D-NY), Bob Goodlatte (R-VA), and Karen Bass (D-CA). Within several weeks it had gained an additional seven Democratic and nine Republican co-sponsors. Supporters of the bill from both parties agreed that prison reform legislation (rather than a more expansive bill that included sentencing reform) was a politically feasible way to improve the lives of incarcerated individuals, with Rep. Jeffries concluding, “there is no possibility of meaningful sentencing reform at this time” (Berman, 2018; Kight, 2018). However, as discussed above, key Democrats in the Senate including Sens. Dick Durbin (D-IL), Cory Booker (D-NJ), and Kamala Harris (D-CA) were opposed to separating prison reform from sentencing reform, as was Senate Judiciary Committee chair Sen. Chuck Grassley (R-IA) (Berman, 2018; Carney, 2018). The prioritization of the issue by the committee chair and ranking member, Sens. Grassley and Durbin, and the flexibility of senators on both sides of the aisle to compromise during the Senate bill’s development, led to an impressively balanced group of 42 senators co-sponsoring Sen. Grassley’s bill (Everett & Schor, 2018; Kushner, 2019; Restuccia et al., 2018; U.S. Congress, 2018). The combined prison and sentencing reform proposal ultimately garnered substantial bipartisan support, passing with vote tallies of 87-12 in the Senate and 358-36 in the House.

In contrast, a lack of Republican support plagued the 2009 cap-and-trade effort in both the House and Senate. Although the bill that passed Rep. Henry Waxman's (D-CA) committee was relatively moderate and included substantial concessions for industry groups, it never garnered Republican co-sponsors and only received eight Republican votes on the floor of the House (Bartosiewicz & Miley, 2013). A bipartisan Senate effort led by Sens. John Kerry (D-MA), Lindsey Graham (R-SC), and Joe Lieberman (I-CT) initially showed promise in attracting support from both environmental organizations and industry representatives because of the trio's willingness to reach out to interest groups on both sides of the aisle (Cummings, 2010; Lizza, 2010). However, they too failed to gain traction with Republicans in the Senate, particularly after Sen. Graham stepped away from the effort (Bartosiewicz & Miley, 2013).

Second, however, **several case studies show that compromises made in the spirit of bipartisan cooperation are not necessarily enough to guarantee legislative success in the absence of effective mediation and strong supportive advocacy.** The best example of bipartisan leadership as a necessary but also insufficient condition for the durability of legislative success is the passage and subsequent repeal of the Medicare Catastrophic Coverage Act of 1988. The bipartisanship that led to the passage of the MCCA, described above, was remarkable. And even as public opposition mounted during the MCCA's implementation, Reps. Pete Stark (D-CA) and Bill Gradison (R-OH) maintained their collaborative relationship and held that criticism was coming from a vocal, uninformed minority (Rich, 1989; Rovner, 1988b; Rovner, 1989c). However, their continued efforts to identify a popular alternative to a full repeal proved unsuccessful, and even their eventual decision to endorse a partial repeal bill was not enough to stop the momentum behind the Medicare Catastrophic Coverage Repeal Act of 1989 (Rich, 1989; Rovner, 1989g).

As discussed above, in the case of the 2009 cap-and-trade effort in Congress, significant concessions made by Democrats to win Republican support for the proposal did not garner meaningful Republican support in either chamber (Bartosiewicz & Miley, 2013). Although Sens. Kerry, Graham, and Lieberman saw some early success in reaching out to business groups, their decision to include a provision that had been brought forward by the major oil companies to reduce the cost variability of permits for certain emissions activated strong Republican opposition (Lizza, 2010). In fact, environmental groups such as the Sierra Club had been opposed to similar proposals in the past due to concern that so-called "linked fees" would be perceived as gas taxes (Bartosiewicz & Miley, 2013; Lizza, 2010). Sure enough, Republican members of Congress and even the White House were swift to criticize the drafted provision (Fox News, 2010). Newt Gingrich's group American Solutions even referred to the Senate proposal as the "Kerry-Graham-Lieberman Gas Tax Bill"; Fox News presented the compromise as having been Sen. Graham's idea, which had negative political consequences for the bill's lone Republican advocate and doomed its bipartisan prospects in the Senate (Lizza, 2010).

Finally, the **presence of widespread bipartisan support and relative intra-party unity in one chamber may not translate into widespread bipartisan support in the other**. The FIRST STEP Act exemplifies this principle, where both Republicans and Democrats needed to be brought along as the legislation moved from the House to the Senate. The Healthy, Hunger-Free Kids Act also shows how intra-party disagreements among the Democrats primarily responsible for driving the legislation can also be a factor to consider and mitigate. There, Democratic opposition in the House to the Senate’s proposed pay-for temporarily stalled momentum until political conditions made clear that compromise was required (as previously explained, the Senate draft of the HHFKA included a budget offset that sunsetted American Recovery and Reinvestment Act (ARRA)-legislated increases to SNAP funding earlier than planned (CRS, 2012a; CRS, 2010)). While this provision was considered unfortunate but necessary by the White House, it unexpectedly “set the House on fire,” in the words of a former administration official (Interview with Former Obama Administration Official, 2019). While the bill was viewed in the Senate by members of both parties as a common-sense way to address issues related to childhood nutrition, Democrats in the House including Rep. Jim McGovern (D-MA) and Rep. Rosa DeLauro (D-CT) as well as some anti-hunger advocates saw the bill as hypocritical (Bottemiller, 2010; Haberkorn et al., 2010; Fulton, 2010a, 2010b). President Obama’s commitment to seeking out budgetary options for restoring the funds (although understood to be more symbolic than substantive) and the reframing efforts by supporters of the legislation enabled the law to overcome opposition to the offset and pass the House with bipartisan support (Paulson, 2010; Phillip, 2010; Schwartz & Wootan, 2019; Interview with Former Obama Administration Official, 2019).

E. President

Although the formal executive powers explicitly granted by the Constitution to the President are somewhat limited, presidents can exert substantial influence on policymaking. Presidential power includes the ability to influence other political actors, quick access to the public’s attention, the formal power of the veto, and unique advantages in the realm of foreign affairs, which can all allow the president to play an important role in the legislative process (Cameron, 2000; Kernell, 1997; Neustadt, 1990; Wildavsky, 1966). Our case studies show how, by putting certain issues on the policy agenda, making compromises politically safer for members of their party, and centralizing negotiation efforts, presidential support can contribute to the success of legislative efforts. Conversely, we find that the president can become an obstacle to a bill’s passage when they do not prioritize the issues to be addressed by a proposal or take actions that undermine bipartisan support and negotiations.

→ **PRESIDENT**

Key Roles for President:

- Prioritizing policy issue and proposal
- Making policy politically “safe” for members of party
- Facilitating negotiations between members and chambers

Watch Out for President:

- Not prioritizing policy issue and proposal
 - Making policy issue politically “unsafe” for members of other party
 - Interfering with negotiations between members and chambers
-

First, our case studies show how **presidents can use their platform to signal the prioritization of an issue to members of Congress and the public – and how a president’s weak engagement can also affect a bill’s legislative fortunes.** The passage of the Medicare Catastrophic Coverage Act of 1988 and the repeal of that law through the Medicare Catastrophic Repeal Act of 1989 illustrate these dynamics. President Reagan laid the groundwork for the development of the MCCA when he expressed concern over the cost of catastrophic care in his 1986 State of the Union address (Cox, 1993; CQ, 1986; Rovner, 1986a; Rovner, 1987a; Rovner, 1987b). One of the key aspects of President Reagan’s vision was a proposal that would expand Medicare coverage for acute care health care costs without increasing the federal deficit (Moon, 1990; McArdle, 2009). As benefits were added to the original bill during committee markups, the funding system was enhanced to continue to meet this requirement. The final bill, which included President Reagan’s proposed provisions as well as prescription drug coverage and other benefits, covered costs by adding new monthly premiums on Part B coverage and establishing a new income-based supplemental premium to be paid by higher-income people (Moon, 1990). Concern that the bill had strayed too far from the original proposal led President Reagan to consider threatening to veto the legislation on several

occasions, but his early prioritization of the issue would have made it difficult for him to do so (Cox, 1993; McArdle, 2009).

Just as President Reagan's eventual support for the bill enabled its passage, President George H.W. Bush's lack of enthusiastic advocacy for the legislation likely played a role in the law's repeal. Early in his presidency, President Bush said that he did not support making changes to or repealing the MCCA (Rovner, 1989a; Rovner, 1989c). However, his public support for keeping the law intact gradually weakened as public criticism of the new supplemental premium grew (Rovner, 1989i). Because repealing the supplemental premium was estimated to add about \$4 billion to the deficit in 1990, the administration was particularly concerned that a repeal law would trigger automatic, across-the-board cuts under the Gramm-Rudman-Hollings Act of 1985 (Boise, 1990; Rovner, 1989k). To address this problem, the president's Office of Management and Budget (OMB) announced that it would not count a full repeal of the legislation against the deficit, thereby providing the president's tacit acceptance for repeal (Moon, 1990). Because of this, some placed blame for the law's repeal on President Bush. In reflecting on the failure of the MCCA, Sen. Dave Durenberger (R-MN) remarked, "had (President Bush) worked half as hard on catastrophic as he did on capital gains, there's no question in my mind we'd still have a catastrophic bill" (Rovner, 1989k).

President George W. Bush's role in global HIV/AIDS relief is another example of the relationship between strong presidential leadership and legislative change. President Bush laid the groundwork for the passage of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (The Leadership Act) when he announced the President's Emergency Plan for AIDS Relief (PEPFAR) in his 2003 State of the Union address (CRS, 2007). Shortly thereafter, both the House and the Senate began working on bills (Anglin, 2007). He urged expediency, reminding Congress in April that "time is not on our side" and emphasizing that "in the three months since I announced the emergency plan, an estimated 760,000 people have died from AIDS, 1.2 million people have been infected, (and) more than 175,000 babies have been born with the virus" (Sorrells, 2003a). He also put pressure on Congress to pass legislation quickly so that he could bring a signed bill with him to the G-8 Summit in June "as a symbol of the great depth of compassion that our country holds for those that suffer" (Anglin, 2007; Sorrells, 2003b). Although Congress had introduced several proposals to combat HIV/AIDS abroad in the years preceding President Bush's engagement with the issue, the president's leadership helped to put this initiative higher on the policy agenda (Anglin, 2007; Boonstra, 2003).

The 2009 cap-and-trade effort shows the complexity of presidential engagement within a volatile broader political context. Despite President Obama promising to prioritize climate change in his 2008 campaign, health care reform and economic stimulus garnered more of his attention and his administration's focus (Goodell, 2010). Although the president did help to whip support for the House bill that was

introduced in early 2009, the recession had shifted the administration's focus to passing an economic stimulus package (Goodell, 2010; Loewentheil, 2013). The issue of health care may also have been seen by the administration as more politically tenable on the heels of an economic crisis, particularly compared to a cap-and-trade program that could have increased costs for consumers and businesses (Alter, 2011; Loewentheil, 2013). On the one hand, some observers allege that President Obama's decision to prioritize stimulus legislation and health care reform rather than to aggressively support the Senate cap-and-trade bill hurt its chances of success (Bartosiewicz & Miley, 2013; Goodell, 2010; Lizza, 2010). On the other hand, Democrats' loss of a Senate seat in Massachusetts, the congressional Democrats' failure to secure substantial support for the bill, the effectiveness of the Tea Party's opposition to climate change legislation, and the environmental movement's failure to mobilize grassroots support would likely have made cap-and-trade legislation a tough sell regardless of the president's level of engagement (Skocpol, 2013).

Second, **presidential support for legislation can make an issue politically safer for members of the president's own party even when the issue is not typically one that the party has a history of embracing.** In several of the examples studied, Republican presidents cleared the path for broad support for legislation that could otherwise have been viewed as too ideologically unsafe for some Republicans to endorse. For example, President Reagan's support for the Medicare Catastrophic Coverage Act, a proposal to expand the social safety net under the condition that the initiative not increase the deficit, likely opened the door for other Republicans to engage on the issue and emboldened Democrats to take further action (Christensen & Kasten, 1988; Moon, 1990). President George W. Bush's lack of advocacy for the MCCA then made it easier for conservative members of Congress to support MCCA's repeal (Moon, 1990; Rovner, 1989k). In the case of the 2003 Leadership Act, President George W. Bush's decision to announce a \$15 billion initiative to fight HIV/AIDS, tuberculosis (TB), and malaria globally in his 2003 State of the Union address took some members of his party by surprise, and likely helped to establish a politically safe path forward on the issue for many Republicans (Boonstra, 2003).

Most recently, some analysts have credited President Trump's willingness to prioritize criminal justice reform with the FIRST STEP Act's success. As Van Jones, a liberal political commentator and criminal justice reform advocate reflected, "this issue was marginal and only used as a weapon to say someone else is soft on crime...the person who made it safe for everyone is Donald Trump, and that is an insane outcome" (Karni, 2018). Although the president had not expressed clear views on criminal justice policy early in his term and many advocates were concerned that he would be unlikely to support reforms, White House senior adviser Jared Kushner made targeted efforts to place the issue at the top of the president's agenda (Dolven, 2018; Lopez, 2016; Grawert & Lau, 2019; Kushner, 2019). While pressure from Attorney General Sessions and Sen. Tom Cotton (R-AR) contributed to several interruptions in efforts to gain

President Trump's support for the legislation, Trump officially voiced support for the bipartisan compromise proposal in November 2018 and used social media and other tactics to pressure Majority Leader Sen. Mitch McConnell (R-KY) to bring the bill to the Senate floor (Autrey, 2018a; Bolton, 2018a; Diamond & Rogers, 2018; Fabian & Byrnes, 2018b; Karni, 2018).

Finally, **the executive branch can assist with negotiation efforts across chambers, but presidential actions can also interfere with congressional negotiations and ultimately contribute to the demise of legislative proposals.** For example, in his efforts to speed up authorization for funding for PEPFAR, President George W. Bush pressured Foreign Relations Committee chair Sen. Richard Lugar (R-IN) and other Republican senators to accept the House version of the bill in order to avoid more drawn-out negotiations (Sorrells, 2003b).

Conversely, miscommunications between the Obama White House and key congressional negotiators are thought to have contributed to the demise of the 2009 cap-and-trade effort (Lizza, 2010). As Sens. John Kerry (D-MA), Lindsey Graham (R-SC), and Joe Lieberman (I-CT) were working to draft a compromise bill in the Senate, the White House reportedly gave away policy concessions that the trio had been considering as ways of garnering Republican support. For example, as Sens. Kerry, Graham, and Lieberman were working with Republicans in Congress to finalize language related to offshore drilling, President Obama independently announced that his administration planned to open domestic drilling opportunities for gas and oil (Lizza, 2010). Commentators say that the president's apparent lack of coordination with the Senate group during the bill's development likely made negotiations more difficult for legislators on both sides of the aisle.

F. Influencers Within Government

High profile political influencers can affect legislation in different ways – by providing expertise or persuasive leadership, lending star-power to an issue, or relaying the support of important constituencies to the president, Congress, and the public. The case studies examined in this report showcase examples of influence exercised through official channels by individuals within government who were able to shape policy outcomes by motivating or validating a president's support for an issue.

→ INFLUENCERS WITHIN GOVERNMENT

Key Roles for Influencers Within Government:

- Educating and engaging the president
- Making the issue politically safer for key political actors to support
- Validating the salience of an issue to political actors and the public

Watch Out for Influencers Within Government:

- Working against the president or other political actors
- Not prioritizing issue within the executive branch, including to the president

First, **public officials who have political and policy clout can provide information, validation, and reassurances in ways that facilitate presidential support (or opposition) for an issue.** For example, Dr. Otis Bowen, a former doctor who served as the Secretary of the Department of Health and Human Services from 1985-1989, played a crucial role in placing and keeping the issue of catastrophic care on President Reagan’s policy agenda (Himelfarb, 1995). Dr. Bowen had advised policymakers on proposals to expand Medicare coverage before he became a member of President Reagan’s cabinet; as secretary, Bowen was instrumental in convincing administration officials that President Reagan’s support for catastrophic care legislation could improve the president’s image among older adults (Himelfarb, 1995). Despite the fact that many Republicans in Reagan’s administration were opposed to governmental intervention in the private Medigap policy market, Dr. Bowen’s persuasive lobbying on the issue was instrumental in the president’s decision to announce an HHS-led study on catastrophic health care costs during his 1986 State of the Union address, and to later endorse recommendations in the report that formed the basis of what became the Medicare Catastrophic Coverage Act (Christensen & Kasten, 1988; Himelfarb, 1995; Moon, 1990).

Similarly, White House senior adviser Jared Kushner played a key role in the development and passage of the FIRST STEP Act. Shortly after President Trump’s inauguration, Kushner began meeting with members of Congress and advocates on both sides of the aisle about the issue (Diamond & Rogers, 2018; George, 2017; Reinhard, 2017). He also scheduled regular “policy time” with President Trump during which he invited conservative leaders to speak with the president about criminal justice reform, organized roundtables, and arranged meetings with various high-profile political actors, media personalities, and celebrities (George, 2017; Karni, 2018; Kushner, 2019). Kushner’s connections to

Fox News through Sean Hannity and former White House communications director Hope Hicks allegedly prompted some of the network's positive coverage of the FIRST STEP Act, which likely validated President Trump's position on the issue and put additional pressure on Majority Leader Sen. Mitch McConnell (R-KY) to hold a Senate vote (Karni, 2018). Kushner also arranged to meet on Capitol Hill with several Democratic members of Congress who were unwilling to attend White House meetings and worked to keep the bill bipartisan, often by pushing back against Attorney General Jeff Sessions (Diamond & Rogers, 2018; Karni, 2018). One of the House bill's co-sponsors, Rep. Hakeem Jeffries (D-NY), said "it's fair to say that if we're able to get meaningful criminal justice reform over the finish line, it would not have occurred without substantial leadership from Jared Kushner" (Karni, 2018).

Second, and conversely, **public officials and advisors can also facilitate presidential opposition or disengagement.** In the case of cap-and-trade, for example, White House Chief of Staff Rahm Emanuel's insistence on a showing of solid bipartisan support in the Senate before the White House would commit substantial resources to passage may have created a chicken-and-egg situation that muted White House engagement in passing climate change legislation (Lizza, 2010). The FIRST STEP Act also provides an example of the role that an appointee's prior record and positions can have on influencing a president or administration. Here, Attorney General Jeff Sessions worked diligently to undermine President Trump's support for the FIRST STEP Act and he succeeded on several occasions. As a senator, Sessions (R-AL) had been a strong opponent of the Sentencing Reform and Corrections Act of 2015 and called Sen. Chuck Grassley's (R-IA) reintroduction of the legislation in 2017 "a grave error" (Cohen, 2018; Grawert & Lau, 2019). The attorney general's influence likely contributed to hesitancy on the part of the president to support any legislation that could appear soft on crime (Kushner, 2019). In fact, President Trump's short-lived decision to backtrack his public support for a compromise bill was linked to pressure from Attorney General Sessions (Bolton, 2018a; Diamond & Rogers, 2018; Fabian & Byrnes, 2018a). However, as the Russia probe intensified, President Trump's ongoing frustration with his attorney general likely reduced Sessions' ability to influence the president's agenda, including his position on the specific elements of criminal justice reform (Diamond & Rogers, 2018; Reinhard, 2017).

Lastly, the case of the Healthy, Hunger-Free Kids Act provides an example of how **high-level influencers within government can lend their public image to an issue, making it politically safer for the president and other key government actors to support legislation.** First Lady Michelle Obama's Let's Move! initiative to combat childhood obesity is illustrative of this idea. Although initially hesitant to engage the first lady politically in order to protect her political popularity, the White House later leveraged her activism for children's health in framing anti-obesity messaging around the HHKFA (Phillip, 2010; Schwartz & Wootan, 2019). Schwartz & Wootan (2019) write that Obama's

enthusiasm and support for the legislation proved helpful in terms of agenda setting and framing. In fact, several politicians and cabinet members later credited her as being a major force behind the law's passage including her husband, Sec. Kathleen Sebelius, then-Mayor Cory Booker, and Gov. Mike Huckabee (Phillip, 2010; White House, 2010). A former administration official also noted that First Lady Obama's involvement in the larger issue of child nutrition contributed to public awareness about the issue and fostered a feeling that it was a national problem that needed to be addressed at the federal level (Interview with Former Obama Administration Official, 2019).

2. Individuals and Organizations Outside of Government

Although political actors that operate within government hold determinative power over the content and consideration of legislative proposals, our case studies also reveal the ways in which individuals and organizations pushing from the outside can themselves become key political actors in the development of legislative strategies. How outside influencers organize themselves and pursue their objectives can have a significant effect on the scope, trajectory, and outcome of legislation. In this section, we explore examples of groups and individuals that operated outside of government and played an important role in the development and passage (or failure) of legislation in our case studies. First, we explain how advocacy groups, industry groups, and coalitions affiliated with each can impact a legislation's chances. Next, we discuss the role that state and local government officials and associations can play in the trajectory of national legislation. Finally, we focus on the legislative influence of researchers and research organizations, as well as of influencers such as celebrities.

A. Advocacy Groups and Coalitions

Advocacy groups, acting as individual organizations or in collaboration with other groups as part of advocacy coalitions, can play an important role in setting legislative agendas, influencing the content of legislation, and building momentum for legislation from the outside (King et al., 2007; Amenta et al., 2010; Amenta & Elliott, 2019). The case studies in this report illustrate the ways in which advocacy organizations and coalitions can influence policy agendas by providing a platform from which the constituencies they represent can voice their demands to policymakers. We also find examples of advocates shaping the content of proposals and coordinating effective messaging and outreach campaigns. It is, however, important to note that obtaining the endorsement of an organization does not guarantee the support of the group's constituencies, and that unifying behind one spokesperson or messaging campaign may also make it easier for opponents to dismiss the scope and diversity of a coalition.

→ ADVOCACY GROUPS AND COALITIONS

Key Roles for Advocacy Groups and Coalitions:

- Educating key political actors
- Amplifying demands of constituency groups
- Facilitating support among coalitions of constituencies
- Designing and executing messaging campaigns
- Providing technical assistance and policy validation
- Unifying demands and messaging campaigns

Watch Out for Advocacy Groups and Coalitions:

- Undermining the perceived diversity of coalition
- Attempting to speak for, rather than speak with, constituencies
- Failing to engage state and local partners in national advocacy and policy strategies

First, our analyses provide evidence that **advocacy organizations and coalitions can place issues on the policy agenda by promoting the demands of certain constituency groups. In lifting the concerns of groups that legislators may see as electorally valuable, advocates can signal that an issue or proposal is beneficial for them to support (or oppose).** The clearest example of this among our case studies is the repeal of the Medicare Catastrophic Coverage Act. The Coalition for Affordable Health Care, a coalition formed to protest the MCCA's funding structure, was comprised of several individual advocacy groups including the National Committee to Protect Social Security and Medicare (NCPSSM), the National Association for Retired Federal Employees, the Retired Officers Organization, the National Association of Letter Carriers, and 36 other groups (Cox, 1993). Among other actions, this coalition used the results of a survey to suggest that the AARP and legislators who

supported the law were out of touch with what seniors wanted (Cox, 1993). A smaller organization founded to advocate for repeal of the MCCA, the Seniors Coalition Against the Catastrophic Act,²⁶ was also effective in its efforts to amplify the voices of seniors who wanted to see the legislation repealed. In June of 1989, Daniel Hawley, the organization's founder, testified before the Senate Finance Committee with what he claimed were 350,000 signatures from seniors who supported a full repeal of the law (Rovner, 1989e). Hawley's group was reportedly responsible for building legislative will against the MCCA among several legislators including Sens. Harry Reid (D-NV) and Chic Hecht (R-NV), as well as Reps. Barbara Vucanovich (R-NV) and James Bilbray (D-NV) (Rovner, 1988b).

Second, advocacy groups and coalitions can shape the content of legislation on behalf of constituency groups by utilizing their specialized knowledge from working in a certain area of policy. Two case studies in particular showcase the role constituency-based groups with issue expertise played in shaping legislation and garnering legislative support. Faith-based organizations (FBOs) and churches played an important role in the design of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (Leadership Act) of 2003 (Boonstra, 2003; Loconte, 2003a). Because organizations such as the Catholic Church, World Relief, the American Jewish World Service, World Vision, and different Muslim groups are engaged in efforts to reduce the global spread of HIV/AIDS, many were strong supporters of the law and the increased funding levels that it would provide. However, some of these kinds of organizations were concerned that the law would discriminate against religious groups that ran abstinence programs, and others were opposed to organizations that provided abortion health care accessing the funds (Boonstra, 2003; Loconte, 2003a). By speaking on behalf of their conservative Christian constituencies, FBOs pushed the inclusion of several of their priorities into the final legislation, including a requirement that at least one-third of prevention funding go towards abstinence programs (Pitts Amendment), a conscience clause that allowed FBOs that objected to certain kinds of programming on religious grounds (e.g., condom distribution) to still receive funding (Smith Amendment), and a requirement that those organizations receiving money explicitly oppose prostitution (Boonstra, 2003; Loconte, 2003a).

In the case of the Healthy, Hunger-Free Kids Act, the National Alliance for Nutrition and Activity (NANA) was similarly influential in the law's design. Co-founded in 1999 by Margo Wootan, D.Sc. at the Center for Science in the Public Interest, NANA currently has over 500 partner members including the American Academy of Pediatrics, American Heart Association, National WIC Association, Academy of Nutrition and Dietetics, American Medical Association, AARP, Children's Defense Fund, Fair Food Network, Humane Society of the United States, March of Dimes, YMCA of the USA, and others (Schwartz & Wootan, 2019). As a coalition comprised of federal, state, and local public health, health-professional, fitness, and consumer organizations, the group is uniquely qualified

to provide policymakers with guidance on child nutrition programs and played an important role in the development of both the Child Nutrition and WIC Reauthorization Act of 2004 and the HHFKA (Schwartz & Wootan, 2019). During the development of the 2010 legislation, NANA specifically leaned on their expertise to gain support among some conservative lawmakers, often presenting the proposal as a way to align federal standards with science (Schwartz & Wootan, 2019).

The Healthy, Hunger-Free Kids Act case study also illustrates a related point: **whether a coalition is better positioned to influence lawmakers by speaking with one voice, through one messenger, or whether multiple voices and messaging approaches are better suited to exerting influence.** NANA worked hard to maintain a centralized identity and speak with one voice. The coalition was largely effective in unifying their messaging efforts, often relying on Dr. Wootan as a spokesperson, although there were challenges along the way (Schwartz & Wootan, 2019). A former administration official explained that NANA's reliance on centralized leaders and unified messaging campaigns ultimately proved to be effective in the case of the Healthy, Hunger-Free Kids Act, but noted that this strategy may also run the risk of obscuring or overshadowing the involvement of multiple groups in an effort, which may make it easier for undecided or opposed lawmakers to dismiss the coalition's demands. (Interview with Former Obama Administration Official, 2019).

Third, **nearly all of our case studies reveal that advocacy organizations can coordinate effective messaging campaigns that mobilize public support or opposition for a proposal, particularly when campaigns are well-timed and broad in reach.** The Medicare Catastrophic Coverage Repeal Act involved some of the most effective messaging in our case analyses. The National Committee to Protect Social Security and Medicare (NCPSSM) utilized a variety of sometimes misleading ad campaigns to mobilize opposition among senior citizens and to pressure members of Congress and the AARP to support a full repeal of the legislation (Moon, 1990; Tolchin, 1989). One NCPSSM mailer from 1989 referred to the new premium as “a special tax on senior citizens” while another exaggerated the cost of the new premium (Himelfarb, 1989; Tolchin, 1989). Rep. Stark (D-CA) accused the organization of exploiting “the most fragile members of our society” to generate membership fees while also popularizing misinformation about the law (Tolchin, 1989). The group's efforts are believed to have contributed to widespread uncertainty and critical views of the law among members of the public, particularly among seniors (Cox, 1993; Himelfarb, 1995).

The FIRST STEP Act similarly benefited from messaging and mobilization to a specific, key constituency. Advocacy organizations like Prison Fellowship shaped the way evangelical Christians understood the issue, laying the groundwork for support for the FIRST STEP Act among social conservatives. In 1976, Chuck Colson, a top aide to President Nixon who served prison time for obstruction of justice related to Watergate, founded Prison Fellowship to advocate for prisoners

and former prisoners. Colson had been an architect of Nixon's tough-on-crime platform, but after spending time in prison himself, believed that this model was "in conflict with our values as Christians and as Americans" (McFarlan Miller, 2018). The group has been credited with reframing perceptions of criminal justice reform for many evangelicals and evangelical organizations (McFarlan Miller, 2018). Although Prison Fellowship has worked with presidential administrations since the organization's inception, it reached unusually high levels of access to President Trump, administration officials, and Cabinet members. In fact, Vice President Pence said that he sees Colson as a mentor and keeps notes from a 2006 speech of Colson's in his Bible (McFarlan Miller, 2018). Although the organization initially expressed concern over including sentencing reforms in the FIRST STEP Act, the group ultimately endorsed the compromise bill and worked to mobilize support for the legislation among conservative Christians (McFarlan Miller, 2018; Rice-Minus, 2018).

The Healthy, Hunger-Free Kids Act had public mobilization assistance from various nutrition and hunger advocates and focused on capturing media and broad public attention. Their strategies included bringing children dressed in vegetable costumes to Capitol Hill, using catchy visuals such as lunch trays, plates, and balls, and distributing quizzes and infographics (Schwartz & Wootan, 2019). A former administration official noted that messaging that focused on children's health was critical to the law's popular appeal and passage (Interview with Former Obama Administration Official, 2019). When pressure from the food industry later threatened to weaken the new nutrition guidelines released by the USDA in 2011, Dr. Margo Wootan from the Center for Science in the Public Interest called opposition to the proposed tomato paste and sodium rules an attempt to "classify pizza as a vegetable" (Confessore, 2014). Dr. Wootan's soundbite garnered significant media attention and captured the imagination of several comedians, leading at least one member of Congress to later have second thoughts on their vote. Some argue that, had there been more time between the release of Wootan's pizza-as-a-vegetable message and the vote on the appropriations rider that removed several of the new guidelines, this messaging could have shifted the vote's outcome (Confessore, 2014).

The cap-and-trade example, however, underscores **the importance of correctly timing and targeting communications and mobilization efforts**. Some analysts have concluded that the relative timing and intensity of efforts to influence public support for a cap-and-trade bill may have limited the messaging campaign's impact. Shortly after the cap-and-trade bill passed in the House, a coalition comprised of environmental, religious, veteran and labor groups formed to advocate for the passage of a cap-and-trade bill in the Senate (Loewentheil, 2013). The so-called "Green Group," formally Clean Energy Works, included several environmental groups such as the Sierra Club, League of Conservation Voters and Alliance for Climate Protection (Bartosiewicz & Miley, 2013). Clean Energy Works was overseen by an Obama campaign director, Paul Tewes, and was intended to focus media attention, ground crews, and

advertising in support of climate legislation in 28 states (Lerer, 2009a). However, analyses suggest that the bulk of the climate change activism campaigns associated with the cap-and-trade effort were focused on national media strategies rather than on engaging with local groups (Bartosiewicz & Miley, 2013). Not only was this a missed opportunity for mobilization, but the lack of focus on grassroots activism may have contributed to the bill's lack of strong public support and therefore its ability to garner bipartisan support in Congress (Bartosiewicz & Miley, 2013; Loewentheil, 2013). Relying on more visible grassroots support earlier in the cap-and-trade fight rather than on national-level strategies – more similar to the work of health care advocates who were mobilizing at about the same time – could have had a more significant impact on the legislation's success according to some analysts (Loewentheil, 2013; Skocpol, 2013).

Third, our cases illustrate **that the endorsement of an advocacy organization does not necessarily translate into an endorsement from the organization's members and that thin grassroots support can undermine legislative success.** An example of this occurred with the AARP and the Medicare Catastrophic Coverage Act. Despite having concerns over the legislation's funding structure, the AARP backed the MCCA because they viewed prescription drug coverage – which they called the “crown jewel of the program” – and the other new benefits as “far outweigh(ing) the disadvantages” of the law's financing (Himelfarb, 1995, p. 38; Oliver et al., 2004; Rovner, 1989f). For this, the group received intense criticism from the public and from other advocacy organizations for seniors. At a certain point, AARP said that it was receiving approximately 50,000 messages against the law for every 30 messages in favor of it and that they saw at least 6,000 members resign in protest (Moon, 1990; Tolchin, 1989). Like many members of Congress, AARP believed that public opposition was rooted in misinformation but, by the summer of 1989, the group encouraged Congress to “broaden” the program's financing structure (Cox, 1993; Himelfarb, 1995; Rovner, 1988b; Rovner, 1989a; Rovner, 1989d). As the country's largest advocacy organization for seniors, the group's endorsement was undoubtedly helpful to the passage of the MCCA. However, the law's subsequent repeal suggests that even the most powerful advocacy organizations may not be able to turn the tide against public opposition, and is a reminder that endorsements from membership-driven advocacy organizations do not guarantee the support of the organization's members.

Finally, **coalitions that bridge ideological divides or that bring together non-profit and for-profit entities may lend bipartisan credibility to negotiations, but – from the perspective of ideologically progressive advocates with progressive legislative goals – these coalitions can also risk pursuing a middle-ground approach that fails to excite activists while simultaneously giving industry groups a double-say in policymaking.** Unlike legislative efforts where there are clear divisions between public interest advocates or constituency-based advocates on one side and

conservative or industry groups on the other, some of our case studies involved “strange bedfellow” partnerships. We find this approach to have mixed results. On the one hand, the Coalition for Public Safety’s involvement with the FIRST STEP Act highlights the promise of a broad coalition. The Coalition for Public Safety, formed in 2015, includes a diverse assortment of groups across the political spectrum who have the shared goals of reforming money bail systems, supporting judicial discretion in sentencing, expanding prison alternatives and recidivism-reduction programming, and reforming civil-forfeiture laws, among other priorities (Ball, 2015; Coalition for Public Safety, 2020; Ford, 2015; Mayer, 2016). Members at the time included the American Conservative Union Foundation, Americans for Tax Reform, the Center for American Progress, ACLU, Cut50, NAACP, Koch Industries, Prison Fellowship, and Right on Crime. Summarizing the advantage of an “unusual allies” approach, ACLU President Anthony Romero said, “There’s always some unhappiness whenever you work with, quote-unquote, the enemy....(but) having the Koch brothers involved fundamentally changes the landscape. It gives legitimacy to this issue as a proper field of inquiry for Republican political leaders” (Ball, 2015). Divisions within the coalition arose in early 2018 when the White House began openly supporting criminal justice legislation that did not include sentencing reforms, and disagreements over the right path forward reportedly led Koch Industries to leave the coalition (Kight, 2018; Grawert & Lau, 2019; Schor, 2018b). However, the strong mutual points of agreement between the liberal and conservative advocacy organizations, bolstered by calls for a more comprehensive bill by prominent Republicans such as Sen. Chuck Grassley (R-IA), kept the remaining coalition intact and engaged. Overall, the post-passage message from many of the organizations involved with the effort was positive, although several emphasized that the bill’s name (“First Step”) was just that and highlighted the need for Congress to take further steps to reform the criminal justice system (ACLU, 2018; Vanderslice, 2018).

On the other hand, the 2009 cap-and-trade effort shows how providing industry groups with avenues for engagement in supportive coalitions alongside their involvement with industry associations can create problems. Prior to the bill’s introduction, many national, D.C.-based environmental groups believed that the passage of environmental legislation would require compromise with industry. At the same time, industry groups saw the coalition as an opportunity to reduce the uncertainty of regulatory changes arising from a change in presidential leadership and as a potential opportunity to preempt state-level action (Bartosiewicz & Miley, 2013). Seeing cap-and-trade policy as an area of common ground, some of the largest environmental groups (e.g., Environmental Defense Fund, the Natural Resource Defense Council, the Pew Center on Global Climate Change, Nature Conservancy, and the World Resources Institute) as well as about 25 industry leaders (e.g., Alcoa, BP, Caterpillar, Duke Energy, Dupont, FPL Group, GE, PG&E) formed the U.S. Climate Action Partnership (USCAP) to prompt legislative action (Loewentheil, 2013). Although Rep. Henry Waxman (D-

CA) relied on USCAP’s 2009 report, “Blueprint for Legislative Action” in developing the House bill, it became difficult to move forward because USCAP members maintained differences in priorities and disagreement over where to set industry carbon caps and how to allocate allowances (Bartosiewicz & Miley, 2013; Loewentheil, 2013).²⁷ The fact that many of USCAP’s corporate members were members of organizations that were lobbying against the legislation (e.g., American Petroleum Institute, U.S. Chamber of Commerce) also led to suspicion and discontent among other member organizations. This created mobilization challenges on the left and even led to the National Wildlife Federation leaving the coalition (Goodell, 2010). The problematic dual nature of corporate engagement in the cap-and-trade legislative effort are also discussed more in the next section.

B. Industry Groups and Coalitions

Social movement scholars and political scientists generally treat business and industry groups as distinct from social movement organizations because of the resources that business interests can harness and deploy in service to their legislative objectives and the attention they generate from lawmakers (Hacker & Pierson, 2016; Amenta & Elliott, 2019). In the cases we studied, business interest groups proved to be both valuable legislative allies and equally convincing legislative opponents, sometimes as part of the same efforts.

Three of our five case studies involved proposals that did, or would have, substantially altered requirements for big industries: health insurance providers and pharmaceutical companies in the case of the Medicare Catastrophic Coverage Act; coal, gas and other energy producers in the case of the 2009 cap-and-trade effort; and food manufacturers and agricultural interests in the case of the Healthy, Hunger-Free Kids Act. In these efforts, we found examples of industry groups using their financial resources to affect the contents of proposals as well as policymaker and public perceptions of issues. Our case studies suggest that winning approval from industry, or at least procuring a lack of opposition, can improve a proposal’s legislative prospects by making it politically and publicly safer for strong partisans to support, whereas fighting against industry makes success more challenging. An important corollary is that members of Congress who represent areas in which certain industries have an economic presence may be particularly vulnerable to pressure from these groups. Also important is that, even after legislation is enacted, industry opponents may use the regulatory process to weaken provisions of the law that hurt them.

→ INDUSTRY GROUPS AND COALITIONS

Key Roles of Industry Groups and Coalitions:

- Lobbying or not lobbying key political actors
- Financing or not financing advertising campaigns
- Pressuring specific members who represent them
- Making financial contributions that affect elections

Watch Out for Industry Groups and Coalitions:

- Playing both sides of an issue through different coalitions and membership organizations
- Engaging at the regulatory stage to influence the interpretation of legislative language

First, our case studies underscore that **industry groups often have direct or near-direct access to key political actors, which gives them immense lobbying power during legislative negotiations and even after a law’s passage.** In all three of our cases that involved industry groups, we found examples of the same industry group using this power on both sides of a legislative effort. The insurance and pharmaceutical industries were both strong opponents of the Medicare Catastrophic Coverage Act of 1988; in hindsight, the industries’ successes in shaping the MCCA led to features that made the law unpopular (Himelfarb, 1995; Moon, 1990). Interestingly, President Reagan’s initial support for Medicare expansions to cover catastrophic care costs in 1986 was met with strong opposition by insurance companies, because they viewed the plans as competing with the Medigap insurance industry (Himelfarb, 1995). However, the administration’s consideration of a private-sector alternative to Dr. Bowen’s recommendations floundered when the same industry representatives determined Medigap-focused proposals to be unprofitable – leading the president to endorse the Bowen proposal (Himelfarb, 1995). The pharmaceutical industry was also instrumental in ensuring that the MCCA did not place cost controls on prescription drug prices (Moon, 1990). During the summer of 1987, the Pharmaceutical Manufacturers Association (PMA) spent about \$3 million to oppose the inclusion of a prescription drug benefit because pharmaceutical industry leaders believed it would eventually lead to the implementation of price controls as drug prices increased (Oliver et al., 2004; Rovner, 1988a). Although the final legislation did include a prescription drug benefit, the pharmaceutical industry pressed Congress to phase in the benefit over a period of several years

rather than providing reimbursements starting in 1989 when the bill was enacted, a decision that proved disastrous in maintaining public support for the legislation (Moon, 1990; Rovner, 1988a).

Business and industry representatives also proved critical to both the development and failure of the 2009 cap-and-trade bill, in this case, by working on both sides of the effort. On the one hand, the U.S. Climate Action Partnership (USCAP), a coalition formed in 2007 to encourage governmental action related to climate change comprised of both business representatives and environmental groups, played an important role in the design of the House proposal (Loewentheil, 2013). The industry members, including major gas, electric, and other energy producers, saw cap-and-trade as an advantageous policy that could reduce the EPA's regulatory power over emissions, decrease the chance of regulatory changes between elections, and preempt state-level carbon policies by placing the cost of emissions into a national market (Bartosiewicz & Miley, 2013). The coalition's 2007 report made the case that U.S. businesses could thrive under a mandatory but flexible carbon-constraining program, and was used by House Energy and Commerce Committee chair Rep. Henry Waxman (D-CA) during the legislation's development (Loewentheil, 2013).

However, even as USCAP worked to shape the 2009 bill that passed the House, interest groups that represented several of USCAP's industry members were working to weaken or kill the bill. For example, the American Coalition for Clean Coal Electricity (ACCCE), a group that represents about 50 major coal and utility companies, spent around \$10 million lobbying members of Congress against the cap-and-trade legislative effort (Goodell, 2010). Despite the passage of the bill in the House, ACCCE was able to see several of its priorities incorporated into the legislation through their lobbying efforts and the advocacy of Rep. Rick Boucher, a Democrat representing one of Virginia's coal districts and member of the House Committee on Energy and Commerce (Goodell, 2010). These efforts contributed to an estimated \$60 billion worth of support for coal in the House bill, including exemptions for new plants, free carbon allowances and research funding (Goodell, 2010). Although both the House bill's original contours and the Senate negotiations included numerous concessions to business interests and industry groups (for example, Sens. John Kerry (D-MA), Lindsey Graham (R-SC), and Joe Lieberman (I-CT) conceded to requests by various industry groups to reduce the regulatory power of the Environmental Protection Agency, provide tax incentives for natural gas technologies, and reduce the cost variability of permits for certain emissions (a so-called "linked fee")), the U.S. Chamber of Commerce and the National Association of Manufacturers spent tens of millions of dollars on anti-climate legislation lobbying efforts between 2008 and 2010, and the linked fee quickly became known as an unpopular "gas tax" that contributed to Sen. Graham's decision to walk away from the bill (Lizza, 2010; Loewentheil, 2013).

The food industry, including groups such as the Grocery Manufacturers Association, American Frozen Food Institute, and the United Fresh Produce Association as well as companies like Schwan Food Company, similarly played on both sides, with some food industry groups lobbying on behalf of the Healthy, Hunger-Free Kids Act of 2009 and others working against it, particularly during the implementation phase. Prior to the HHFKA's passage, many food companies and the groups backing them supported a federal effort to reduce childhood obesity through changing school nutrition standards (Confessore, 2014; Meat & Poultry, 2010). By 2010, many states had nutrition standards that were more stringent than existing federal regulations required, which made industry groups that produced school foods more open to the idea of raising national standards (Schwartz & Wootan, 2019). The idea that “the laboratories of democracy were getting out of hand” may have led several food industry groups to initially support the Senate bill because they could have seen updated national standards as a cost-effective solution to the challenge of navigating diverse state requirements (Interview with Former Obama Administration Official, 2019).

In addition, the proposal created new business opportunities through its various funding increases, and the possibility of increased demand for certain products caught the attention of the Grocery Manufacturers Association and the United Fresh Produce Association, which pledged their support for “(putting) the health of America’s children first” and asserted that “this should not be a partisan issue for rancorous debate” (Confessore, 2014; U.S. Department of Agriculture, 2014). Similarly, the School Nutrition Association (SNA), an advocacy organization for school nutrition professionals (i.e., “lunch ladies”), which receives about half of its annual operating budget from sponsorship deals and membership dues from industry members, worked with First Lady Michelle Obama to advance the development of the HHFKA (Confessore, 2014; Evich, 2014). A former Obama Administration official noted that without the initial support from industry representatives, the HHFKA would not have received bipartisan support in the Senate or passed the House (Interview with Former Obama Administration Official, 2019).

However, the SNA was also instrumental in shaping the U.S. Department of Agriculture (USDA) regulations the law authorized the USDA to create and enforce, working in opposition to many health and nutrition advocacy groups following the law’s passage (Confessore, 2014). Joining with large food industry groups including the American Frozen Food Institute and National Potato Council, as well as large food businesses like Schwan Food Company (a major U.S. frozen food manufacturer), the SNA opposed restrictions placed on so-called “competitive foods” (foods sold in vending machines and a la carte in school cafeterias that often “compete” with cafeteria meals) that were finalized in 2013 (Confessore, 2014; Evich, 2014; Schwartz & Wootan, 2019). The SNA was also involved in the efforts of several Republican members of Congress to grant waivers for the implementation of certain guidelines and loosen the law’s nutrition requirements through appropriations riders (Confessore, 2014; Evich,

2014). The SNA rejected claims made by former SNA presidents and critics that industry influence within the SNA had played any significant role in their position change from lobbying in support of the legislation to opposing strong regulations. Instead, the SNA claimed that its position on the proposed regulations stemmed from concerns about food waste and school's potential for revenue loss (Evich, 2014; SNA, 2015). The group's notable shift from being a strong proponent of the law to a strong opponent is instructive, as it reveals the possibility for a gap between a group's alignment with the aspirations of a bill (feeding healthier food to kids, in this case) and its support for provisions related to the bill's implementation when regulatory requirements clash with business interests and revenue streams.

Second, industry groups have the resources to finance large-scale advertising and grassroots lobbying campaigns to influence public opinion, and in turn, to affect legislative outcomes. The case of the Medicare Catastrophic Coverage Act and the cap-and-trade effort provide the best examples of this kind of industry action. During negotiations over the MCCA the Pharmaceutical Manufacturers Association (PMA) employed various techniques to influence members of Congress and the public, relying on what Rep. Stark called "one of the sleaziest lobbying campaigns I've seen in some time" (Rovner, 1988a). In one instance, the organization sent out mailers to seniors from the so-called Physician's Committee for Quality Medical Care claiming that the House proposal would cause "senior citizen Medicare enrollees (to) be the losers" (Rovner, 1988a). After the law's passage, the PMA also supported efforts to repeal the legislation. When the Congressional Budget Office released a report in mid-1989 showing that the cost of the drug benefit would be about double the initial predictions, the PMA renewed protests and used the updated numbers in mailers to the public and members of Congress to advocate for a full repeal (Diamond, 2011; Moon, 1990).

In 2009, the energy industry also worked to influence the 2009 cap-and-trade legislation by seeking to create and stoke perceptions of citizen opposition. For example, the oil industry relied on grassroots tactics to present the semblance of grassroots opposition. As the cap-and-trade negotiations progressed in the Senate, the American Petroleum Institute (API) organized what they called "Energy Citizen" protests against carbon cap legislation in over 20 states – although, according to a memo obtained by Greenpeace, the employees of oil companies were encouraged to attend rallies to increase attendance (Grandia, 2011).

Third, industry representatives can be particularly effective at influencing the content and scope of legislation when their attention is focused on members who see certain industries as a part of their constituency. Even though the cap-and-trade bill gained broad support among Democrats in the House, it is important to note that 44 House Democrats voted against it (GovTrack, 2009). Many of these members represented districts that would have

been substantially affected by the regulations because of geographic reliance on carbon-intensive industries (Lizza, 2010). One such lawmaker, Rep. Rick Boucher (D-VA), proved instrumental in influencing the House Committee on Energy and Commerce to include various concessions for the coal industry (Goodell, 2010). A number of Democrats and moderate Republicans in the Senate from states dependent on coal production, nuclear power, and oil or gas drilling were similarly cross-pressured by industry groups and party leaders (Goodell, 2010; Samuelsohn, 2010).

Food industry groups played a similarly important role in influencing specific members during the roll-out of the Healthy, Hunger-Free Kids Act. When the USDA released its proposed regulations in 2011, the American Frozen Food Institute, National Potato Council, and Schwan Food Company swiftly mobilized in opposition to proposed changes to the new way that tomato paste was counted towards vegetable servings, limits on starchy vegetables, whole grain requirements, and lower sodium limits (Confessore, 2014; Schwartz & Wootan, 2019). The groups focused their attention on Secretary of Agriculture Tom Vilsack and on legislators who had food industry-related constituencies (Confessore, 2014). The Republican Sen. Susan Collins from the potato-producing state of Maine ultimately lobbied against restrictions on starchy vegetables, and Sen. Amy Klobuchar (D-MN), who represents the state where Schwan's headquarters is located, articulated strong opposition to the proposed guidelines related to tomatoes, potatoes, and sodium (Confessore, 2014). In part due to these lobbying efforts, Congress ultimately prevented the implementation of several of the proposed USDA regulations, including those addressing tomato paste and starchy vegetables (Confessore, 2014).

C. State and Local Government Officials and Associations

State and local officials, as well as the associations that represent states and localities, can be important actors in federal legislative efforts, particularly if the legislative proposal in question touches on issues of local governance. In some cases, state authorities may feel empowered to contribute their expertise to the development of evidence-based policies. However, when federal legislation is seen as an unfunded mandate on local and state government, officials may oppose it in an effort to protect their autonomy and the wellbeing of a law's implementers. The case studies examined in this report contain several examples of this.

→ STATE AND LOCAL GOVERNMENT OFFICIALS AND ASSOCIATIONS

Key Roles for State and Local Government Officials and Associations:

- Providing evidence of successful models and best practices

Watch Out for State and Local Government Officials and Associations:

- Opposing proposals seen as unfunded mandates
 - Opposing proposals seen as harmful to state/local implementers
-

First, two of our cases illustrate how **state and local policy innovations may be able to influence the content and design of federal policies by providing legislative blueprints for success**. For example, starting in the early 2000s, several states, including Arkansas, California, Kentucky, Mississippi, Texas and 15 others, began passing school nutrition standards that extended beyond federal nutrition guidelines (Schwartz & Wootan, 2019). In fact, Arkansas' success in changing their standards made an impression on Sen. Blanche Lincoln (D-AR), who became an outspoken advocate of efforts to implement new school nutrition guidelines at the federal level and sponsored the Healthy, Hunger-Free Kids Act (Schwartz & Wootan, 2019). Supporters and advocates of the proposed law reported that being able to draw on success stories from these states, including highlighting the personal experiences of individual constituents, was influential in swaying legislators (Schwartz & Wootan, 2019).

Similarly, state-level reforms to reduce prison populations and implement recidivism-reduction programs adopted in Texas, Georgia, and Mississippi inspired early criminal justice reform efforts and formed the basis of the FIRST STEP Act (Cornyn, 2018; Malcolm & Seibler, 2018; Nwanevu, 2018). For example, Rep. Doug Collins' (R-GA) sponsorship of the FIRST STEP Act in the House was likely motivated by the successful implementation of reforms in Georgia (Diamond & Rogers, 2018). Liberal commentator Van Jones justified his support for the moderate House bill by noting that states such as Texas had started with smaller changes before implementing larger ones (CNN, 2018). In addition, the National Governors Association (NGA) described its support for criminal justice reform legislation by highlighting the successes that had been seen in states that had implemented similar reforms (Council of State Governments, 2015; Nwanevu, 2018). On behalf of the NGA, Gov. Phil Bryant (R-MS), Gov. Steve Bullock (D-MT), and the association's CEO Scott Pattison sent members of Congress open letters endorsing the final legislation, writing in one instance that the legislation "underscores many of the key policy principles adopted by the National Governors Association" and was an opportunity to reform the federal criminal justice system by "building on reform initiatives in the states" (NGA, 2018a; 2018b).

However, **the same two case studies highlight the danger that state and local officials and associations will object to federal legislation as an unwanted or unnecessary infringement on the authorities of state and local governance.** In the case of the Healthy, Hunger-Free Kids Act, where state models helped fuel federal lawmakers' interest, opponents representing state officials made fiscal arguments against the proposal. For example, the NGA raised concerns about the role of the federal government in regulating state choices. The NGA was especially focused on one provision of the law that established minimum prices for "priced" school lunches for paying students, arguing that the mandate could "dramatically destabilize fair market pricing of school meals" (Congressional Record, 2010). Several organizations representing the interests of local governments and school districts also argued that the proposed law would increase costs for schools without providing adequate resources to offset them. Both the NGA and the American Association of School Administrators (AASA) referred to the HHFKA as a new unfunded federal mandate (Pear, 2010). During a floor speech, Sen. John Kline (R-MN) noted similar concerns from the Council of the Great City Schools, and the National School Boards Association, who argued that the law's new requirements would impose burdensome costs on state and local authorities without providing sufficient reimbursements for these costs (Kline, 2010).

Some state and local government groups were opposed to the FIRST STEP Act for similar reasons, worrying that the new mandates could be harmful to the local officials changed with implementation. Although the Fraternal Order of Police and International Association of Chiefs of Police ultimately supported the final bill, the National Sheriffs' Association (NSA), Major Cities Chiefs Association (MCCA), and Major County Sheriffs of America (MCSA) opposed the legislation (Diamond & Rogers, 2018; Lehman, 2018; Mark, 2018). In letters sent to Jared Kushner and Senate leadership, the groups argued that the FIRST STEP Act as written would put the lives of sheriffs and police officers at risk (MCCA/MCSA, 2018; NSA, 2018). Because the significant changes that they demanded were not added to the final bill, they continued to oppose it through passage.

D. Researchers and Research Organizations

Researchers who work in federal agencies, academia, and think tanks can be important actors in the legislative process. Our case studies show that they not only provide specialized expertise that can influence the formulation and implementation of effective policy, but they can also shape the political discourse surrounding an issue or proposal. However, our cases also provide a caution that research can be misrepresented for political gain and used in ways that equate ideological beliefs with scientific findings.

→ RESEARCHERS AND RESEARCH ORGANIZATIONS

Key Roles of Researchers and Research Organizations:

- Contributing knowledge and expertise to inform proposal and compromises
- Shaping political discourse around issue and proposal

Watch Out for Researchers and Research Organizations:

- Being misused or misrepresented by advocates or other policy-shaping actors for political purposes
-

First, **researchers and research organizations can play an active role in informing the content of policy.** For example, academic research influenced the development of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (Leadership Act) of 2003. Congress leaned on the expertise of Dr. Edward Green from the Harvard Center for Population and Development Studies, an anthropologist by training who had years of experience working on the design and evaluation of numerous public health projects in Africa in designing the funding allocation. In May of 2003, Dr. Green testified before the U.S. Senate Committee on Foreign Relations African Subcommittee, expressing support for PEPFAR and a legislative commitment to fighting HIV/AIDS globally (Green, 2003). He notably voiced support for the idea of modeling federal legislation after Uganda’s “ABC” (Abstinence, Be faithful, use Condoms) campaign against HIV/AIDS, attributing reductions in infection rates in Uganda to their program’s focus on fidelity and monogamy (Green, 2003). He said, “Many of us in the AIDS and public health communities didn’t believe that abstinence and faithfulness were realistic goals. It now seems we were wrong” (Green, 2003). Dr. Green’s testimony and position was cited in conservative news and research outlets, bolstering the view of many Republican lawmakers that the ABC approach would be an appropriate model for U.S. aid efforts (Boonstra, 2003).

Additionally, the compromise bill that became the FIRST STEP Act of 2018 incorporated many of the recommendations of the Charles Colson Task Force, a bipartisan, blue ribbon task force of nine individuals established by Congress in 2014 to investigate the primary causes and implications of the increasing size of

the federal prison population (CCTF, 2016). Task force members included legislators, representatives of advocacy organizations, law enforcement professionals, and academics, and they received research assistance from the Urban Institute and the Center for Effective Public Policy (CCTF, 2016). The report, published in 2016, attributed a significant portion of the dramatic increase in incarceration that disproportionately affects communities of color to mandatory minimum sentences for drug and firearm charge convictions and limitations on early-release opportunities. Their policy recommendations included imposing restrictions on the use of mandatory minimum sentences, developing risk and needs assessment tools to foster rehabilitation, and incentivizing participation in recidivism-reduction programming; these recommendations became crucial components of the final law (CCTF, 2016; Samuels et al., 2019).

In the case of the Medicare Catastrophic Coverage Act, research from government agencies hindered the legislation's rollout, hurt public perception of the law, and constrained political paths forward. Several months after the law's implementation, the Congressional Budget Office (CBO) released updated cost projections estimating that certain benefits were likely to cost substantially more than previously thought, including the policy's expansion of coverage for skilled nursing facility care and the prescription drug benefit (Moon, 1990). The timing of the release of CBO's updated analyses "proved disastrous," in the words of the Urban Institute's Marilyn Moon (Moon, 1990). Without a feasible way to reduce or eliminate the unpopular supplemental premium, congressional momentum continued to build for dropping the new drug benefit and ultimately set the stage for the law's full repeal (Moon, 1990; Rovner, 1989f).

Second, **research may help to structure debate in the public sphere over certain issues and policy proposals, most especially related to the costs and benefits of legislation.** The case of the 2009 cap-and-trade effort and the 2010 Healthy, Hunger-Free Kids Act present two examples of the ways in which research studies affect the policy process. Cost was a major sticking point for the 2009 House cap-and-trade bill, and researchers played a role in shaping this aspect of the proposal's narrative. The program's flexibility and complexity led to a battle of cost estimates as the Environmental Protection Agency (EPA), CBO, Heritage Foundation, and Republican National Committee reported very different estimates of potential increases in household costs under the law (Gore, 2009). While an EPA analysis found that the law would only have a small impact on most Americans (taking into account provisions that returned revenue to consumers), a report from the Heritage Foundation suggested that the bill would reduce employment and substantially increase consumer prices in the form of higher electric bills, gas prices and consumer goods (Gore, 2009; Beach et al., 2009). Many of the constituents who contacted their members of Congress about the House bill cited the Heritage and RNC estimates, and the estimates used by the RNC were widely reported by various media outlets to support the framing of the legislation as a tax (Goodell, 2010; Gore, 2009).

In another example, research promoted by members of the defense community lent support to school nutrition efforts and the Healthy, Hunger-Free Kids Act. An organization comprised of retired military and civilian military leaders called Mission: Readiness, which is part of the national advocacy group, Council for A Stronger America, signed an open letter and published the report, “*Too Fat to Fight: Retired Military Leaders Want Junk Food Out of America’s Schools*,” using CDC data to highlight the ways in which increasing obesity rates among children and young adults would negatively affect American national security (Confessore, 2014). Their report argued that congressional action was necessary to remove junk food from schools, improve nutritional standards, and encourage healthy programming to protect children’s wellbeing and support the country’s combat abilities (Mission: Readiness Military Leaders for Kids, 2010). Several advocates agree that this report and the related advocacy of retired generals and admirals was helpful in obtaining bipartisan support for the bill (Schwartz & Wootan, 2019). This community brought a fresh perspective to the conversation and helped to contextualize the cost of the proposal over an extended time horizon.

Lastly, however, our case studies illustrate that **research may be politicized and misused to support political actors’ ideological arguments**. Cost estimates can be misconstrued or taken out of context to support a policy preference. For example, when the Treasury Department reported in early 1989 that it had collected a larger sum than anticipated through the Medicare Catastrophic Coverage Act’s supplemental premiums, critics utilized this information to feed the narrative that the law had been intended to reduce the deficit on the backs of senior citizens (Moon, 1990). The fact that initial collections of the premiums had substantially exceeded the target amount made it easy for the law’s opponents and even those who had previously supported the legislation to propose reductions in the supplemental premiums (Moon, 1990; Rovner, 1989b).

Estimates of the cost of the cap-and-trade bills in the House were also politicized, in some cases in a misleading fashion. For example, the Republican National Committee (RNC) estimate (mentioned above) was a misrepresentation of the findings of a MIT study, which they used to back up their claim that the House cap-and-trade bill would be a “massive national energy tax” that would cost households over \$3,000 annually (Gore, 2009). In response to the use of their data by the RNC, one of the study’s authors actually sent an open letter to House Majority Leader Rep. John Boehner (R-OH) clarifying the correct number and attempting to explain why the estimate used by the RNC was inappropriate for the claims that they were making (Reilly, 2009).

E. Influencers Outside of Government

Just as there can be influencers within government who mobilize engagement among government actors, media personalities and celebrities outside of

government can also shape legislative outcomes by bringing attention to an issue. Depending on the issue and the status of the legislation, however, securing their involvement may not always be the most cost-effective use of resources.

→ INFLUENCERS OUTSIDE OF GOVERNMENT

Key Roles for Influencers Outside of Government:

- Drawing public's attention to issue
- Drawing president's attention to issue

Watch Out For Influencers Outside of Government:

- Draining resources from other campaign needs
-

Our case studies include **several examples of outside influencers who were able to draw attention to an issue and mobilize support among political actors who wished to be affiliated with their star power**. Bono, the lead singer of U2 and founder of the ONE organization to combat poverty and HIV/AIDS in Africa is illustrative of this point (ONE, 2020). According to an advocate who is familiar with the effort, the ONE Campaign was a central force in motivating President George W. Bush's interest in pursuing a global response to HIV/AIDS and the development of PEPFAR, in part because of the coalition's ability to bring together more left-leaning human development organizations such as Oxfam and more conservative organizations such as Bread for the World and the Catholic Relief Services (Interview with Advocate, 2020). In 2002, Bono met with President Bush at the White House specifically to discuss the scale of the HIV/AIDS crisis (Saraceno, 2002). President Bush's own actions suggest that he appreciated Bono's engagement and saw the rock star's involvement as being helpful to the passage of the Leadership Act. In 2018, President Bush awarded Bono the George W. Bush Medal for Distinguished Leadership for his work on HIV/AIDS and remarked, "the truth of the matter is, (PEPFAR) never would have made it out of Congress had you not been engaged" (Kreps, 2018).

Celebrities also appear to have played an important role in activating presidential engagement and drawing public attention during negotiations over the FIRST

STEP Act. Jared Kushner organized meetings for the president with multiple celebrities, including media personality Kim Kardashian, rapper Kanye West, and former NFL player Jim Brown (Karni, 2018). After a meeting with Kardashian in which she spoke with him about Alice Marie Johnson, a woman who had been sentenced to life in prison for a first-time nonviolent drug offense, President Trump decided to commute Johnson's sentence (Diamond & Collins, 2018). These meetings served to reassure the president about his legacy and brought public attention to the bill (Diamond & Rogers, 2018; Karni, 2018). Van Jones, a liberal political commentator and former Obama administration official, also engaged with President Trump on the issue and – unlike many progressives – was supportive of the early House bill even though it did not include sentencing reform (CNN, 2018; Diamond & Rogers, 2018; Jones, 2020). Jones visited the White House on several occasions, at one point speaking at a White House prison reform event alongside Jared Kushner and former Governor of Texas Rick Perry (Diamond & Rogers, 2018). Jones' engagement with the Trump administration and his media advocacy appeared to be helpful in building an early bipartisan coalition of support around the issue of prison reform, even as it created controversy within the criminal justice advocacy community.

However, the involvement of celebrities is not a necessary ingredient for legislative success. Entertainers, including actors Scarlett Johansson, Andrea Bowen, Deidre Hall and Chevy Chase, and celebrity chefs Tom Colicchio and Rachel Ray contributed to advocacy efforts for the Healthy, Hunger-Free Kids Act (Schwartz & Wootan, 2019). However, it is not as clear as in other cases the extent to which their engagement helped build coalition support or public engagement. A former administration official suggests that, in some cases, the time and energy spent securing celebrity endorsers could potentially be better spent elsewhere when resources and time are limited (Interview with Former Obama Administration Official, 2019).

3. Political and Policy Context

The previous two sections explain the many ways in which key political actors inside and outside of government can play a role in the development, promotion and passage of legislation. This section explores how political and policy dynamics can affect the ability of individuals and organizations to move large-scale legislative efforts through Congress successfully.

Although the context surrounding each of our case studies is unique to the period in which the legislation was considered and to the specific policies themselves, analyses of these legislative efforts reveal broad patterns in certain aspects of the political and policy process that were particularly helpful (or detrimental) to a bill's passage. In this section, we describe factors including the timing and impact of legislative and electoral cycles; the strategic consideration of legislative pathways; issues related to legislative scope and strategic compromises; the

influence of budget politics; and the effects of policy momentum. The following discussion summarizes each of these common themes and describes the ways in which these factors influenced the legislative success or failure of various proposals.

A. Legislative Timing and Electoral Politics

It is unsurprising that the timing of a bill's introduction during the legislative and electoral calendar can influence its development and consideration. Particularly as polarization in Congress has increased, periods of divided government are often characterized by legislative gridlock (Barber & McCarty, 2016; Binder, 2014; but see Mayhew, 2005). As a result, an impending change in the political environment – for example, the transition to a new Congress with a shift in party control – can affect political negotiations, compromises that key actors are willing to make, and political openings for new demands. We also find that the timing of recesses can put pressure on members of Congress to act, as can the dynamics of their electoral races just prior to elections. Although it can be helpful for a bill to be placed on the legislative agenda earlier in the year rather than later, our case studies suggest that early introduction is not necessary for legislative success.

First, **our case studies illustrate how the beginning or end of a Congress can force legislative action, especially when there is a recent or impending shift in partisan dynamics.** Election results and a shift in political power were powerful action-forcing events for legislative votes in three of our case studies: the MCCA, HHFKA and FIRST STEP Act. In our earliest case study, Democrats' victories in the 1986 midterm elections, which led to a shift in party control in the Senate, left President Reagan at a strategic disadvantage and opened the door to the consideration of a broader version of the Medicare Catastrophic Coverage Act than the president and some of his conservative advisors would have preferred (Himelfarb, 1995; Pear, 1987). By early 1987, Congress threatened to move forward without the president's involvement unless the administration released a proposal – at a minimum, the Bowen Plan. Originating out of the study ordered by the president during his 1986 State of the Union address, the plan released by Secretary of Health and Human Services Dr. Otis Bowen was seen as a “simple, budget-neutral, limited expansion of Medicare” (Himelfarb, 1995). The shift in congressional dynamics that emboldened Democrats to exert pressure on President Reagan, along with a lack of viable alternative proposals from Republicans, led the president to endorse the Bowen Report's proposals for catastrophic coverage for acute care (Himelfarb, 1995).

Of the five legislative efforts included in this report that passed, two – the Healthy, Hunger-Free Kids Act and the FIRST STEP Act – passed shortly before the end of a Congress where the president would soon lose governing help from their party in Congress. Some advocates specifically attributed the passage of the HHFKA to the looming shift from Democratic control of both chambers of

Congress and the executive branch in the 111th Congress to a Republican majority in the House in the 112th (Schwartz & Wootan, 2019). This time pressure led Democrats and progressive advocacy groups to accept compromises related to cost offsets that they had initially opposed (Schwartz & Wootan, 2019). The same considerations were at play among FIRST STEP Act supporters at the end of the 115th Congress, where supporters were concerned that the incoming Democratic House majority would press for a more liberal criminal justice reform bill that Trump and many Republicans would not support (Karni, 2018). Once he had been convinced by the White House to bring the FIRST STEP Act to the floor with less than a month to go before the end of the congressional session, Majority Leader McConnell chose to use a legislative vehicle that had already partially progressed through Congress to minimize the risk that the bill would be stalled by procedural pitfalls and could be passed before the end of the session (Grawert & Lau, 2019).

Second, our cases show how **the timing of recesses and holidays can accelerate the legislative process in ways that can be helpful – or harmful – to a proposal’s legislative prospects.** The Medicare Catastrophic Coverage Act, the Medicare Catastrophic Coverage Repeal Act, and the demise of cap-and-trade legislation in the Senate provide good examples. In fact, one factor that contributed to the repeal of the Medicare Catastrophic Coverage Act was the intense and vocal opposition from seniors that many members encountered during the 1989 August recess (Moon, 1990; Rovner, 1989i). The staff of Rep. Mike Synar (D-OK) went so far as to call his town hall meetings during this time “the catastrophic tour” (Rovner, 1989i). Sen. Bob Packwood (R-OR) said, “when we passed this a year ago, we all thought we had done a nice thing...you almost have a sense today when you go home on this issue of being unwanted and unloved and unappreciated” (Rovner, 1989i). Perhaps the most memorable and public conflict occurred in Illinois at a town hall held by House Ways and Means Committee chair Rep. Rostenkowski (D-IL). Older constituents booed and chased Rep. Rostenkowski down after the meeting, preventing him from leaving in his car as they shouted “coward!” and “recall!” (Recktenwald, 1989; Rovner, 1989i). Although there were splits in both chambers and parties about whether to pursue a full or partial repeal, the Senate ultimately accepted the full repeal bill from the House as the December holiday recess approached (Rovner, 1989l).

The Medicare Catastrophic Coverage Act itself had been signed into law in July before the August recess, and the House cap-and-trade bill was also passed at the end of June. As environmental organizations pressed for the Senate to act on its version of the cap-and-trade bill, the upcoming summer recess forced Democratic leadership to decide between prioritizing health care and climate change legislation (Bartosiewicz & Miley, 2013). Although they had hoped to complete health care reform in the Senate prior to the recess and to then take up cap-and-trade legislation after the break, this never came to pass; the health care debate stretched through the fall and left less bandwidth and time for cap-and-trade (Bartosiewicz & Miley, 2013).

Third, **the case studies provide several examples of the ways in which electoral motivations may drive key actors' decisions to support or oppose a piece of legislation, particularly before competitive elections.**

The cap-and-trade and FIRST STEP Act cases illustrate this point well. Cap-and-trade, in particular, suffered from two specific senators' concerns about electoral consequences and an electoral map where energy-rich states were in play. Some have argued that Sen. John McCain's (R-AZ) reelection concerns in the competitive 2010 Senate primary election against radio personality and former U.S. Representative J.D. Hayworth contributed to his decision to oppose the cap-and-trade legislative effort (Lizza, 2010; but see Skocpol, 2013, who claims the shift in Sen. McCain's views about this issue happened earlier, in preparation for his presidential bid). Despite having supported several climate change initiatives during the early 2000s, Sen. McCain ultimately took an active stance against the House and Senate efforts, calling H.R. 2454 "the worst example of legislation I've seen in a long time" after it passed the House (Goodell, 2010). Shortly after Sens. John Kerry (D-MA), Lindsey Graham (R-SC), and Joe Lieberman (I-CT) began working together on a compromise bill, Sen. McCain told *Politico* that "they're going nowhere" and began publicly calling the bill "cap-and-tax" legislation (Lerer, 2009b). Likewise, Majority Leader Sen. Harry Reid's (D-NV) announcement that he wanted the chamber to prioritize immigration reform over climate legislation shortly before the planned release of Sens. Kerry, Graham, and Lieberman's cap-and-trade plan may have been related to Sen. Reid's own upcoming reelection against Tea Party candidate Sharron Angle in the 2010 general election and related concerns over "cap and tax" messaging (Lizza, 2010).

The cap-and-trade efforts in both chambers ran up against the electoral concerns of other members, too. Because natural resources in the United States are unequally distributed across states and regions, the presence of pockets of industry in certain areas makes it politically difficult for some members of Congress to support certain kinds of environmental legislation – particularly in the Senate where the states are equally represented (Lizza, 2010; Loewentheil, 2013). The cap-and-trade bill negotiations illustrate the sometimes-conflicting partisan and electoral pressures for members who represent areas that rely on coal production, nuclear power, trade-sensitive industries, and oil or gas drilling (Samuelsohn, 2010).

Conversely, several analyses of the FIRST STEP Act of 2018 suggest that shifting electoral concerns created more favorable conditions for the bill's consideration in 2018 compared to criminal justice reform efforts in 2016. Majority Leader Sen. Mitch McConnell had not been willing to bring a 2016 bill to the floor for a vote due to fear that it would have split the Republican caucus close to a presidential election and could have hurt the party's "tough-on-crime" brand (George, 2017; Schor, 2018a). However, fewer vulnerable Republican senators were up for reelection in 2018, making Sen. McConnell's concerns about splitting the caucus less critical – especially following pressure from President Trump and members

of his own party to bring the bill to the floor. It is noteworthy that McConnell ultimately agreed to bring the bill to the floor during the lame duck session, which mitigated any electoral concerns that could have arisen for members of his caucus.

Finally, **our cases show that presidential attention and the early introduction of a bill can be helpful in establishing a bill as a priority and in giving Congress time to negotiate and reach compromises, but a rush to introduce early does not appear essential to legislative success.** A common theme across our case studies is presidential mention of an issue during a State of the Union address, which can signal that a proposal is a legislative priority and prompt legislative action earlier in a congressional term. For example, President Reagan directed the Secretary of Health and Human Services Dr. Otis Bowen to conduct a study of catastrophic health care costs to inform the development of a policy in his 1986 address, while President George W. Bush announced the creation of the President's Emergency Plan For AIDS Relief (PEPFAR) during his 2003 address. President Trump also mentioned prison reform, but not sentencing reform, in his 2018 address (Trump, 2018a). Analyses of each of these cases suggest that early presidential attention was influential in pushing Congress to act (Himelfarb, 1995; Boonstra, 2003; Everett & Schor, 2018). However, and contrary to the common wisdom that bills must be introduced at the beginning of the year in order to succeed, two of the four successful legislative efforts included in this report were introduced in May and the Medicare Catastrophic Coverage Repeal Act was introduced in November (the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act was introduced early in the year, in March).

B. Strategic Legislative Pathways

Bill advocates are well-served to work with congressional leadership to map out strategic options for legislative pathways in each chamber. Our cases highlight the opportunities and risks associated with utilizing various procedural rules such as unanimous consent and using unrelated bills as legislative vehicles.

First, two cases provide examples of **supporters utilizing the committee process and committee gatekeeping powers to place a bill in a strategically advantageous position - although this proved more successful in one case than in the other.** On the one hand, the Senate Judiciary Committee's involvement with negotiations over the FIRST STEP Act successfully expanded the scope of the bill and laid the groundwork for the bill's bipartisan passage. In this case, pressure to make the bill more comprehensive than the House's version came from both Republicans and Democrats on the Judiciary committee. The chair and ranking members, Sen. Chuck Grassley (R-IA) and Sen. Dick Durbin (D-IL), used their committee's gatekeeper powers to threaten to reject any proposal that did not include sentencing reform, even as the more limited prison reform bill gained momentum in the House (Carney,

2018; Dolven, 2018; Grassley & Durbin, 2018a). The bipartisan negotiation efforts of Senate Judiciary Committee leadership and members were critical in negotiating a November 2018 bipartisan compromise (Restuccia et al., 2018).

While the FIRST STEP Act illustrates how the committee process can provide productive opportunities for negotiations and compromise, the case of the Medicare Catastrophic Coverage Act shows that committee ownership over a proposal, rather than a sense of ownership by individual members or committee chairs, can reduce accountability and undermine support later in the legislative process. According to one analysis of the passage of the MCCA and its subsequent repeal, a reliance on the committee process proved detrimental to the law's development (Moon, 1990). Over the course of extended bipartisan committee negotiations in the House Ways and Means Committee and in the House Energy and Commerce Committee, the funding mechanism (initially an income-tax-based premium) was eventually turned into a two-part premium increase; new benefits, including a prescription drug benefit, were added to obtain the support of key progressive Democrats (Moon, 1990; Rovner, 1987d). These complex committee negotiations arguably left members of each committee of jurisdiction less satisfied with the final bill, and thus less invested in its success – setting the stage for the development and passage of a repeal law less than a year and a half later (Moon, 1990).

Second, several of our case studies underscore the importance of **developing effective strategies for gaining support in each chamber, particularly in the Senate where a filibuster threat often necessitates more creativity and nuance**. In some instances, chamber leaders and the president may need to step in to ensure productive compromise within their own party. After President George W. Bush announced PEPFAR during his 2003 State of the Union address, both the House and the Senate got to work on bills to authorize funding for the initiative (Anglin, 2007). The House bill, which came out of discussions between the House Committee on International Relations and the White House, passed their bill more quickly than the Senate could pass theirs (Sorrells, 2003b). President Bush and Majority Leader Sen. Bill Frist (R-TN) ultimately pushed Sen. Richard Lugar (R-IN), the chairman of the Senate Foreign Relations Committee, to pass the House version rather than pursuing the Senate's version of the bill or putting the bill through conference (Sorrells, 2003b). Pressure to move the bill to the president as quickly as possible contributed to Republicans uniting behind the House proposal and Democrats' eventual support for it (Sorrells, 2003b, 2003c).

Similarly, President Obama intervened to prevent the Healthy, Hunger-Free Kids Act from falling short in the House, where – as previously described – Democratic members were concerned about offsets in the Senate bill that effectively reduced Supplemental Nutrition Assistance Program (SNAP) funding (CRS, 2012a; Haberkorn et al., 2010). While such offsets had been accepted as necessary compromises by the White House and the bill had passed through unanimous

consent in the Senate, pushback in the House related to the proposed SNAP cuts was unexpectedly intense. President Obama’s pledge to seek out opportunities for replacing the reduced SNAP funding helped to assuage some concerns and opened a pathway to passage (Haberhorn et al., 2010; Interview with Former Obama Administration Official, 2019; Paulson, 2010; Phillip, 2010).

The anti-majoritarian nature of representation in the Senate and increasing use of the filibuster can make it particularly important to consider strategies for ensuring a bill’s passage through this chamber (Klein, 2012; Loewentheil, 2013). Particularly given the population concentration of urban centers in liberal states, advocates of more progressive legislation must be mindful of the relative underrepresentation of these constituencies in the Senate. For example, one analysis of the failed cap-and-trade effort points out that over a quarter of the votes for the House bill came from representatives from just New York and California (Loewentheil, 2013). The bill’s passage in that chamber with only a slight majority therefore did not bode well for its companion bill’s passage in the Senate, where it ultimately died. According to Chris Miller, a senior policy adviser to Senate Majority Leader Harry Reid, “the enviros didn’t have a Senate strategy,” and the lack of preparation for the transition to the chamber played a role in the bill’s failure (Bartosiewicz & Miley, 2013).

Finally, **our cases show the utility of using expedited procedural options to hasten the passage of legislation – but this requires substantial pre-work and communications within and across chambers.** Senate votes on the Leadership Act in 2003 and the Healthy, Hunger-Free Kids Act in 2010 each employed unanimous consent, a strategy utilized in the Senate to expedite the legislative process (Oleszek, 2008). It is important to note that unanimous consent requires substantial choreography – a single senator can derail this strategy. Another option to avoid anticipated procedural delays involves bypassing the traditional committee process by looking for shortcuts to get the bill to the floor of the chamber. For example, the FIRST STEP Act was able to go straight to the floor and bypass procedural hurdles that could have been imposed by Sen. Tom Cotton (R-AR) and other Republicans who were opposed to the proposal through the use of a separate legislative vehicle. Sen. McConnell specifically placed the contents of the compromise bill for the FIRST STEP Act as an amendment to a bill that had already been passed by unanimous consent in the Senate the year before (Blunt, 2018; Grawert & Lau, 2019). This decision made it possible to pass the legislation before the end of the congressional session (Grawert & Lau, 2019).

C. Legislative Scope, the Piling-On Effect, and Strategic Compromises

Legislative efforts are often shaped by the policy environment in which they are developed and the policies that have come before (King et al., 2007). They are also the product of deal-making, where lawmakers seek to strategically address issues that will garner them new support. Several of our cases show legislators’

tendency to attempt to broaden or update policies when an issue has not been addressed through legislation in many years, or in an effort to appeal to a broader base of support, which can fuel enthusiasm and prompt bipartisan ownership over a comprehensive legislative proposal. However, expanding a bill's scope can also risk creating an overly complex bill that lacks vocal champions.

First, three of the cases examined for this report illustrate the **trade-offs between incrementalism meant to more easily secure bipartisan support and more expansive policy choices that bolster partisan intensity among lawmakers but have a higher risk of failure**. The Medicare Catastrophic Coverage Act is an example of this tension between bipartisan incremental goals and the desire of partisans to seize an opportunity to achieve broader policy goals. Although President Reagan's initial proposal for Medicare reform was relatively moderate, his interest in the issue presented Democrats with an unexpected opportunity to secure more expansive changes, especially after the 1986 mid-term elections. This piling-on effect, and the MCCA's swift repeal, offer lessons on the potential consequences of adding multiple substantive provisions to an initially moderate proposal; the addition of more costly, substantive provisions made funding options for the bill complicated and opened the door to opponents' repeal efforts, as discussed below. A lobbyist at AARP who worked on the legislation reflected that the MCCA "became the vehicle for the deferred agenda in health care" (McArdle, 2009). As a result of the lack of legislative activity on health care policy, members of Congress (particularly Democrats) were keen to make the MCCA more comprehensive than the original proposal that had been put forward by the Reagan Administration (Himelfarb, 1995; Milius, 1988). For example, both Rep. Claude Pepper (D-FL) and Rep. Henry Waxman (D-CA) were intent on the inclusion of coverage for long-term care costs (McArdle, 2009). To keep these members on board without adding an expensive long-term care provision, House leaders added the prescription drug benefit as well as several other benefits (McArdle, 2009). However, these additions weakened the caucus' unity on the bill. The resulting complexity of the legislation made it difficult for the law's core beneficiaries to understand how the law benefited them and offered little protection against repeal efforts (Cox, 1993; McArdle, 2009; Moon, 1990; Rich, 1989).

Conversely, the 2009 cap-and-trade effort started from a place of bipartisan compromise and became weaker throughout the negotiation process, only to die in the Senate. At the time, cap-and-trade was thought to be the most feasible way to pass climate change legislation because it had been considered a Republican-led approach to reducing carbon emissions (Broder, 2010a). Sen. John McCain (R-AZ) had sponsored cap-and-trade proposals in prior years, and Sen. John Kerry (D-MA) was able to build an alliance with Sen. Lindsey Graham (R-SC) and Sen. Joe Lieberman (I-CT) to draft a Senate alternative to the bill that passed the House (Goodell, 2010; Lerer, 2009b). However, in spite of the significant compromises made by Democrats on the House Energy and Commerce Committee and efforts made by the bipartisan team of senators to design a

conservative-friendly cap-and-trade bill that would meet both industry needs and long-term carbon-reduction goals, the proposals in each chamber failed to garner any significant Republican support and failed to pass the Senate even though the Democrats held the majority (Bartosiewicz & Miley, 2013; Lizza, 2010; Samuelsohn, 2010). The fate of the 2009 cap-and-trade bill shows that compromise does not necessarily translate into meaningful bipartisan momentum.

Similarly, the FIRST STEP Act shows that the more incremental path may also prove unnecessary and even generate opposition. In this case, progressive advocates of the prison reform proposal that was first introduced in the House were concerned that any attempt to drastically expand the scope of the legislation (i.e., by adding sentencing reform) would produce a bill unlikely to garner bipartisan support. Although effective in gaining early support from several prominent Republicans, this approach led some Democrats to compromise against themselves. Rep. Hakeem Jeffries (D-NY), an outspoken advocate for criminal justice reform and co-sponsor of the House bill with Rep. Doug Collins (R-GA), viewed the idea of including sentencing reform in the legislation as politically untenable – but a number of Democrats and progressive organizations disagreed (Berman, 2018). Several Democrats including Sen. Dick Durbin (D-IL), Sen. Cory Booker (D-NJ), Sen. Kamala Harris (D-CA), Rep. Sheila Jackson Lee (D-TX), and Rep. John Lewis (D-GA) sent a letter to their colleagues asking them to oppose the House bill largely due to its omission of sentencing reform (Berman, 2018; Lopez, 2018). The Leadership Conference on Civil and Human Rights also joined with about 100 other civil rights organizations including the ACLU, NAACP, and Brennan Center to send a letter to members asking them to oppose the bill (LCCHR, 2018). Although Rep. Jeffries’ concerns about the political environment carried the original prison reform bill through passage in the House, the bill was seen as too incremental by several prominent Democrats and Republicans in the Senate. Sens. Chuck Grassley (R-IA) and Dick Durbin (D-IL) saw the FIRST STEP Act as their best opportunity to see comprehensive legislation passed through Congress after years of unsuccessful attempts to do so, and made the inclusion of sentencing provisions a condition for their support (Carney, 2018; Dolven, 2018; Everett & Schor, 2018). In the end, bipartisan negotiations led by Sen. Grassley resulted in a combined prison and sentencing reform bill that garnered support from many individuals and groups on both sides of the aisle (Autrey, 2018a; Grawert & Lau, 2019; Lee, 2018; Restuccia et al., 2018; Rice-Minus, 2018).

Second, both the Medicare Catastrophic Coverage Act and the Leadership Act provide examples of **the complexities of the negotiation process and the importance of being both realistic and strategic with bargained compromises**. In the case of the Medicare Catastrophic Coverage Act, the compromises made by legislators also led to the law’s undoing. While President Reagan and many Republicans in Congress wanted the MCCA to be self-financing, Democrats in Congress wanted the financing system to be progressive

(Aaron et al., 2008; Diamond, 2011). The process of finding common ground between these two perspectives led to a legislative design that relied on a new monthly premium on Medicare Part B coverage as well as an income-based supplemental premium to fund the estimated increase in programmatic costs (CBO, 1988). However, the increased premiums were higher than what many non-poor enrollees who already had existing private Medigap insurance coverage were expected to receive in new benefits, and about half of individuals above the poverty line were estimated to pay more for health care as a result of the law (Christensen & Kasten, 1988; Rice et al., 1990). In contrast, the law was estimated to reduce out-of-pocket costs for lower-income enrollees, particularly for those without Medigap plans (Moon, 1990). The law's complex and progressive funding structure played a substantial role in the public outcry that eventually led to the law's repeal (Aaron et al., 2008; Himelfarb, 1995).

Conversely, concessions made by both political parties during negotiations over the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 strengthened the bill's bipartisan base of support and made way for its passage. Here, access to abortion care, abstinence education and investment in U.S.-based versus global organizations were key issues during negotiations. On the Republican side, conservative lawmakers eventually dropped their demand for the inclusion of a global gag rule that would have made organizations that perform abortion care ineligible for PEPFAR funds, despite pressure from some faith-based organizations (FBOs) and advocacy groups like the National Right to Life Committee to include such a provision (Anglin, 2007; Boonstra, 2003). Ultimately, the National Right to Life Committee agreed to accept legislation that allowed funds to go to abortion-providing organizations but restricted them from using PEPFAR funds for abortion services; this compromise was reached after a diverse group of 130 organizations sent a letter to President Bush expressing fear that a complete restriction on funds for abortion-providing organizations would doom the bill's prospects of gaining support from Democrats (Anglin, 2007; Boonstra, 2003).

Democrats, as the minority party in Congress at the time the Leadership Act passed, were forced to make relatively greater concessions. Although they, along with many HIV/AIDS activists and organizations such as the Global AIDS Alliance, largely preferred a multilateral approach that spread programmatic leadership and oversight over several countries, Republicans preferred a U.S.-led effort. In the end, the unilateral approach proposed by the White House and championed by many Republicans largely prevailed, and Democrats ultimately accepted a bill that authorized only "up to" one billion dollars in funding for the Global Fund to Fight HIV/AIDS (Anglin, 2007; Boonstra, 2003; Sorrells, 2003a, 2003b), which most knew would be appropriated at much lower levels. The bill also sustained Democratic support despite the addition of the Pitts and Smith Amendments, which required one-third of prevention funding to go towards abstinence programs, and added a conscience clause that prevented FBOs from being forced to provide programming to which they had religious objections,

respectively (Anglin, 2007; Loconte, 2003a; Sorrells, 2003a). Seeing the amendments as “toned down” versions of the original proposals, Democrats likely decided that they weren’t in a position to let “the perfect be the enemy of the good” (Sorrells, 2003a, 2003b).

D. Budget and Appropriations Politics

Our cases also show several ways in which budgetary constraints and appropriations politics affect the development, consideration, and passage of legislative proposals. The desire to keep the perceived cost of an initiative low may impact a proposal’s legislative design and success. Updated estimates of a law’s costs can also affect its implementation and survival. Finally, the budget and appropriations processes can provide both opportunities for and barriers to legislative success.

First, **key political actors often feel pressure to shape legislation around budgetary constraints to keep the perceived costs as low as possible, but doing so can have financial implications for the public that affect a proposal’s long-term success, often due to the public’s inability to see a direct benefit to them.** Among our cases, Medicare catastrophic coverage, its repeal, and cap-and-trade best illustrate this point. One condition for President Reagan’s support for the Medicare Catastrophic Coverage Act of 1988 was that any new benefits be funded by beneficiaries, rather than any number of other options to increase taxes, including increased alcohol and cigarette taxes or payroll tax base expansions (Himelfarb, 1995; Moon, 1990; McArdle, 2009). Therefore, as Democrats in the House began adding additional benefit provisions to the bill, they also increased programmatic fees with taxes that disproportionately fell on higher-income people (CBO, 1988; Morreale, 1991). Many seniors came to view the supplemental premiums as a tax, and advocacy groups that supported the law’s repeal were able to capitalize on the fact that seniors with higher incomes who were paying more in taxes were not necessarily seeing additional new benefits beyond those provided by their supplemental private Medigap plans. Supporters of the MCCA also underestimated seniors’ satisfaction with their supplemental insurance plans (Rice et al., 1990). This dynamic helped catalyze public opposition to the law (Cox, 1993; Moon, 1990; Tolchin, 1989). When the Congressional Budget Office released new estimates mid-way through 1989 that the law would cost more than anticipated, members of Congress felt pressure to reduce the law’s benefits and to modify the financing scheme (Moon, 1990; Rovner, 1989c; 1989f). Proposals to repeal only select portions of the MCCA eventually gave way to broad support for a full repeal as public opposition to the new premiums grew and members concluded that a partial repeal was “just not worth it” (Moon, 1990; Rovner, 1989k; Rovner, 1989l).

Another example of individual costs outweighing perceived individual benefits comes from the 2009 cap-and-trade legislation effort. Although the bill that

passed the House would have increased federal revenue in excess of the bill's estimated costs, the legislation would also have led to increases in the cost of consumer energy and goods (CBO, 2009). To alleviate the burden on consumers, the bill included an income-based refundable energy tax credit and rebate program (CBO, 2009). Despite this effort to soften the financial impact of the bill for the American public, the proposal's opponents drew attention to the expected redistribution of costs onto consumers to mobilize opposition to the proposal. For example, the National Republican Congressional Committee funded advertisements about electorally vulnerable Democrats who supported the House bill, suggesting that they supported legislation that would substantially increase energy costs for American families (Goodell, 2010). In one case, the Republican National Committee misleadingly cited the findings of an MIT study to amplify this message (Gore, 2009; Reilly, 2009).²⁸ The view that the legislation was a tax likely contributed to the lack of traction that it received among Republicans, particularly in the Senate (Bartosiewicz & Miley, 2013; Lizza, 2010).

Second, **budget rules and appropriations processes can open or close doors for policy initiatives.** The idea of repealing the MCCA, for example, encountered challenges because it was estimated that doing so would add about \$4 billion to the federal deficit in 1990 due to the repeal of the supplemental premium (Rovner, 1989k). As a result, the repeal would have triggered across-the-board budget cuts based on the Gramm-Rudman-Hollings Act of 1985, which was designed to push Congress to reduce the deficit (Boise, 1990). Initial concerns about working around Gramm-Rudman-Hollings requirements contributed to intense pressure to front-load the costs of the MCCA and to explicitly plan for covering projected increases in costs over time (Morreale, 1991). It was not until the Office of Management and Budget announced in the late summer of 1989 that it would not count a repeal of the legislation against the deficit that conservative members of Congress felt comfortable supporting the full repeal (Moon, 1990).

The MCCA repeal vote itself was entangled in the timing of the budget process. Because Congress was working on a budget reconciliation package in mid-1989 as public criticism of MCCA was mounting, members of the House Ways and Means, House Energy and Commerce, and Senate Finance committees worried that their budget would be held up if they didn't take action on the MCCA (Rovner, 1989f). The Rules Committee chair Rep. Joe Moakley (D-MA) even suggested that his committee felt pressure to include an amendment to the reconciliation bill that would have allowed for a MCCA repeal vote (Rovner, 1989h). In fact, the repeal law was initially included as part of the 1990 budget reconciliation bill, but eventually passed as independent legislation (Rovner, 1989j; 1989k).

Legislative opportunities through appropriations emerged in the implementation of the Healthy, Hunger-Free Kids Act of 2010, which required the USDA to update nutritional guidelines for school meals (CRS, 2012a). When the USDA

released their revised meal guidelines in 2011, representatives of the food industry and members of Congress expressed concern over the stricter food standards related to tomato-paste, potatoes, and sodium due to their predictions that the changes would increase school food prices and lead to food waste (Confessore, 2014). Both Democrats and Republicans pushed back against aspects of the guidelines, and several Republican members of Congress attempted to use appropriations bills to grant waivers for the implementation for certain guidelines (Confessore, 2014). In the end, the tomato-paste rule and french fry limits were ultimately removed through a rider to the agriculture appropriations bill (Confessore, 2014).

E. Policy Momentum

Policy momentum is another component of the political and policy context that can influence the legislative trajectory of a proposal. Prior legislative efforts can provide drafted language and policy ideas that can be helpful in developing new legislation. Previously passed laws can also serve as a foundation for further action, giving key political actors a framework from which to work.

First, **policy ideas almost always take time to develop and are often built upon foundations laid by previous proposals.** The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, for example, was the culmination of numerous legislative efforts and congressional activities that had been initiated in prior years. In 2001 and 2002, the House Committee on International Relations and the Senate Committee on Foreign Relations held multiple hearings on the global HIV/AIDS crisis (Anglin, 2007). During the prior Congress, various foreign aid proposals related to combatting HIV/AIDS were introduced in both the House and the Senate, including Rep. Hyde's first version of the Leadership Act as well as a bipartisan Senate bill sponsored by Sen. John Kerry (D-MA) and co-sponsored by Sen. Frist (R-TN). Once Rep. Hyde introduced his bill during the 108th Congress following President Bush's announcement of PEPFAR, Reps. Barbara Lee (D-CA), Tom Lantos (D-CA), and James Leach (R-IL) worked with him to design a piece of legislation that built on these previous proposals (Anglin, 2007). In their analysis of the development and passage of the Leadership Act, Anglin (2007) called the law "an amalgamation of prior bills."

The seeds for the Healthy, Hunger-Free Kids Act were also sown in the years prior to its passage. Advocates such as the National Alliance for Nutrition and Activity (NANA), a coalition of public health, health-professional, fitness, and consumer organizations, had unsuccessfully pushed for a reduction in the availability of unhealthy non-meal snacks and beverages available in schools during the 2004 reauthorization of the child nutrition programs (Schwartz & Wootan, 2019). The 2004 law had instead required districts to establish "Local Wellness Policies" to address school nutrition concerns, which Schwartz and Wootan (2019) refer to as "stepping stones" to the HHFKA because they helped

to drive action at the local level and also made the policy landscape more challenging for the food industry (Schwartz & Wootan, 2019). In every Congress between 2005 and 2010, Sen. Tom Harkin (D-IA) and Rep. Lynn Woolsey (D-CA) then introduced legislation that would have limited competitive foods in schools, and found Republican co-sponsors for a bipartisan proposal introduced in 2007 (with Sen. Lisa Murkowski (R-AK) and Rep. Chris Shays (R-CT)). That same year, the Bush Administration commissioned a report by the National Academy of Medicine to consider options for updating nutrition standards for school meals (Schwartz & Wootan, 2019). The existence of previous bipartisan legislative efforts to reform school nutrition guidelines informed the development and content of the HHFKA, which itself was a reauthorization of the national child nutrition programs that had already been delayed by one year to allow additional time for policy negotiations (CRS, 2012a).

The compromise bill that became the FIRST STEP Act of 2018 also came out of previously unsuccessful bills including the Smarter Sentencing Act of 2013, the CORRECTIONS Act of 2015, the Sentencing Reform and Corrections Act (SRCA) of 2015, and different versions of the FIRST STEP Act. In an op-ed published in *The Hill* following the law's passage, the U.S. advocacy director for Human Rights Watch even described the FIRST STEP Act as a compromise version of the SRCA, which they describe as having itself been a compromise between the more progressive Smarter Sentencing Act of 2013 and the more conservative CORRECTIONS Act of 2015 (Tyler, 2018). The advocacy base that existed was the result of intentional investment in the creation of a bipartisan coalition, according to former Clinton and Obama administration official, Ron Klain (Karni, 2018).

Second, legislative action can be triggered by an existing law's required funding reauthorization or facilitated by existing bureaucratic infrastructure and revenue streams. The Medicare Catastrophic Coverage Act, for example, was clearly an expansion of existing Medicare coverage and benefits. However, the costs of the enhanced program were designed to fall only on enrollees, diverging from Medicare's well-established funding structure whereby taxes are levied on working people and employers rather than primarily on program beneficiaries (Rice et al., 1990). In reflecting on the law's unpopularity, then-*ABC News* reporter, Andrea Mitchell, explained that seniors were not necessarily opposed to the new benefits, but rather to the fact that they were having to pay for them (Hyman, 2009). Some of the advocacy groups that opposed the legislation similarly argued that the financing structure "violated the Social Security concept," where a broad base of potential beneficiaries contribute to funding a program that they will at some point be able to use; this was particularly problematic because the benefits built upon Medicare, an existing social insurance program with broad-based financing (Cox, 1993).

On the other hand, efforts to build on existing legislation can be fruitful. For instance, the Healthy, Hunger-Free Kids Act was a reauthorization of the Richard

B. Russell National School Lunch Act and the Child Nutrition Act, the laws that govern “child nutrition programs” and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) (CRS, 2012a). The child nutrition programs had been due for review in 2009, but congressional disagreement over funding sources for programmatic expansions led to a one-year funding extension to allow additional time for policy negotiations (CRS, 2012a). Because the HHFKA reauthorized existing programs and previous reauthorization efforts had already been delayed by a year, the issue was already on the policy agenda and this opened the door for congressional action.

The FIRST STEP Act also built upon existing legislation. In addition to changing mandatory minimum rules and expanding access to inmate recidivism-reduction programs, the law also reauthorized the Second Chance Act of 2007. The Second Chance Act had authorized funding for several offender reentry grant programs such as substance abuse and career training programs for incarcerated individuals and formerly incarcerated individuals (CRS, 2016). The FIRST STEP Act also allowed for retroactive application of the Fair Sentencing Act of 2010, which had reduced the disparity between sentences for powder and crack cocaine possession (CRS, 2019c).

4. Contextual Factors and Focusing Events

Circumstances beyond the scope of a certain policy or the constraints of typical political pressures can also influence the trajectory of legislative efforts. The kinds of forces discussed in this section include epidemics, crises, and trends; scandals; changes in the public mood regarding the proper role of government and taxation; and international pressures. Because such contextual factors and focusing events may be difficult to predict, they can create unique challenges for key actors and coalitions and unpredictable impacts on the legislative process. Our case study analyses suggest that unforeseen circumstances can be used by policy entrepreneurs as catalysts for coalition-building, public education, and political negotiations. However, such forces can also derail a policy initiative that might otherwise have had a better chance at success.

A. Epidemics, Crises and Trends

External focusing events, including epidemics and crises, and data that sharpens policymakers’ focus on the effects of social or environmental trends, can influence the policymaking process. These forces not only have the potential to increase the political saliency of an issue, but may also open doors to bipartisanship as an issue becomes seen as “above politics.” In addition, focusing events and trends may elicit feelings of sympathy or fear among the public, which can influence the behavior of political actors.

First, **trends, epidemics, and crises can have an impact on the policymaking process by making an issue more politically salient and catalyzing incentives for bipartisan action.** Three of our case studies – the MCCA, HHFKA and FIRST STEP Act – illustrate how drawing attention to looming and important trends can catalyze policy change. For example, the saliency of expanding catastrophic health care coverage through the Medicare Catastrophic Coverage Act and the issue’s potential for collaborative bipartisanship was driven by projected growth in the population of people over the age of 65. In 1987, the U.S. Census predicted that the number of individuals over the age of 65 would increase from about 29 million in 1985 to about 65 million in 2030 (Pear, 1987). An analysis of the development of the MCCA suggests that the combination of rising health care costs and increasing demand for certain kinds of health care services triggered by these demographic changes allowed the issue of catastrophic costs for acute health care to become a bipartisan initiative (Pear, 1987).

Concerns about childhood obesity were also important to the passage of the updated nutrition standards as a part of the Healthy, Hunger-Free Kids Act of 2010. The fear that children’s health would affect the country’s combat abilities led Mission: Readiness, an organization comprised of retired military leaders, to publish the report “Too Fat to Fight” to encourage congressional action to remove junk food from schools (Mission: Readiness Military Leaders for Kids, 2010). According to one analysis of the law’s passage, the scope of concern related to increasing obesity rates was helpful in obtaining bipartisan support for the law (Schwartz & Wootan, 2019).

Similarly, the FIRST STEP Act and the legislative efforts that preceded it were motivated by the growing federal prison population, which has expanded at least six-fold since the 1980s and comprises an increasingly large share of the Bureau of Prisons budget (CRS, 2018b; CCTF, 2016). In fact, Bureau of Prisons-related costs have grown at double the pace of other spending by the Department of Justice over the last three decades (CRS, 2018b; CCTF, 2016). The bipartisan Charles Colson Task Force, established by Congress in 2014 to investigate trends in the federal prison population, attributed these changes to mandatory minimum sentencing and to restrictions on early-release opportunities, among other causes (CCTF, 2016). The commission also highlighted the ways in which such policies disproportionately affect communities of color. For example, they found that over half of those convicted under mandatory minimum sentences for firearms were Black, and that nearly a quarter were Hispanic (CCTF, 2016). The bipartisan Coalition for Public Safety (including such ideologically diverse groups as the American Conservative Union Foundation, Americans for Tax Reform, the Center for American Progress, NAACP, and Prison Fellowship) was formed in 2015 to “signal that opposition to mass incarceration [had] gone mainstream” (Ford, 2015). The findings of the congressionally-sponsored report, as well as the concerns about the human and financial costs associated with mass incarceration that had motivated task force research and the establishment of the Coalition for

Public Safety led several senators to introduce proposals that garnered bipartisan support prior to the introduction of the FIRST STEP Act. (ABA, 2015).²⁹ Many of the same senators who proposed earlier bills were later critical in propelling the 2018 bill to passage.

On the other hand, cap-and-trade was affected by multiple external events that exerted cross-pressures on the salience of the issue and did not enhance the likelihood of bipartisan agreement. Although Al Gore's film *An Inconvenient Truth* and the efforts of various environmental and climate advocacy groups had contributed to growing public awareness of climate change, the Great Recession made cost concerns more prominent and decreased the saliency of the issue (Revkin, 2008; Bartosiewicz & Miley, 2013; Goodell, 2010; Loewentheil, 2013). As discussed more below, the passage of an economic stimulus package also required the use of significant political capital on the part of President Obama, which may have limited his administration's capacity to contribute to action on climate change, particularly as he leaned towards prioritizing health care legislation during his first term (Bartosiewicz & Miley, 2013; Goodell, 2010; Loewentheil, 2013). The environmental crisis caused by the Deepwater Horizon Oil Spill, ironically, also created challenges for the 2009 cap-and-trade effort. Several of the concessions that had been made by Democrats in the Senate to collect Republican support were related to expansions of offshore drilling. The oil spill increased the saliency of this particular issue, in turn strengthening progressives' opposition to these provisions and further hurting the bill's prospects (Lizza, 2010).

Second, several of the cases illustrate that **economic conditions – and the public's perception of them – can create external pressures on policymakers that affect the design and legislative fortunes of policy proposals**. The Medicare Catastrophic Coverage Act of 1988, for example, was passed (and repealed) during a period in which sluggish growth in GDP and a growing deficit led to intense pressure to both reduce federal spending and taxes. Leading up to the MCCA's consideration, the 1981 tax bill substantially reduced government revenues, the 1982 tax bill had cut Medicare spending, and the Gramm-Rudman-Hollings Act of 1985 was passed to force Congress to reduce the federal deficit (Boise, 1990; Morreale, 1991). Prior to the law's passage, the Tax Reform Act of 1986 had lowered taxes for many high earners, and shortly after the law's passage, presidential candidate George H.W. Bush famously promised that he would not implement any new taxes if he won the 1988 presidential election (Boise, 1990; Moon, 1990; Morreale, 1991). The economic environment at the time contributed to intense pressure to front-load the costs of the MCCA, place the funding burden on beneficiaries in the form of supplemental premiums to avoid increasing the deficit, and – as noted above – simultaneously fueled opposition from seniors who felt that they were being singled out in being asked to pay new “taxes” when no one else was (Himelfarb, 1995; Moon, 1990; Morreale, 1991). These dynamics hastened repeal.

The Healthy, Hunger-Free Kids Act also struggled with the consequences of budgetary constraints and pressures, even though most child nutrition program funding is appropriated entitlement spending dictated by the number of eligible individuals who are guaranteed benefits (CRS, 2019b).³⁰ Because the bill reauthorized programs that were estimated to increase spending, the bill fell under “pay-go” rules that required new increases to be offset.³¹ As previously discussed, the Senate bill included an offset to sunset Supplemental Nutrition Assistance Program (SNAP) benefits that had been increased in 2009 through the American Recovery and Reinvestment Act (ARRA) (CRS, 2012a). Although Democrats in the Senate and the White House accepted this compromise, it led to unexpected intra-party conflict in the House between some anti-hunger advocates and those who saw the cuts as a negative component of an otherwise strong piece of legislation that would reduce the amount of junk food available to kids in schools and increase funding for school meals (Haberkorn et al., 2010; Interview with Former Obama Administration Official, 2019). As noted above, Reps. Jim McGovern (D-MA) and Rosa DeLauro (D-CT), as well as anti-hunger advocacy groups including Witnesses to Hunger, the Food Research and Action Center (FRAC), and the Congressional Hunger Center, lobbied against the SNAP offset and suggested alternatives to meet the pay-go requirements (Fulton, 2010a, 2010b; Haberkorn et al., 2010; Schwartz & Wootan, 2019). Following the Republicans’ victory in the 2010 election, though, presidential engagement and continued pressure from advocates helped secure Democratic support to pass the House (Haberkorn et al., 2010; Paulson, 2010; Phillip, 2010; Schwartz & Wootan, 2019).

In the case of the 2009 cap-and-trade effort, the Great Recession likely played a role in the bill’s failure by decreasing public support for environmental policies, making cost concerns related to a cap-and-trade proposal more prominent, and forcing President Obama to prioritize stimulus legislation over climate change action (Bartosiewicz & Miley, 2013; Goodell, 2010; Loewentheil, 2013). Between January 2008 and January 2009, concern over the economy increased relative to the environment and the proportion of the public that considered environmental protection a top legislative priority dropped from 56 percent to 41 percent (Pew Research Center, 2009). The recession may also have led the public to be more wary of creating new financial “markets” as Rep. Waxman’s legislation in the House would have done, and made the idea of increasing energy prices a higher profile issue (Loewentheil, 2013; Pooley, 2010). Some suggest that President Obama’s decision to focus on a stimulus package and prioritize health care legislation over cap-and-trade likely hurt the bill’s chances of success, and that absent the recession, he could have used more political capital to champion the effort (Bartosiewicz & Miley, 2013; Lizza, 2010; Loewentheil, 2013).

Finally, **the effects of epidemics and crises can elicit feelings of either fear or sympathy among the public in ways that may impact the political dynamics of legislative initiatives.** The AIDS epidemic in the United States

that began in the early 1980s, for example, prompted widespread fears about the disease and stigmatization of its victims. AIDS fear-mongering affected political debates over the Medicare Catastrophic Coverage Act in ways that harmfully demonized AIDS patients and helped unravel the MCCA (Avert, 2017; Moon, 1990). This was possible because the 1972 amendments to the Social Security Act had expanded SSDI coverage to individuals with disabilities, including those with disabling diseases, making some SSDI recipients eligible for Medicare benefits after a two-year waiting period (Morreale, 1991). Opponents argued that seniors would be subsidizing disabled AIDS patients' health care costs and prescription drugs through Medicare; some senior activists themselves also expressed these concerns (Moon, 1990; Morreale, 1991). During the bill's committee markup, Rep. Philip Crane (R-IL) went so far as to propose an amendment that would have prevented the newly proposed drug benefit from covering Retrovir, the only prescription drug approved to treat AIDS at that time (Rovner, 1987f). One analysis explains that fears that older Medicare beneficiaries would carry the high cost of these treatments was largely (and sadly) unfounded, as many AIDS patients who qualified for SSDI at the time did not live long enough to meet the waiting period to receive Medicare benefits (Morreale, 1991).

On the other hand, growing concerns over children's health likely helped to propel the Healthy, Hunger-Free Kids Act to passage. The CDC's National Health and Nutrition Examination Survey from 2007-2008 found that the obesity rate in the United States had tripled within just one generation, with about one in six children and adults affected (CDC, 2010). And, public opinion surveys suggested that a majority of American adults were concerned about the current state of children's health and childhood obesity (Pew Charitable Trusts, 2014). These concerns likely contributed to the public's growing support for updated nutrition standards prior to the passage of the HHSFKA (Schwartz & Wootan, 2019). A survey conducted in 2010 commissioned by Pew Charitable Trusts and the Robert Wood Johnson Foundation found that 78 percent of respondents believed that school meals and snacks should meet higher nutrition standards; 77 percent believed that snacks and drinks high in sugar and calories should be replaced with healthier options; and 61 percent supported increasing federal funding for school meal programs (Pew Charitable Trusts, 2011). First Lady Michelle Obama's Let's Move! campaign to combat childhood obesity also helped to solidify and channel public opinion on the issue into support for federal legislative action to update national nutrition standards (Interview with Former Obama Administration Official, 2019).

With respect to the FIRST STEP Act, the imperative to address racist policies in the criminal justice system among civil rights groups on the left and concern about criminal justice penalties for opioid use among evangelicals on the right helped to foster an unusual coalition. Structural racism, inextricably linked to our country's legacy of chattel slavery and maintained through hundreds of years of both overtly and implicitly racist policymaking, has resulted in substantial inequities in policing, incarceration, health care, housing, and education between

white communities and Black communities and other communities of color (Alexander, 2010; Coates, 2017; James, 2020; Maxwell & Solomon, 2018; Worland, 2020). In May of 2020, the president of the American Psychological Association Sandra L. Shullman asserted that “we are living in a racism pandemic” that has both psychological and physiological consequences, particularly for those who are Black (APA, 2020). One of the many ways in which racism manifests itself is in the disproportionate exposure of Black communities to police violence and the criminal legal system as well as in the mass incarceration of Black men, exacerbated by the mandatory minimum policies and changes to sentencing guidelines ushered in by President Nixon’s war on drugs (Alexander, 2010; Maxwell & Solomon, 2018; Worland, 2020). The disproportionate effects that such policies have had on communities of color have led many organizations that advocate for racial justice including the NAACP, ACLU, Brennan Center, and Leadership Conference on Civil and Human Rights to be long-time supporters of comprehensive criminal justice reform. Intersections between the problem of mass incarceration and the opioid crisis likely also contributed to greater support among conservative Republicans for criminal justice reform by increasing their feelings of sympathy towards those who interact with the prison system. Craig DeRoche, a vice president at the Prison Fellowship, suggests that the scope and consequences of the use of opioids in certain communities has played a role in increasing the saliency of prison reform issues for some evangelical voters by bringing them in direct or closer contact with the prison system (McCammon, 2018).

B. Scandals

Political scandals that draw media and public attention can also shift the political dynamics related to a policy initiative. When scandals emerge, political actors may feel pressure to present evidence of their efficacy by seeing legislation through to passage. Scandals can also dissolve existing alliances or create new ones, which can affect policy negotiations. Although advocates cannot foresee how scandals might shape legislative fortunes, the earliest as well as the most recent of our case studies provide different examples of how scandals can shape policymaking.

First, **political scandals that have nothing at all to do with a given policy issue can force legislative action when a political actor wishes to reestablish their perceived efficacy.** For example, in the case of the Medicare Catastrophic Coverage Act, some observers say that the Iran-Contra scandal made it more difficult for President Reagan to push back against Democrats’ efforts to broaden the scope of the House proposal. The new benefits added to the proposal as it moved through Congress led some members of the administration to advise the president to veto the bill because they believed that it had strayed too far from the administration’s vision (McArdle, 2009). However, the Iran-Contra scandal, which involved the administration’s selling of weapons to Iran and then allegedly using the money to fund a rebel group working to

overthrow Nicaragua's communist government, likely made President Reagan feel that he was in a weak position to veto the MCCA (McArdle, 2009; Noah, 2006).

Second, **political scandals can lead to the dissolution (or formation) of alliances and affect the political dynamics of legislative negotiations.** In the case of the FIRST STEP Act, some say that Attorney General Sessions' recusal from the investigation into Russia's interference in the 2016 election may have played a hand in President Trump's eventual decision to support the comprehensive compromise bill. Attorney General Sessions was generally seen as an opponent of most forms of criminal justice reform and had been a strong opponent of the Sentencing Reform and Corrections Act of 2015 as a senator (Grawert, 2017; Grawert & Lau, 2019). President Trump's concern that the FIRST STEP Act could lead to him being viewed within his own party as soft on crime, and his hesitancy to support a comprehensive bill that included sentencing reform, were likely linked to pressure from Sessions (Bolton, 2018a; Diamond & Rogers, 2018; Fabian & Byrnes, 2018a; Kushner, 2019). However, the president's ongoing frustration with the attorney general's decision to recuse himself from the Russia probe, particularly as the investigation ramped up, reduced Sessions' ability to influence President Trump's policy agenda (Hartmann, 2018; Reinhard, 2017). By October 2018, President Trump was reportedly considering replacements for Sessions and announced that he would "overrule" the attorney general if he continued to oppose the proposed criminal justice reform bill (Fabian & Byrnes, 2018b; Hartmann, 2018). Given that Sessions' vocal opposition to including sentencing reform provisions in the bill was in conflict with the views of other Republicans in Congress and several conservative organizations, President Trump's feelings towards Sessions likely made it easier for him to side against Sessions on criminal justice reform (Reinhard, 2017).

C. Perceived Role of Government

Policymakers' and advocates' ability to tap into the public and political mood regarding the perceived role of the government in spending and policy can also affect policy proposals. Not only can the broader political environment affect the design and distribution of a proposal's costs, but the public's perceptions about the role and efficacy of government can also affect the overall views on the value of legislation and the chances of a proposal's legislative success.

First, **political and policy dynamics surrounding government spending at a given moment can affect policy design.** The fact that the Medicare Catastrophic Coverage Act was passed on the heels of the Gramm-Rudman-Hollings Act of 1985 and the Tax Reform Act of 1986 is important to understanding the design of its financing structure (Boise, 1990; Morreale, 1991). The former law was designed to force Congress to reduce the deficit, while the latter reduced tax rates with the goal of simplifying the tax system (Boise, 1990; Eizenstat, 2017). The politics of a deficit- and tax-reduction environment

influenced the design of the MCCA's funding mechanisms. As described above, to keep the proposal deficit-neutral, Congress sought to cover the costs of new Medicare benefits by establishing two new supplemental premiums (Moon, 1990; McArdle, 2009). Concerns over the long-term fiscal sustainability of the law's expansion also contributed to the decision to front-load costs and to explicitly plan for covering projected increases in costs over time (Morreale, 1991). However, placing the cost burden on beneficiaries for benefits that were gradually phased in made the law unpopular among many seniors and laid the foundation for its later repeal (Cox, 1993; Moon, 1990; McArdle, 2009).

Second, **the public's perception of the proper role of the federal government to raise revenues and levy taxes in a given time period can affect the fate of legislation.** For example, the rise of the Tea Party movement made it difficult for moderate Republicans to support costly climate change legislation in the lead-up to the 2010 midterm elections (Broder, 2010b; Loewentheil, 2013). Tea Party Republicans presented the House bill as "cap and tax" legislation that would amount to "a level of control we've never even contemplated in America" and took advantage of public opportunities to shame the eight Republicans who had voted for it (Davidson, 2010; Goodell, 2010). One analysis of the bill's failure in the Senate attributes some blame to the Republican party's move to the right; a former Obama administration official similarly suggested that the chance of a cap-and-trade bill making it through Congress in 2009 was slim due to the presence of a "general anti-government wind" (Bartosiewicz & Miley, 2013; Interview with Former Obama Administration Official, 2020).

D. International Momentum or Pressure

International momentum and pressure from other countries' governments can additionally affect the legislative process by influencing the content of a legislative proposal. In some cases, international pressure can contribute to a sense of urgency for the passage of a policy. In others, international pressure may signal to a bill's opponents the necessity of killing a proposal to avoid the development of expectations of further commitments.

Generally, **international pressure can affect the contents of a proposal and serve as an action-forcing mechanism – for both its proponents and opponents.** In the case of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (The Leadership Act) of 2003, international momentum for addressing the HIV/AIDS crisis globally helped to lay the groundwork for the bill. United Nations Secretary General Kofi Annan had introduced the idea for the establishment of an independent, multilateral organization to combat HIV/AIDS in April of 2001, and Annan and President Bush announced their plan for the Global Fund to Fight AIDS, Tuberculosis, and Malaria in May of that year (Boonstra, 2003; KFF, 2019b; CRS, 2012b). In 2002, the Bill & Melinda Gates Foundation and Henry J. Kaiser Family Foundation

convened the Global HIV Prevention Working Group with the goal of bringing together experts in the field to evaluate best practices for prevention and treatment (PWG, 2002). Their 2002 report, “Global Mobilization for HIV Prevention: A Blueprint for Action” brought attention to various prevention strategies (but was also criticized by some conservatives for making few references to effective abstinence programs) (PWG, 2002; Loconte, 2003a). President Bush then relied on the timing of the G-8 Summit in June 2003 to pressure Congress to act on his initial proposal. After having announced the creation of PEPFAR during his State of the Union address, the president publicly called for action in late April and again in May, saying that he wanted to “take (the signed bill) to Europe with (him) as a symbol of the great depth of compassion that our country holds for those that suffer” (Anglin, 2007; Sorrells, 2003a, 2003b). This time pressure contributed to the expediency with which the House bill was passed and the decision of Republicans in the Senate to accept the House bill (Sorrells, 2003a, 2003b). When pressed on their rejection of amendments introduced by Democrats, Republican Senators said that significant changes to the bill would have made it impossible for them to meet President Bush’s June deadline (Sorrells, 2003a, 2003b).

The Copenhagen International Climate Summit that was to be held in December of 2009 also provided external pressure for the United States to engage in climate change legislation (Goodell, 2010). However, one analysis suggests that this proved to be a double-edged sword. In addition to encouraging legislative action, it also raised the stakes for opponents of the legislation because they viewed the cap-and-trade bill as an opportunity for other countries to press the United States to take on additional emission-reduction obligations (Goodell, 2010).

5. Policy Frames

The way in which issues are framed by policy actors and media outlets can have implications for a proposal’s success in reaching the policy agenda and finding legislative support. Framing is “the process by which people develop a particular conceptualization of an issue or reorient their thinking about an issue,” borrowing the widely-used definition put forward by political scientists Dennis Chong and James N. Druckman (2007). In other words, communication frames provide signals to the public, the media, and policymakers themselves about how legislation should be understood, including the saliency of the problem that the proposal is attempting to solve, justification for the proposal’s cost, and what the expected outcomes of the proposal should be. Our case studies provide valuable lessons about three common kinds of frames that legislative proponents and opponents often use – fiscal frames, values frames and federalism frames – as well as effective examples of counter-frames.

A. Fiscal Framing

Frames related to a proposal's financial implications can facilitate public and political opposition. We find that when opponents are able to paint an entire policy proposal as nothing more than a tax increase, they are often able to decrease support for the bill in ways that prevent its adoption, in the case of the 2009 cap-and-trade effort, or facilitate repeal, in the case of the Medicare Catastrophic Coverage Act of 1988. A policy's supporters may be able to counter tax-increase frames by working to educate the public and political actors on the broader scope of the bill and to show that the proposal's costs outweigh its benefits. Advocates were effective at doing this during the consideration of the Healthy, Hunger-Free Kids Act, but proponents of the MCCA struggled on this front due to criticism that the law did not address seniors' most pressing concerns.

Analyses of the proposals considered for this report reveal that **opponents are often quick to take advantage of opportunities to frame a bill as a tax increase with the goal of mobilizing opposition and reducing chances of bipartisan support.** Those who opposed the Medicare Catastrophic Coverage Act, for example, persistently sought to brand the new income-based supplemental premiums that were established to cover the cost of new benefits as taxes (Moon, 1990; Morreale, 1991; Tolchin, 1989). The National Committee to Protect Social Security and Medicare (NCPSSM) leaned heavily on this frame, sending numerous mailers to seniors that referred to the law as a "seniors-only income tax increase" and a "special tax on senior citizens" (Himelfarb, 1989; Tolchin, 1989). Because the new premiums were collected by the IRS, they "walk[ed] like a tax and quack[ed] like a tax and [were] figured like an income surtax," which made it difficult for proponents of the legislation to counter this narrative (Milius, 1988). According to one analysis of media coverage prior to the law's passage, most of the law's supporters were unprepared for these attacks and failed to appreciate the potential toxicity of the funding structure (Himelfarb, 1995). Even media coverage in 1987 and 1988 in major news outlets such as the *New York Times*, *Washington Post*, and commercial broadcasting companies did not focus on the complexities of the funding system or highlight the perspectives of seniors who were opposed to it (Himelfarb, 1995). In effect, what policymakers and other influencers had initially considered a creative new precedent for financing expansions to social programs became the central source of opposition to the law, and perceptions of the supplemental premiums as a "seniors' tax" played an important role in the law's repeal (Cox, 1993; Himelfarb, 1995; Moon, 1990; Tolchin, 1989).

In the case of the 2009 cap-and-trade legislative effort, the framing of the bill by conservative lawmakers and interest groups, party committees, and media outlets as a tax made it more difficult for proponents to acquire and maintain individual Republican legislators' support. The Republican National Committee called the House bill a "massive national energy tax" and Tea Party activists branded the few Republicans who had voted for the chamber's bill the "Cap and Tax 8," circulating 'wanted' posters of the so-called "Capntr8ors" (Davidson,

2010; Gore, 2009). Later, while Sen. John Kerry (D-MA), Sen. Lindsey Graham (R-SC), and Sen. Joe Lieberman (I-CT) were composing a bipartisan alternative to the House bill, Fox News broke a story that labeled one component of their proposal (the reserve allowances for the oil industry) a “gas tax” and Newt Gingrich’s group American Solutions referred to the plan as the “Kerry-Graham-Lieberman Gas Tax Bill” (American Solutions, 2010; Fox News, 2010; Lizza, 2010). Reflecting on the Senate bill’s failure, a representative from the Competitive Enterprise Institute, a free-market think tank, said that the bill’s opponents proved effective at reframing the proposal as “cap and tax” legislation, and then “turn[ing] that into an epithet” (Broder, 2010a). The president of the Environmental Defense Fund agreed that the portrayal of cap-and-trade as a tax increase made the policy too polarizing to garner support from moderates (Broder, 2010a).

Indeed, we find that **the effectiveness of tax frames at mobilizing opposition can be linked with opponents’ ability to emphasize the cost of a proposed piece of legislation relative to its benefits – but at least one successful initiative beat back such claims by convincingly emphasizing that any cost increases would be offset by positive impacts.** Even if supporters of the Medicare Catastrophic Coverage Act had been more prepared to combat tax frames, a key criticism of the bill was that it was inadequate because it did not address one of the leading causes of catastrophic health care costs: long-term care (Haislmaier, 1989; Morreale, 1991; Oberlander, 2003; Rice et al., 1990). Because the MCCA primarily sought to provide additional acute care benefits, many perceived the law as providing few new benefits to the roughly 70 percent of seniors who already had additional acute care coverage under private insurance Medigap plans – many of which were subsidized by a prior or current employer (Morreale, 1991). The income-based nature of the supplemental premiums empowered the law’s opponents to correctly argue that higher-income enrollees, the group set to pay more in premiums than they were likely to receive in benefits, stood to lose under the law (Cox, 1993; Moon, 1990; Morreale, 1991). Opponents also capitalized on the fact that the MCCA’s costs were front-loaded while many of the benefits, including the prescription drug benefit, were set to be phased in gradually (Cohn, 2010; Diamond, 2011; Hyman, 2009; Morreale, 1991). In sum, the MCCA did not address one of the leading causes of old-age poverty, slowly phased in the most popular component of the legislation, and placed the cost burden on those who were least likely to benefit from the law, making it possible for opponents to effectively present the MCCA as not being worth its costs (Rice et al., 1990; Morreale, 1991; Oberlander, 2003).

Conversely, Healthy, Hunger-Free Kids Act proponents were effective in deflecting negative fiscal frames related to increased costs to schools and unfunded mandates on state and local governments by making the case that the law was worth its costs. Several organizations representing state and local governments and school districts, including the American Association of School Administrators, the National School Boards Association, and the National

Governors Association, argued that the law would prove to be an unfunded mandate and would do more harm than good (Pear, 2010). Emphasizing potential costs to schools due to the possibility of increased food waste and a loss of revenue from paying students, the National School Boards Association expressed concern that the law's implementation would force many schools to cut programming and resources (NSBA, 2011). In response, proponents leaned on research from the USDA, CDC, the Alliance for a Healthier Generation's Healthy Schools Program and others to successfully convince policymakers and the public that implementing stricter nutritional guidelines and removing competitive foods from schools would result in negligible revenue losses for schools and substantial improvements to children's health (Schwartz & Wootan, 2019).

B. Values Framing

Our case studies also reveal examples of key political actors using value-based frames to mobilize support (or opposition) for a policy proposal. We find that proponents may help their cause by putting a sympathetic human face on an issue and framing a proposal around caring for vulnerable populations. In some cases, we find that efforts to appeal to "Christian values" can also prove effective at mobilizing support. However, the case of the Medicare Catastrophic Coverage Act shows that there can be dangers in assuming that a proposal's intended beneficiaries are strong supporters, and we also find examples of opponents who were successfully able to overtly or implicitly vilify beneficiaries.

In many of the cases evaluated for this report, proponents and opponents of legislation relied on frames that aimed to place the issue in question above political debates. Our analyses suggest that **one effective way of presenting an issue as a nonpartisan priority is by framing a proposal around the needs of a sympathetic population, such as children**. Advocates for the Healthy, Hunger-Free Kids Act of 2010 were particularly successful at framing the bill as legislation that would improve the health of children and align federal standards with science (Schwartz & Wootan, 2019). One key talking point HFFKA advocates utilized emphasized the sense of responsibility that schools should feel in taking good care of children's health when parents have entrusted these institutions with their children's care (Interview with Former Obama Administration Official, 2019). The Child Nutrition Initiative even made a point of hiring a communications firm to design an ad campaign that focused on the importance of improving the health of school meals for kids (Schwartz & Wootan, 2019). Advocates also pursued numerous creative strategies to keep the focus of the bill on children; their tactics included dressing kids up in vegetable costumes, using props such as lunch trays and stress balls, and incorporating their messaging into colorful infographics, videos, and even quizzes (Schwartz & Wootan, 2019). However, opponents also leveraged the framing around children following the 2012 implementation of the USDA guidelines as students began holding lunchroom strikes to protest the new school meals and complained on

social media (Confessore, 2014). These viral reactions provided ammunition to those who had claimed that students would be unhappy with the law's changes and ultimately complicated the law's rollout (Confessore, 2014).

Advocates of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (The Leadership Act) of 2003 also gained momentum by framing the legislation around the protection of children and the innocent victims of disease more broadly. In his 2003 State of the Union address, President Bush made his case for PEPFAR by emphasizing that millions of children under the age of 15 on the African continent were HIV positive, and that few people in Africa who suffered from the disease have access to medication (Bush, 2003). Several months later, the president put additional pressure on Congress to act, saying "time is not on our side" and listing the estimated number of innocent lives lost due to the disease, as well as the number of babies who had been born with the virus since he had first announced his plan (Sorrells, 2003a). President Bush and his Republican allies presented their vision to provide support to communities abroad struggling with HIV/AIDS, malaria, and tuberculosis through the lens of "compassionate conservatism," envisioning PEPFAR to be a "medical version of the Marshall Plan" (Boonstra, 2003).³² However, some progressive groups such as Human Rights Watch argued that the Pitts Amendment, which required one-third of prevention funding to go towards abstinence programs, would put more lives at risk by diverting funding to less effective programming (Anglin, 2007; HRW, 2003). Despite the efforts of Human Rights Watch and other groups, President Bush's framing of the legislation as protecting innocent lives appears to have won out. Speaking to her Democratic colleagues before the House floor vote, Rep. Barbara Lee [D-CA] reflected on the necessity for action from the perspective of those who stood to benefit from the program, arguing that "those dying of AIDS would trump our political differences" (Sorrells, 2003a).

In the case of both the Leadership Act and the FIRST STEP Act, **advocates were generally effective at linking motivations to protect vulnerable populations with an appeal to "Christian values"**. Supporters of the Leadership Act relied on support from the religious right including from various churches and faith-based organizations to build support for PEPFAR (McGreal, 2010; Pew Research Center, 2003). In fact, President Bush and other Republicans inside and outside of Congress frequently pointed to Uganda's ABC (abstain, be faithful, condoms) program, which relied on religious organizations to encourage abstinence and monogamy, as a successful program on which to model PEPFAR (AP, 2003; Loconte, 2003b; VOA, 2003). However, it is important to note that this approach created some tension between religious groups and global health and human rights organizations. The latter challenged the validity of this framing and raised concerns over the perceived undue influence of religious groups over policy (Loconte, 2003a; Rinaldo, 2004). In an August 2003 Human Rights Watch report called "Just Die Quietly," representatives from several organizations suggested that the Pitts Amendment would put vulnerable lives – particularly women's lives – at risk unnecessarily (HRW, 2003). The president of the

International Women’s Health Coalition remarked that “the Bush Administration position basically condemns people to death by HIV/AIDS...and we’re talking about tens of millions of people” (Kristof, 2003).

The FIRST STEP Act also benefitted from messaging that invoked “Christian values” from supportive lawmakers as well as from religious organizations such as Prison Fellowship, Faith & Freedom Coalition, U.S. Conference of Catholic Bishops, Catholic Charities USA, the National Hispanic Christian Leadership Conference, the Southern Baptist Convention’s Ethics and Religious Liberty Commission, and the National Association of Evangelicals (Zaimov, 2018). Many of these groups advocated for the inclusion of sentencing reform following the passage of the prison reform bill in the House, suggesting that mass incarceration was “in conflict with our values as Christians and as Americans” and arguing that more comprehensive criminal justice reform legislation would “strengthen families and change lives for the better” (Faith & Freedom Coalition, 2018; McFarlan Miller, 2018). Republican lawmakers also framed their support for the final bill around their identity as Christians. Rather than focus on the budgetary savings that would come from the legislation, many policymakers emphasized that the bill would invest in “human potential” and that it would provide opportunities to those who wanted to “turn their lives around” (Fandos, 2018). During a White House prison reform summit, President Trump emphasized that “America is a nation that believes in the power of redemption” (McCammon, 2018). In an op-ed in the *National Review*, Sen. Mike Lee (R-UT) similarly wrote, “my faith as a Christian teaches me that many people are capable of redemption” (Lee, 2018). The use of these religious-oriented frames likely helped to mobilize and maintain support for the law among conservative Christians.

However, our analyses suggest that overly broad framing around the benefits that legislation will provide to a certain group can prove disastrous. The Medicare Catastrophic Coverage Act of 1988 represented the first significant expansion of the Medicare program since Medicare began covering individuals with disabilities in 1973 and was framed as a “good deal” for seniors, a population that tends to be viewed as sympathetic and deserving of public support (Aaron et al., 2008; CBO, 1988; Himelfarb, 1995; Moon, 1990). In fact, one of the reasons that President Reagan took up the proposal was to improve his administration’s favorability among older adults, and the final legislation was estimated to be a net gain for between 60 and 70 percent of beneficiaries (Himelfarb, 1995; Moon, 1990). In their book about the law’s passage and its subsequent repeal, Himelfarb (1995) explains, “if viewed in the context of a simple political model where individuals are assumed to behave as self-interested actors, the MCCA of 1988 should have been popular legislation” (pg. 61). However, the redistributive nature of the law’s funding mechanism meant that a significant proportion of seniors with higher incomes were slotted to pay more for health care after the MCCA passed, leading some affluent seniors to feel misled and many more to feel confused about the law’s benefits (Himelfarb, 1995; Moon, 1990). Vocal opposition to the law by certain seniors and by

organizations like the National Committee to Protect Social Security and Medicare (NCPSSM) likely contributed to growing opposition to the law among older people – even among those who stood to benefit (Cox, 1993; Haislmaier, 1989; Moon, 1990). Attempts by policymakers to reverse their broad framing around the law’s benefits and to label wealthy seniors who opposed the law as “greedy geezers” only added fuel to opponents’ arguments that all seniors were, in fact, “losers” of the law and further contributed to the confusion surrounding the legislation (Cox, 1993; Himelfarb, 1995; Moon, 1990).

We also find examples of **opponents taking advantage of negative stereotypes of vulnerable populations or racist tropes to frame proposals as being generally unfair or dangerous**. For example, as noted in the discussion of epidemics, crises and trends, opponents of the MCCA took advantage of the widespread stigma against those living with HIV/AIDS to mobilize opposition to the law by misleadingly suggesting that the new law would cause seniors to pay for anti-retroviral treatments for HIV-positive individuals (Moon, 1990; Morreale, 1991; Rover, 1987f).

Deeply entrenched racist tropes factored into opponents’ language about the FIRST STEP Act to heighten President Trump’s concern that he would be perceived as soft on crime. Throughout the summer, Sen. Tom Cotton (R-AR) reportedly stoked the president’s fears that the proposal was a “jailbreak bill” that would release “violent felons and sex offenders” and would lead him to have a “Willie Horton moment” (Cotton, 2018a; 2018b; Diamond & Rogers, 2018; Fabian & Byrnes, 2018a). In 1988, Willie Horton, a man who had been sentenced to life in prison without parole, was convicted of sexual assault after not returning from a weekend furlough program that the governor of Massachusetts at the time, Michael Dukakis, supported (Criss, 2018). When Dukakis later ran for president, Bush supporters ran campaign ads featuring Willie Horton that played on racist stereotypes of Black men; the ad is believed to have greatly hurt Dukakis’ political chances (Diamond & Rogers, 2018). President Trump’s concerns were later alleviated when White House senior advisor Jared Kushner, political commentator Van Jones, and media personality Kim Kardashian sought to reframe the president’s legacy among the public and in Trump’s own mind around the clemency of Alice Marie Johnson, a woman who had been sentenced to life in prison for a first-time nonviolent drug offense (Diamond & Rogers, 2018).

C. Federalism Framing

When federal legislation affects local or state governance, issues of federalism may come to the fore. Our cases provide examples of both opponents and proponents of policies leaning on federalism frames to generate support or opposition for their preferred course of action, sometimes within the same case study. We find that opponents will often attempt to frame legislation as an unfunded mandate that interferes with states’ rights. Proponents, on the other

hand, may be able to counter such arguments by framing a policy as an opportunity to base federal legislation on successful state-level policy experimentation. Finally, we find that there are benefits and risks to using federal preemption framing to bring industry interests and conservative lawmakers to the table in an attempt to increase bipartisan support for legislation.

Many of those who opposed the Healthy, Hunger-Free Kids Act of 2010 **suggested that the legislation was an unfunded mandate that would unnecessarily expand the power of the federal government and restrict both states' authorities and people's individual freedoms.** Whereas HHFKA advocates framed the legislation as aligning federal standards with science, some opponents claimed the legislation amounted to an unwarranted expansion of the USDA's regulatory authority (Schwartz & Wootan, 2019). For example, Rep. John Kline (R-MN) asked Congress to “stop growing government” and Rep. Paul Broun (R-GA) suggested that “this bill is not about child nutrition. It's not about healthy kids. It's about an expansion of the federal government, more and more control from Washington...The federal government has no business setting nutritional standards and telling families what they should and should not eat” (Kline, 2010; Pear, 2010). Other opponents added that the legislation interfered with personal decisions about food and disregarded the role that parents should have over their children's diets (Bakst & Sheffield, 2016). Weighing in on this issue, Sarah Palin, the 2008 vice presidential candidate and former governor of Alaska, referred to a proposal in Pennsylvania to limit sugary snacks served at school parties as a “nanny state run amok” (Behrendt, et al., 2010). Some organizations representing state and local governments including the National Governors Association, American Association of School Administrators, and National School Boards Association similarly worked to frame the HHFKA's new regulations as federal overreach that would negatively impact school district budgets (Pear, 2010). Ultimately, the majority of House Republicans voted against the bill. .

However, the innovations found throughout the federal system also can be used as an argument in favor of national legislation. In the case of the Healthy, Hunger-Free Kids Act and the FIRST STEP Act, **proponents were able to use federalism framing to their advantage by suggesting that the federal legislation was a logical next step following states' successful policy leadership.** Starting in the 2000s, a number of states began passing nutrition standards that went beyond federal guidelines including Arkansas, California, Kentucky, Mississippi, Texas, and over 15 others (Schwartz & Wootan, 2019). Proponents of federal legislation made a point of showcasing interviews with researchers and local advocates from states that had more stringent nutrition standards, sharing success stories and evidence to counter the frame that such changes would hurt schools' budgets (Schwartz & Wootan, 2019).

The FIRST STEP Act, too, was presented by supporters as a way to build on state-level criminal justice reforms that had been passed in more conservative states

like Texas, Georgia, South Carolina, and Utah that had contributed to shrinking prison populations without increasing crime rates (Watts, 2018). The National Governors Association framed the proposal in this way, specifically asking the Senate to include policies related to recidivism reduction and sentencing reform that had proven effective in states such as Mississippi and Minnesota (NGA, 2018a; 2018b). Advocates from the Texas Public Policy Institute and Right on Crime focused their attention specifically on Texas Republicans in Congress, sending a letter to Sens. John Cornyn and Ted Cruz arguing that the FIRST STEP Act gave “Washington D.C. another opportunity to learn from the Texas experience” to “cut crimes and costs” (Right on Crime, 2018). After the FIRST STEP Act was signed into law, Gov. Larry Hogan (R-MD) reflected that “states are leading the way on criminal justice reform, and the federal passage of the First Step Act is a great accomplishment that builds on the progress governors across the country are making in their states...we are pleased to see this action at the federal level” (NGA, 2018c).

Finally, we find examples of both the promise and risk of presenting a policy as offering federal preemption in order to gain support from industry and conservative lawmakers. **Although industry and business interests may be motivated to come to the table, in part, to seek federal preemption of state standards, this can also risk undermining state-led innovation.** In the case of the Healthy, Hunger-Free Kids Act of 2010, the idea that the “laboratories of democracy were getting out of hand” likely contributed to the food industry’s early optimism about the proposed legislation and their willingness to support it (Interview with Former Obama Administration Official, 2019). Similarly, the business groups that were early members of the U.S. Climate Action Partnership (USCAP), a coalition of large environmental organizations and industry groups including General Electric, Dupont, and PG&E, were supportive of federal policy that would make it harder for states to implement different carbon regulation policies (Bartosiewicz & Miley, 2013; Loewentheil, 2013). The Democrats’ proposal in the House would have preempted carbon regulations at both the state level and by the Environmental Protection Agency, as outlined in the Clean Air Act (Bartosiewicz & Miley, 2013). The move was thought to be a selling point for industry groups and Republican policymakers because it would streamline the future regulatory environment (Bartosiewicz & Miley, 2013; Lizza, 2010). However, this proved to be too weak of an incentive for some members of Congress (from both parties) who represented districts or states with carbon-intensive industries, many of whom were focused on protecting these businesses and the jobs that they provided to constituents (Bartosiewicz & Miley, 2013; Goodell, 2010).

However, during the implementation of the HRFKA and the consideration of the 2009 cap-and-trade effort, businesses also pushed to make the proposed federal standard weaker than many advocates and scientists recommended (Bartosiewicz & Miley, 2013; Confessore, 2014; Schwartz & Wootan, 2019). These cases suggest that preemption framing can be tricky to get right and may risk

weakening public protections. Crafting a proposal to benefit industry by preempting state law may attract support, but on the other hand, preemption can open the door to attempts by these same groups to undermine progressive state policies – and, as the cap-and-trade case illustrates, may still not be incentive enough to win opposing lawmakers’ support.

III. Case Study Implications: Opportunities and Challenges for National Paid Leave

This report is predicated on the notion that lessons learned from previous legislative efforts can inform future legislative campaigns. Below, we apply the key aspects of the analyses from each of the sections in Part II to a national effort to develop, pass and implement a comprehensive federal paid family and medical leave program. We intend for this part of the report to augment advocates' ongoing efforts to identify strategies for gaining and leveraging the support of key political actors both within and outside of government, shaping legislative tactics, utilizing legislative policy and political conditions and external focusing events and trends to their advantage, and developing policy frames that have the potential to help advance their legislative objectives and inoculate against attacks.

To maintain the utility of this analysis in the future, we have made every effort to apply conclusions generally while still accounting for some of the specific factors that face the paid leave movement in the current political climate. Some of the points below are obvious while others are more nuanced; in an effort to paint a complete picture for both seasoned and newer advocates, we have included both types of points in our analysis. Importantly, we approach this portion of the report from the perspective of advocates who prefer a comprehensive social insurance approach to paid family and medical leave.

1. Government Actors

→ ADVOCATES SHOULD:

- Understand deeply the positions held by legislators on relevant committees
- Cultivate relationships with Democratic and Republican legislators on relevant committees
- Work closely with congressional sponsors and champions on every aspect of strategy and policy, including counseling them to go further or moderate their efforts when necessary, depending on political context

- Educate and facilitate educational opportunities for legislators, especially those with strong potential connections to the issue, jurisdiction over the legislation, or outsized influence over other members
 - Work to secure majority party leadership's support and prioritization
 - Seek support or at least neutrality from minority party leaders and influencers
 - Press for presidential endorsement and prioritization
 - Identify and support champions within the executive branch who can press from the inside
-

Our case studies emphasize that advocates tend to be most successful in accomplishing their legislative objectives when they are able to see their priorities reflected in the priorities of key members of Congress, the president, and executive branch officials. Members of Congress, particularly those who have longstanding experience and expertise on an issue and hold seats on relevant committees or leadership positions, as well as administration officials who hold sway with the president, often play a central role in influencing both the scope of legislation and the compromises that become necessary along the way. Therefore, it is essential for advocates to build key policymaker relationships and to collaborate not only on policy objectives, but also on plans for obtaining broad and, when possible or required, bipartisan support as a proposal moves through the legislative process.

Organizations that have been advocating for paid family and medical leave for years have been cultivating relationships with members of Congress who have become ardent, passionate champions on this issue. Although bipartisanship has always been the goal, advocates have been most successful up to this point in securing strong support for comprehensive paid leave from Democrats. While newer moderate and conservative advocates have helped to pique the interest of some Republican lawmakers in increasing access to paid leave for parents of newborn or newly adopted children, there is a continuing need to gain Republican champions who support both a more comprehensive policy and new revenue to fund it.

As congressional outreach and engagement continues, our analyses illustrate the important role that congressional champions on both sides of the aisle often play

in seeing a proposal from development and compromise to passage and implementation. Relationship building is important, as is the wisdom of knowing when and how to lean on established relationships. In some cases, advocates may need to intervene to ensure that early versions of a proposal are not unnecessarily moderate from the outset, as with the 2009 cap-and-trade effort and the FIRST STEP Act in the House, under the potentially misguided expectation that a more moderate proposal will have an easier path to passage. In other cases, advocates may find themselves needing to temper the efforts of congressional champions to avoid the creation of “Christmas tree” legislation, as in the case of the Medicare expansion legislation of the late 1980s. The overall guiding principle for advocates should be to ensure that they have strategic influence over the development of political and policy compromises with the goal of protecting the integrity of a proposal while also helping it to gain broader support.

Because of the role that committees play in shaping and moving legislation, cultivating congressional champions on relevant committees is particularly important. This makes it especially important that advocates become deeply familiar with the nuances of the positions, perspectives, pressures and counterpressures of members who head each of the committees to which a comprehensive paid family and medical leave proposal (and related bills that affect paid leave policy) are assigned (primarily the Senate Committee on Finance, Senate Committee on Health, Education, Labor, and Pensions, House Committee on Ways and Means, House Committee on Education and Labor, but also the House and Senate Budget and Appropriations committees, the House Committee on Oversight and Reform and the Senate Homeland Security and Government Affairs Committee).

Especially over the past two years, House Ways and Means Committee members (especially its current chair Rep. Richard Neal (D-MA)) and House Education and Labor committee members (including its current chair Rep. Bobby Scott (D-VA)) – in close partnership with longtime House champion, Rep. Rosa DeLauro (D-CT) – have dedicated committee time and resources to exploring proposals related to paid leave and expansions of unpaid leave. The House Oversight and Reform committee (chaired by Rep. Carolyn Maloney (D-NY)) recently held a hearing on paid family and medical leave as well.³³

Advocates must work to ensure prioritization in the next Congress, including continuing House engagement, cultivating deeper engagement from leaders and members of the Senate committees with jurisdiction (working closely with lead Senate sponsor and longtime paid leave leader Sen. Kirsten Gillibrand (D-NY)), and building bipartisan bridges in both the House and the Senate. Advocates should also continue to identify openings to deeply engage other influential members on these and other key committees (for example, members who hold sway over other members, have had personal experiences that may make them open to such proposals, or have experience with paid leave legislation at the state

level) and work to develop strong relationships with those who could be potential allies on this issue.

Our case studies illustrate how bipartisan committee alliances can hasten the development and success of innovative policy proposals. Thus far, Republican-sponsored paid leave bills are conceptually far from the comprehensive paid family and medical leave proposals endorsed by most progressive paid leave advocates and Democratic members. However, Republicans who have not yet endorsed comprehensive proposals could feasibly become proponents with demonstrations of consistent and widespread support from the public, business interests, and key policymakers. By investing in these relationships, advocates may find themselves having greater influence over the bipartisan negotiations that will eventually happen within committees.

At the same time, advocates should maintain a nuanced understanding of the objections of policymakers who may never become allies in order to prepare to counter their arguments for other members and in the media. Importantly, paid leave advocates should also seek to avoid a cap-and-trade-like situation in the House, where Rep. Waxman (D-CA) moved forward with an already-moderate proposal without a bipartisan partner in the hope that further negotiations could yield bipartisan support in the House and, eventually, in the Senate. That support never materialized, progressives did not rally around the bill at the grassroots level, and the effort did not succeed.

In addition to fostering enthusiasm for the development and passage of paid leave legislation among committee members, our case studies show that advocates can also serve as educators throughout the legislative process. Because committee members can affect the content of proposals early in the legislative process, it is particularly important that these individuals (both champions and tacit supporters) have a holistic understanding of how a successful national paid family and medical leave program would ideally look. By taking advantage of opportunities to educate committee members on the different components of their preferred proposal as early as possible and providing clear evidence to support its provisions, advocates will have a better chance of seeing their priorities included in the bill that eventually makes it to the floor.

It is important to recognize that information does not need to come from one source – in fact, advocacy organizations are well-positioned to connect legislative staff with other members of their professional and intellectual networks. By building bridges between committee leaders and those with relevant policy expertise, including scholars, state and local officials, and grassroots organizers, advocates can provide those who head or sit on the relevant committees with access to information and to experts who can speak to their concerns and support the development of a policy proposal. Paid leave advocates have already successfully connected some members of key committees with these types of stakeholders and should continue to do more deep work in this area, with special

attention to connecting local advocates, health and economic experts and businesses with members of their congressional delegation.

These same kinds of efforts should be made to reach non-committee members who represent constituencies that stand to gain the most from paid family and medical leave legislation. Advocates might first look towards legislators who have relevant personal experiences (e.g., who have previously taken time off of work to care for a new child or to address a serious medical condition), who have expressed passion for a related cause or constituency (e.g., those who are seen as vocal representatives of children, older adults, or individuals with disabilities; those progressive and moderate members with a small business background), or who face electoral pressure to support progressive, family-oriented legislation. In other words, even members who do not hold positions of leadership on relevant committees may still prove to be influential allies. Conversely, conservative members who have been small business owners or who are seen as representatives of business interests have the potential to become outspoken opponents of paid family and medical leave proposals that place any costs on employers. Advocates may be well-served to reach out to these individuals with the goal of understanding their concerns. Gaining the support of such members (or even their neutrality) could prove instrumental in countering opponents' claims about a proposal's potential impact on business operations and costs and, eventually, smoothing a pathway to floor consideration.

Unsurprisingly, our case studies also illustrate the ways in which party leaders control the legislative agenda and act as spokespeople for their party's legislative priorities. Securing the support of the majority party's leadership and developing a plan to help party leaders to prioritize an issue is therefore crucial if a proposal is to get and stay on the policy agenda amidst other priorities. This is especially important if paid leave is folded into a larger package, as it was in the context of COVID-19 relief in early 2020. As trade-offs occur during intra- and inter-party negotiations, advocates must work to ensure that paid leave remains at the top of congressional leaders' list of priorities and that the proposal they include reflects workers' and families' needs. Advocates should also be mindful of creating and taking advantage of conditions that can lead the minority party to not erect barriers to consideration or passage, such as a leader's personal interest in an issue, broader political forces, and electoral considerations.

The importance of presidential support is another key theme across each of our case studies. The president's endorsement of a proposal can signal that an issue should be a legislative priority, facilitate legislative negotiations, and amplify public support for a policy. The president can set the legislative agenda at key moments, such as in a State of the Union address, and assist with legislative passage both when their party controls Congress and when the other party holds a majority. Early presidential support alone is obviously not enough to guarantee legislative passage, though, even when the president's party controls Congress. Advocates should seek to encourage continued strategic engagement from the

president and key presidential advisors to help promote the legislation and assist with cross-chamber negotiations, as presidential involvement often proves influential in a proposal's ability to gain widespread legislative and public support. At the same time, advocates should be mindful of competing policy and political priorities within the administration and between the administration and Congress, and adjust their strategies accordingly; being prepared at all times to show administration officials the policy and political value of a proposal that is in development and to defend legislative strategies that are in motion is critical.

Finally, we find examples in our case studies of cabinet-level secretaries, the president's spouse, and senior advisors facilitating presidential, congressional, and public support for policy proposals. In general, advocates should be on the lookout for potential allies within the executive branch who may be able to amplify advocacy efforts by providing the administration with valuable expertise, lending their political popularity to a proposal, and acting as a liaison between the president and different advocacy groups, political actors within government and constituencies. Our analyses suggest that the targeted contributions of influencers within government can help to make an issue less partisan and more popular within the administration and outside of it, as well.

2. Individuals and Organizations Outside of Government

→ ADVOCATES SHOULD:

- Detail and quantify the benefits of a proposal to constituents for legislators
- Speak with, but not for, beneficiaries – and maintain open lines of communication with public-facing local organizations that have similar goals
- Include state-level advocates in discussions about legislative content and strategy to ensure federal legislation follows best practices from states
- Coordinate messaging and outreach with other advocacy groups, determining strategically the optimal mix of speaking with a unified voice through one spokesperson and using a variety of messages and messengers

- Start messaging campaigns early and aim for intensity across local, state, and national levels, with special attention to geographies that are legislatively significant
 - Be strategic in the formation of left/right or non-profit/for-profit alliances: the goal of these is to be inclusive, in order to mobilize bipartisan cooperation – but not at the cost of harming the integrity and vision of the proposal
 - Be prepared for opposition from industry groups and from legislators who represent these interests
 - Avoid making compromises early, and never without reason
 - Identify celebrities who might have influence over the president and inspire the public, and determine whether the investment in courting them is worthwhile
 - Leverage high-quality research that quantifies the benefits of proposal while watching out for and countering the misuse of research by opponents
-

Our case studies show that individuals and organizations outside of government, including advocacy groups, can play an important role in the development, passage, and implementation of innovative policies. As advocates are well aware, their involvement starts long before the introduction of a proposal. Indeed, one of the key contributions that advocates can make to the legislative success of a policy idea is in helping to get the issue onto the policy agenda in the first place. Advocacy organizations are uniquely positioned to do this as representatives of significant demographic constituencies and as experts in public interest issues. By lifting up the demands of communities whose interests they seek to represent, advocates who are able to engage in electoral activities can signal to members of Congress that opposition to a proposal will have negative electoral implications. Advocates may be most effective in persuading members of Congress to support a paid family and medical leave policy by mobilizing the policymaker's constituents – both individuals and business representatives – to speak with their elected officials about the specific benefits of the proposal and the meaningful effects that a national policy would have on their personal economic situation and well-being, as well as the harms and costs associated with the absence of such a policy.

As a caution, however, the passage and swift repeal of the Medicare Catastrophic Coverage Act illustrates the risks of painting beneficiaries with a broad brush. Our analysis of the MCCA warns that the endorsement of a proposal among organizational leadership or by national-level organizations does not necessarily mean that grassroots organizations or members of the public will support a policy's content or design. Advocates must take care to recognize that they "speak with" rather than "speak for" their communities; this is why education, outreach, engagement and mobilization are so important. National-level organizations should include grassroots activists in developing and executing lobbying plans, maintain open lines of communication with small or localized organizations to ensure aligned goals, and proactively resolve areas of policy concern at key negotiation points; otherwise, as with MCCA repeal, opposing groups may be able to use the discontent of a sympathetic and electorally-significant constituency to splinter a legislative coalition and negatively influence media coverage.

Related, we find that advocacy groups can often be most effective when they coordinate their political messaging and public outreach efforts with other advocacy groups. Choosing to unite behind a coalition name and policy-focused cause can amplify the voice of supporters and increase the perceived political salience of an issue. However, this means making intentional decisions about the costs and benefits of unified messaging campaigns. Coalitions that have one clear leader often have an advantage in making cohesive demands during policy debates, but efforts to speak with a single voice also run the risk of diluting the broad appeal of a message and sacrificing allies' ability to pressure politicians from different angles. For example, while the Healthy, Hunger-Free Kids Act's tight coalition work and use of one primary spokesperson amplified the ability for advocates to pressure legislators, this approach may not be productive in all situations. Advocates should be mindful of the tradeoffs between efficient coalition efforts and the potential loss of airtime for other spokespeople who may be able to put a different face on an issue, appeal to a greater diversity of stakeholders, or reach a specific, targeted policymaker. Where paid leave is concerned, the wide range of paid leave's positive effects – promoting gender, racial, and economic justice, supporting the health and wellbeing of children, older adults, people with disabilities, and LGBTQ+ constituencies, and helping small businesses to compete with larger ones – argue for a more nuanced approach, where different communities that are part of a broad coalition take the lead in speaking at different times and to different audiences, but with unifying messages during all-hands-on-deck moments.

Once advocates coordinate the scope and content of messaging, they also need to pay close attention to the timing of their outreach and messaging efforts. Policymakers' engagement may be less focused – and their enthusiasm for moving legislation may wane – if advocates wait too long to channel advocacy energy into the outreach and engagement of activists across the country that can help catalyze momentum. Delayed outreach efforts can also give opponents

opportunities to mobilize activists to block legislative action, especially when opponents are better-financed industry groups with broad reach. The late development of the Clean Energy Works campaign and its subsequent inability to help manifest the bipartisan support needed to push the 2009 cap-and-trade effort over the finish line in the Senate is a reminder that the timing and intensity of messaging campaigns affects their ability to mobilize political support and catalyze political will. This is especially true when opponents' mobilizing efforts are ongoing, as the Tea Party's were in 2009 and 2010. Advocates should aim to start messaging and outreach campaigns early and to be mindful of opportunities for mobilization at the local, state and national levels, as such efforts may have the potential to assist with legislative success. They also need to be vigilant about opponents' messaging campaigns and work to create counter-narratives in the media and on the ground.

The increasing importance of social media in mobilization and messaging campaigns should also not be understated. Advocate Margo Wootan's catchy talking point that lawmakers were trying to "classify pizza as a vegetable" in their efforts to weaken certain aspects of the USDA's proposed school nutrition rules during the rulemaking phase of the Healthy, Hunger-Free Kids Act's implementation made its way into late-night comedy shows and memes, but came relatively late in the game. Some argue that earlier popularization of this message could have helped shore up those members of Congress on whom food industry representatives such as the American Frozen Food Institute, National Potato Council, and Schwan Food Company leaned to undermine the implementation of the proposed rules (Confessore, 2014).

Along these lines, policymaker proponents of the FIRST STEP Act were successful at using social media channels like Twitter to put public pressure on opponents. For example, members of Congress and the president tweeted that Majority Leader Sen. Mitch McConnell should bring the bill to the Senate floor for a vote. Following the completion of negotiations over the compromise bill, Senate Judiciary chair Sen. Chuck Grassley tweeted, "Ldr McConnell said he would need to have 60+ votes to bring criminal justice reform up & wanted to show large amount of Republican support. We have delivered. More than 1/2 of the Republican caucus supports the First Step Act LET'S VOTE!" (Grassley, 2018a). President Trump also tweeted, "Really good Criminal Justice Reform has a true shot at major bipartisan support. @senatemajldr Mitch McConnell and @SenSchumer have a real chance to do something so badly needed in our country. Already passed, with big vote, in House. Would be a major victory for ALL!" (Trump, 2018b). Advocates should encourage lawmakers to take advantage of these kinds of opportunities for social media outreach to advance their cause and influence their colleagues, where appropriate.

The composition of advocacy coalitions involving unusual partnerships and alliances is also important – and requires careful cost-benefit analyses. The value of forming left-right coalitions, in particular, should be considered within the

context of the timing of a legislative effort. In several of the cases that we examined for this report, including the 2009 cap-and-trade effort, the Healthy, Hunger-Free Kids Act, and the FIRST STEP Act, advocacy coalitions were comprised of a diverse range of left-leaning and right-leaning groups.

In the case of child nutrition and criminal justice reform, we find that left-right outside coalitions enabled and supported the formation of bipartisan coalitions in Congress and propelled legislation forward. However, this strategy is not without risks, as the example of the 2009 cap-and-trade effort shows. There, introducing seemingly unlikely allies into the development of legislation early in the legislative process led to the creation of a moderate, incremental proposal that – in the absence of strategic, scaled-up investment in communications and progressive field advocacy – was unsuccessful in exciting progressive advocates and mobilizing grassroots activism. This case also shows how inviting industry groups to the table can enable for-profit entities to have a double-say in policymaking by giving them a platform to influence legislative content in negotiations with progressive advocates while they are simultaneously funding industry-side organizational congressional lobbying activities. Building left-right alliances early may have merit in creating a good-faith path to collaboration, but special care must be taken to avoid premature compromises and maintain the integrity of the proposal.

Industry groups presented a challenge for advocates of the FMLA and many play the same opposing role in campaigns for paid family and medical leave at the state and federal levels. Thus far, representatives of large and small businesses and representatives of the insurance industry have met with federal policymakers, submitted letters to key committees and to the Department of Labor, and made on-the-record comments to journalists that generally articulate principles and preferences against comprehensive, publicly-administered paid family and medical leave. Their investment in this position will likely ratchet up as legislation advances in order to protect elements of the status quo and to seek policy compromises that serve their future interests once a national program is in place. As the examples of the 2009 cap-and-trade effort and the 2010 Healthy, Hunger-Free Kids Act suggest, industry groups can be effective opponents during the development stage (cap-and-trade) as well as during the implementation stage (HHFKA). In these cases and others, industry groups can play a powerful role in negotiations because they often have near-direct access to key political actors. They also have immense resources at their disposal that can be deployed to fund large-scale advertising and grassroots lobbying campaigns to influence public opinion.

Advocates should be prepared for some industry groups to fully oppose the development, passage, and implementation of paid leave legislation and for others to seek to substantially weaken comprehensive national paid leave proposals by advocating for opt-outs or special rules and by asking for federal preemption of state legislation. Advocates should determine their bottom lines

and must be strategic about when, whether or even if to compromise with industry partners, particularly early in the legislative process when it is unclear whether compromises will yield bipartisan support. Advocacy groups should also be prepared for members of Congress whose states or districts are closely aligned with particular industries (e.g., in terms of the placement of a corporation's headquarters, or the importance of a particular industry as an employer of their constituents) to oppose or soften their support for a proposal, even when the member had previously endorsed the idea.

To mitigate opponents' impact on legislators and on public narratives, advocates should continue to engage small and large businesses and supportive business organizations. The investments made in business organizing thus far have been very helpful in influencing hearings, media and more. Advocates can also look to state-level successes, where increased political pressure (in those cases provided by the threat of taking paid leave to voters through ballot initiatives) brought industry groups into constructive negotiations that resulted in strong state policies.

Our case studies showed that state and local government officials and associations may be influential in the content and design of national-level proposals that affect how state programs operate. Although the paid leave federal-state framework is different than the initiatives we studied, where issues revolved more around federal standards and federal funding for states and localities, the lessons still have relevance. Because a number of states currently have paid family and medical leave programs in place, state-level officials will likely have both concerns and contributions to bring to advocates and lawmakers who are working towards building a federal program. By bringing state-level political actors into federal policy conversations, advocates may be able to take advantage of best practices from the creation and implementation of similar programs in the states while addressing concerns that state or local officials raise.

Our legislative analyses also highlighted the role that celebrities and other outside influencers can play in the development and passage of new legislation. They include musicians (Bono for global HIV/AIDS legislation and Kanye West for criminal justice reform), media personalities (Kim Kardashian for criminal justice reform and Rachel Ray for child nutrition legislation), and athletes (Jim Brown for criminal justice reform) participating in legislative efforts. Celebrities seem to have been most influential when they were able to draw attention to an issue or policy proposal in such a way that they influenced and motivated *the president*. The identification of public figures as being aligned with an issue or cause may also mobilize public engagement, but the resources necessary to deploy celebrity engagement for this goal should be evaluated against other campaign needs. Advocates should also work to embed celebrity endorsers within the broader activities of larger messaging campaigns to ensure that the influence of such external influencers is efficiently harnessed to mobilize public engagement in the political and policy directions that advocates seek to go.

Researchers and research organizations are another potential resource highlighted in our case studies that advocates of paid family and medical leave legislation do and should continue to rely on. Most legislative fights involve a battle of numbers about the direct cost and revenue implications of a policy as well as costs and benefits that will flow to various individuals, entities and constituencies if the legislation is enacted. Although an obvious point, it merits emphasis: proponents should always seek to present positive cost-benefit analyses in terms of the proposal's effect on the economy, public health, and quality of life, particularly when opponents seek to emphasize direct costs to taxpayers, employers and the federal government.

As advocates argue for the value of paid family and medical leave as an important, sustainable and net-positive investment, they must prepare to quantify and defend the costs and cost-savings of a program – and to anticipate and defend against opponents' different (and likely higher) numbers. Advocates should also keep in mind that their own research can be misused by political actors who may simplify the findings of research to support their ideological preferences; this can result in scientific findings being stretched, misquoted, and misinterpreted in harmful ways. For example, the Republican National Committee's misuse of an MIT study estimating the cost of cap-and-trade legislation was effective in raising concerns about costs during the 2009 cap-and-trade legislative effort. Just as advocates must be prepared to incorporate data and the findings of published studies into their talking points, they should also be on the lookout for the ways in which research is being used or misused by political opponents and work to counter false or misleading narratives. In the paid leave context, program cost and state experiences with program utilization have already been taken out of context in congressional hearings; advocates should be prepared to preemptively and proactively refute opponents' likely claims and defend against the continued misuse of data.

3. Political and Policy Context

→ ADVOCATES SHOULD:

- Advocate to the president and allies within the executive branch to have the proposal included in State of the Union and the president's budget proposal
- Strategically time bill introduction to maximize helpful political dynamics or moments ripe for public attention

- Have separate, detailed political strategies for moving a piece of legislation through each chamber of Congress
 - Map out potential compromises early and consider under what conditions those compromises could become acceptable
 - Be mindful of the relationship between financing and benefits
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The content, timing, and strategic pathway of a proposal all affect its success through the legislative process. Although there is much that advocates and even bill champions cannot control, it is important to map out the intersections between the structure of a proposal and the legislative rules that govern its consideration; potential routes to advancing it through each chamber; and the timing with which it can move.

The idiosyncrasies of each case study make it somewhat difficult to cull applicable lessons, but several offer instructive suggestions about what advocates may want to do and avoid. Additionally, the considerations in this section will undoubtedly be affected by the types of external considerations and action-forcing events discussed in the next section (i.e., the spotlight on longstanding racial injustice, COVID-19 pandemic, and recovery efforts to overcome the effects of the current recession).

A. Timing Considerations

The common wisdom shared in advocacy circles is that a presidential reference to a proposal in the State of the Union is helpful in placing a bill on the legislative agenda, and that bills should be introduced early if they are to make it through to passage. Our case studies show that the former is likely more important than the latter. Several of our case studies suggest that presidential support for a policy idea can drive momentum and make an issue politically safer for certain legislators to support. For example, President George W. Bush's decision to highlight the global HIV/AIDS crisis and to propose funding for a relief plan during his 2003 State of the Union pushed the issue to the top of the policy agenda and renewed Republican support for the idea. Likewise, President Ronald Reagan discussed his concerns over catastrophic health care costs and President Donald Trump asserted his support for prison reforms during State of the Union addresses. At the same time, our case studies suggest that the introduction of a bill in the first month or two of a Congress is not necessary for final passage. Three of the legislative efforts that eventually passed both chambers of Congress were introduced in May (Medicare Catastrophic Coverage Act; Healthy, Hunger-

Free Kids Act; and FIRST STEP Act) and one, the Medicare Catastrophic Coverage Repeal Act, was introduced in November.

Beyond introduction, a key consideration related to timing is whether advocates want to move the bill as quickly as possible early in a Congress, near a recess, or hold it until later in a session. There may also be strategic considerations about moving the bill in the first session of a new Congress, in the second session prior to a congressional or presidential election, or during a lame duck period. As in the case of the Medicare Catastrophic Coverage Act, the start of a new Congress may allow members to use political momentum to pressure the president to follow the chamber's lead. Conversely, the impending end of a Congress or legislative session may put pressure on the members of Congress themselves to see a bill passed, as in the case of the Healthy, Hunger-Free Kids Act and the FIRST Step Act. Of course, electoral motivations are likely to affect the decisions of individual politicians and make them more or less likely to publicly support legislation. At such time at which a paid family and medical leave proposal is moving through the legislative process, advocates should pay special attention to legislators in electorally competitive seats to better anticipate members who could turn out to be surprising opponents or unexpected allies.

B. Strategies for Movement in Each Chamber

One of the key take-aways from our analyses is the importance of recognizing the need to have independent strategies for both chambers of Congress, particularly for the Senate where the cloture process requires 60 votes. The 2009 cap-and-trade bill, the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (The Leadership Act), and FIRST STEP Act each encountered notable challenges once they moved out of the House. The Leadership Act, the Healthy, Hunger-Free Kids Act, and the FIRST STEP Act successfully moved through the Senate only with concerted bipartisan leadership by senators who held gatekeeping powers and were able to use expedited procedures. For example, the HHFKA passed the Senate through unanimous consent, the Leadership Act's successful passage came down to Senate leadership accepting the House bill, and gatekeepers in the Senate placed the contents of the FIRST STEP Act within another legislative vehicle to avoid procedural obstacles. In contrast, the hoped-for bipartisan support for the 2009 cap-and-trade effort in the Senate never materialized, making passage impossible.

In sum, advocates should not assume that that bills (even those that are popular) will pass through normal legislative processes, nor that passage in one chamber guarantees passage in the other. Supporters of a proposal should therefore be prepared to think strategically and creatively about possible legislative pathways in both chambers, including through the use of expedited procedural options, that may become necessary to overcome institutional roadblocks placed by opponents.

C. Bill Content, Cost, and the Politics of Compromise

Bill timing, the process used for advancing legislation, and legislative content are all related – and, of course, political conditions affect all three. It is difficult to draw conclusions about the path that a paid leave proposal should take based on our case studies because the context surrounding each piece of legislation is unique, but our analyses underscore how content and compromise can be moving targets. What is initially viewed as an unreasonable compromise may prove to be necessary given political realities, and what once seemed aspirational may become obtainable as conditions change.

In the case of the Healthy, Hunger-Free Kids Act, anti-hunger advocates were eventually pressured to accept a cost offset that ended American Recovery and Reinvestment Act (ARRA) increases to Supplemental Nutrition and Assistance Program (SNAP) funding earlier than scheduled; the compromise was necessary because the impending end of the congressional session meant that Democrats would lose control of the House and their ability to bring the bill to a vote. On the other hand, advocates moderated their demands in the House only to encounter bipartisan resistance in the Senate in the case of the FIRST STEP Act. Although the decision to leave sentencing reform out of the House prison reform bill was made to attract Republican support in the House, prominent Republican senators ultimately demanded the inclusion of sentencing reform in the final legislation.

As advocates develop strategies for moving a paid family and medical leave proposal through Congress, they should confidentially and thoroughly discuss potential compromises early on for their own strategic purposes, and transparently evaluate with one another the terms and conditions under which those compromises would become acceptable. It is critical that legislative proponents take care to never freely give away (or allow other political actors, such as the president or freelancing legislators, to freely give away) concessions, but just as important that proponents regularly assess and respond to political conditions that may make compromises necessary.

Cost is another related feature of legislative deal-making. Congress may be less willing to pass a costly proposal in an election year than in an off-year, and concerns about costs may ultimately lead to policy changes that undercut a proposal's popularity, as occurred with respect to Medicare Catastrophic Coverage Act's lopsided taxation scheme, or force trade-offs that were difficult for many advocates to reconcile like the cost offsets included in the Healthy, Hunger-Free Kids Act.³⁴ Advocates for paid family and medical leave will need to contend with opposition to a proposed program's cost and potentially to its financing mechanism. Care should be taken to both (1) strike an appropriate balance between keeping budgetary costs low and providing a meaningful, sustainable benefit to all, and (2) distribute the cost burden on taxpayers in a way that is seen as fair by those who contribute and benefit from the program.

Because a national paid family and medical leave policy will involve new outlays – ideally to fund a new social insurance program – lessons from the passage and subsequent repeal of the Medicare Catastrophic Coverage Act of 1988 are quite relevant. First, new social programs should be cautious about straying from the Social Security social insurance principle of universal contributions. Second, analyses of the MCCA’s repeal suggest that it is better to not frontload costs while delaying receipt of popular benefits. According to Diamond (2011) and Cohn (2010), the policymakers who later developed the Affordable Care Act (ACA) took great care to avoid this pitfall by providing new protections for insurance-seekers such as allowing adult children to stay on their parents’ insurance until the age of 26 and prohibiting discrimination based on preexisting conditions soon after the legislation’s enactment; the thought was that these enhanced benefits would make any insurance cost increases more palatable. Advocates of paid family and medical leave should similarly consider what kinds of popular benefits could be implemented immediately.

4. Contextual Factors and Focusing Events

→ **ADVOCATES SHOULD:**

- Highlight the ways in which a proposal addresses current crises and salient trends
 - Anticipate opportunities and obstacles posed by the broader economic context
 - Be mindful of opportunities and obstacles posed by changes in the political climate and focusing events such as scandals
 - Design policy and messaging that accounts for the public’s faith in institutions and public opinion about the role of government in people’s lives
-

Although the kinds of contextual factors and focusing events described in this report are generally outside of advocates’ control, paid leave advocates can anticipate the effects that various external forces may have on their campaign

and the trajectory of legislation. There are two key reasons to consider context carefully: First, knowing what kinds of conditions may be advantageous for passage can prepare advocates to leverage opportunities as they arise; second, having an awareness of potential obstacles may enable advocates to avoid certain pitfalls before various political or policy forces compromise a proposal's chances. In other words, contextual forces and focusing events can often be harnessed – or their negative implications mitigated – with strategic preparation, flexibility and creativity.

In setting the stage for a robust paid family and medical leave legislative campaign in 2021, advocates should tie this policy goal to current trends, epidemics and crises, as many organizations fighting for paid leave, children, and gender and racial justice have already done. Doing so will increase the political saliency of a national paid leave program, while also framing the program as an urgent and necessary response to two current twin crises that must be dealt with in ways that are above partisan politics.

First, the Black Lives Matter movement-building project (started in 2013 by Alicia Garza, Patrisse Cullors, and Opal Tometi), spurred by continued killings of Black men and women by police and armed vigilantes – as well as nationwide protests growing through the summer of 2020 over racial injustice – have marked a renewed national reckoning with institutionalized anti-Black racism, particularly among white people (Black Lives Matter, 2020; McLaughlin, 2020). By highlighting the ways in which the lack of access to paid family and medical leave in the United States exacerbates racial inequalities and is particularly harmful to families and communities of color, advocates may be able to position paid leave within the scope of a comprehensive national approach to combatting these institutionalized injustices. The video released by Paid Leave for All showing Representatives Barbara Lee (D-CA), Gwen Moore (D-WI), Frederica Wilson (D-FL), Val Demings (D-FL), Ayanna Pressley (D-MA), and Lauren Underwood (D-IL) asking the Senate to consider meaningful paid family and medical leave as a part of the next COVID-19 relief package is an example of this principle in action.³⁵ As this report goes to publication, comprehensive paid leave has also been included in a draft of the Movement for Black Lives BREATHE Act, a comprehensive proposal to divest public funds from discriminatory policing and invest in public safety, health, economic security and well-being (BREATHE Act, 2020).

Second, the human cost of the federal government's chaotic and uncoordinated early response to the COVID-19 pandemic (Haffajee & Mello, 2020; Yamey & Jamison, 2020) – disproportionately borne by women, low-wage workers and Black, Indigenous, and other communities of color (Wen & Sadeghi, 2020) – has similarly underscored the importance of paid medical, family and sick leave in terms of protecting individuals, maintaining public health and safeguarding economic and job security. COVID-19 has shined a light on the inadequacies of current coverage in a profound way, with significant and devastating

consequences. Indeed, Congress recognized this when it included time-limited national paid sick days and paid family leave related to COVID-19 through the end of 2020 as a part of the Families First Coronavirus Response Act (FFCRA). In presenting paid family and medical leave as a natural policy step in terms of protecting workers and families and also working towards addressing gender, racial and economic injustices, advocates may be able to channel collective public anger into action. Advocates can also lean into paid leave as a policy that can assist with testing, quarantine and treatment for COVID-19, for honoring families' commitments to loved ones during uncertain times, and providing quality care to children while many schools and daycares are closed.³⁶

At the same time, the recent pandemic has put enormous strain on workers' and government budgets, which creates challenges for passing costly legislation that requires new federal investments. For example, the Great Recession of 2008 and its aftermath likely contributed to the demise of cap-and-trade legislation as concerns about climate change were subsumed by concerns about micro- and macro-economic conditions. Advocates should take care to acknowledge the challenges posed by the economic context and prepare for potential attacks related to the program's estimated costs by emphasizing the wide-reaching magnitude of such a proposal's potential benefits for the nation's economic recovery and the costs of the status quo.

Advocates should also be on the lookout for changes in the broader domestic and international political climate that could help (or hurt) efforts to pass paid family and medical leave legislation. Beyond the potential for major partisan change in executive and congressional leadership in January 2021 that could dramatically affect the prospects of paid leave legislation, our case studies suggest the value of anticipating smaller but significant political dynamics that have nothing to do with a given policy issue but nonetheless affect legislative efforts. For example, perceived scandals may influence negotiations as they did when the Iran-Contra scandal contributed to President Reagan's decision to support the Medicare Catastrophic Coverage Act or when the Russia investigation hurt Attorney General Sessions' ability to sway President Trump's position on criminal justice reform. In the context of working towards a national paid family and medical leave proposal, political actors whose position has been weakened by morally questionable or unpopular past actions could also be looking for opportunities to reestablish themselves as effective leaders and present potential opportunities for support.

International momentum in the form of upcoming summits, perhaps related to critical issues related to COVID-19, racial justice or gender equality, could also be used to influence the content of paid leave legislation or serve as an action-forcing event, although external momentum can also raise new concerns among opponents. On the one hand, President Bush's decision to call on Congress to authorize funding for the President's Emergency Plan For AIDS Relief (PEPFAR) before he attended the G-8 Summit that year was effective in putting pressure on

both chambers of Congress to develop legislation quickly. However, the looming Copenhagen International Climate Summit may have made legislators less likely to support the 2009 cap-and-trade effort out of concern that it would prompt momentum for additional international emission-reduction obligations. Advocates of paid family and medical leave should look out for meetings of world leaders focused on gender, health, work, or aging and consider informal opportunities to mobilize international pressure (given that the United States is an outlier in not guaranteeing paid leave) that could help to push the United States forward while also being mindful of perceptions of undue influence over domestic affairs by foreign powers.

5. Policy Frames

→ ADVOCATES SHOULD:

- Be transparent about costs while emphasizing the value and scope of benefits
 - Look for opportunities to frame a proposal around valuing and honoring families and the protection of vulnerable groups like babies, children or older loved ones
 - Use personal stories in ways that reinforce the current lack of access to paid leave as a societal, structural failing and not an individual one
 - Frame a proposal as building on state-level successes
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Finally, our case studies illustrate the ways in which the framing used by supporters and opponents can influence a legislation's prospects. In this report, we discussed the use of narrative frames related to fiscal issues, values, and federalism. Many of the lessons from our analyses apply to paid leave efforts; several of these messaging frames are already in use.³⁷ Advocates may be able to use some of the concepts identified in this report to attract broad-based support from various constituencies and from the holders of diverse ideological views and to prepare for the attacks likely to come from opponents.

As mentioned in the previous subsection, economic concerns and a hesitancy to raise taxes will likely be prominent in political discussions about the passage and implementation of paid leave. However, advocates may be able to look towards the approaches taken by those who wanted to raise school nutrition standards in 2010 and who framed the Healthy, Hunger-Free Kids Act's costs in the context of other spending and the legislation's benefits. For example, as Sen. Blanche Lincoln was advocating for her bill in the Senate, she highlighted that school meal rates had not been increased since 1973 (Bottemiller, 2010). The National Alliance for Nutrition and Activity (NANA) and other supporters of the legislation also countered cost concerns by highlighting research showing that states that had implemented new nutrition guidelines had not seen decreases in school revenue, suggesting that the perceived costs of the legislation were lower than opponents claimed (Schwartz & Wootan, 2019).

Paid leave advocates' efforts to compare contributions to the price of a cup of coffee³⁸ and to quantify the costs of the status quo³⁹ align with this strategy, as do educational campaigns that seek to quantify the monetary benefits of paid leave in terms of child, family, and public health, workplace productivity, and economic growth as compared with the proposal's cost, or its cost relative to the cost of other recent policies. As important as it is to monetize the proposed legislation's benefits, though, the case of the Medicare Catastrophic Coverage Act also serves as a reminder of the necessity of transparency. More specifically, it is critical that supporters not over-sell a policy by stating that it will confer benefits on certain groups or populations who, in fact, are unlikely to gain from the proposal. Rather than making broad claims about the societal benefits of paid leave, advocates may be better served by following the lead of HHFKA advocates in focusing in on the ways in which the policy would benefit particular people and groups. This could include the dissemination of personal stories from people who have benefitted from state-level policies or who would benefit from a national policy. Research and testimonies from state officials that point towards the solvency and sustainability of state-level programs is also likely to be helpful; some of these officials have already testified before Congress and submitted letters to the U.S. Department of Labor. Indeed, interviews with HHFKA advocates suggest that success stories from states that had implemented more stringent nutrition guidelines were more influential than data-focused research in swaying legislators (Schwartz & Wootan, 2019).

Paid family and medical leave advocates may also be able to make political headway by framing a proposal around certain values. The Healthy, Hunger-Free Kids Act of 2010 was largely successful in presenting the legislation as being focused on protecting the welfare and health of a sympathetic and vulnerable population – children. A former administration official notes that NANA's ability to keep children front and center in terms of messaging, rather than framing the issue around doctors, parents, politicians, or scholars, was key to the legislation's successful passage (Interview with Former Obama Administration Official, 2019). Advocates shaped this framing by utilizing children-oriented talking

points (e.g., “when parents release their parents into a school, parents should be able to trust that the school will keep their kids healthy”) and by incorporating creative and symbolic child-oriented messaging into their campaigns (e.g., holding events in cafeterias, dressing kids up in vegetable costumes).

For paid leave, there are similar opportunities to center messaging around the health and wellbeing of babies, children and older loved ones to build bipartisan support around a proposal. In the case of both the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (The Leadership Act) and the FIRST STEP Act, many conservatives framed their support for the proposal around compassion, protecting the vulnerable, and redemption, linking these values to their identity as Christians. Advocates of paid family and medical leave may be able to utilize similar messaging in their outreach efforts. At the same time, advocates should also look out for the vilification of vulnerable populations through the use of negative stereotypes and racist tropes that could be used by opponents to frame proposals as unfair and beneficiaries as undeserving. In recent years, President Trump and others have resurrected language to describe those who rely on social benefits that is reminiscent of the racist, sexist, and classist “welfare queen” imagery painted by President Reagan and others in the 1970s and 1980s (Covert, 2019).

Although the use of personal stories from real constituents into messaging could help to counter the use of these kinds of stereotypes in negative messaging campaigns, the perception that paid leave is an individual employment benefit introduces a unique challenge for advocates. In order to overcome this individualistic thinking, advocates should seek to tie together a range of personal stories to illustrate that the lack of access to paid leave is a ubiquitous, societal problem rather than tied to an individual’s failure to select a “good” employer, negotiate a comprehensive employment package, or plan for personal crises or family care needs.

Federalism framing is also likely to be prominent in political conversations around a national paid family and medical leave proposal. Opponents of the legislation have previously framed it as an unnecessary expansion of federal authority and argued that the provision of paid leave should be left to individual employers or to state governments. Like advocates of the HHFKA did, there may be opportunities to correct this narrative by presenting the provision of paid family and medical leave as protecting young children and other vulnerable and beloved people and aligning the proposal’s benefits with science. As Bernstein (2001) writes in her analysis of family and medical leave legislation in the states, advocates are more likely to have success in presenting the policy as being related to “motherhood and apple pie issues instead of as regulations on business (p. 139).”

Advocates can also take advantage of the strategies employed by advocates of both the HHFKA and FIRST STEP Act in framing federal legislation as a natural

next step to build upon successful state-level programs. This framing will, of course, be more likely to stick to a proposal that is designed with active engagement from local and state activists. Our case studies also touched on the challenges and opportunities that questions about federal preemption of state programs and laws may present. Preemption is already an issue that some large companies and business associations like the U.S. Chamber of Commerce, the Business Roundtable and the H.R. Policy Association have raised publicly in the media, before Congress and in comments to the U.S. Department of Labor. It is important for advocates and lawmakers to consider the experiences of previous legislative initiatives like cap-and-trade, where the inclusion of preemptive language was insufficient to generate hoped-for support in the legislative process and resulted in weaker proposals that disappointed activists. In the case of paid leave, federal preemption could mobilize opposition in states that have already enacted programs, especially among people who stand to lose more generous benefits if existing state programs are preempted.

IV. Concluding Thoughts

As we enter the fall of 2020, many would argue that the United States is at a crossroads with respect to taking policy actions related to public health, racial injustice, gender inequity and economic inequality. Paid family and medical leave would help to address each of these issues and is a policy ripe for serious consideration and enactment at the federal level. Recent congressional engagement on the issue has built on several years of rapid state-level progress. Advocates on the left have been working for decades to lay the groundwork for a national paid leave policy and have been joined more recently by advocates from the center and the right. 2021 may provide new opportunities for action.

This report's examination of the relevant literature across the fields of political science, sociology and public policy suggests that legislative success is often tied to a range of complex and interacting characteristics of the political, social, economic and geographic landscape – but that trends across these areas often reveal opportunities for the development and passage of substantive policies.

With respect to paid family and medical leave, we hope this report helps advocates and lawmakers to recognize opportunities for successful policy action in this area, as well as to gain a more holistic understanding of potential barriers to legislative success. Moving forward, advocates and lawmakers will need to consider several critical points:

- Strategies for determining policy design and content, the pursuit of legislative champions, and forming potential legislative pathways in various 2021-2022 scenarios;
- Ways in which the timing and trajectory of legislative efforts affect the development of advocacy tactics, coalition structures, and investments in organizing, communications, lobbying and research;
- How the partisan makeup of Congress, the state of the economy and the identity of the next president will substantially affect the timing and process for addressing paid leave, as well as the scope and financing of proposals;
- Decisions regarding the relative value and risk of forming unified advocacy coalitions, left/right partnerships, and/or alliances between advocacy organizations and private industry groups;
- Whether there is potential for further progress at the state level and in what ways state actions will impact the engagement of advocates, business and industry groups on this issue at the national level;

- How the health and economic effects of the COVID-19 pandemic – particularly as they exacerbate existing disparities in health and economic outcomes across racial, ethnic, gender, ability, and other groups – could affect public opinion on this issue, either increasing public understanding about the importance of widespread public access to paid family and medical leave, or diminishing public interest in favor of other priorities perceived to be more immediate.

Success stories from states, a growing body of compelling research, and effective national coalition work has moved this policy issue further onto the national agenda than ever before – and the opportunities to advance this policy in the coming months and years are exciting. Much work remains, however. In reflecting on other federal initiatives, we find opportunities for advocates to continue to build on the lessons of past efforts to hone their legislative strategies and channel advocacy efforts as efficiently as possible. Overall, we hope this report will accelerate progress to the day when the United States is a country that guarantees paid family and medical leave for all.

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Notes

- 1 Eight states plus the District of Columbia have enacted paid family and medical leave legislation over the last two decades. Programs in California, New Jersey, New York, Rhode Island, Washington, and the District of Columbia were providing benefits as of July 2020 and Massachusetts will make benefits available in January 2021, Connecticut in 2022, and Oregon in 2023.
- 2 The 15 percent figure includes workers who report taking leave for an FMLA purpose, though not all have legal federal FMLA protection due to business-size exemptions, employee tenure requirements or the limited scope of family members for whom a caregiving leave is taken.
- 3 Not all of those who take leave for an FMLA reason are eligible for federal FMLA protections. Among workers who are estimated to be eligible for job-protected, federally guaranteed FMLA leave, 17% report having taken a FMLA leave in the past 12 months; among those who are estimated to be ineligible due to the size of their employer, job tenure or hours worked, just 12% report taking leave for an FMLA reason within the past 12 months (Brown, et al, 2020).
- 4 The FMLA also provides up to 26 weeks of unpaid leave for a relative needing leave from work to care for an injured service member or veteran and up to 12 weeks of qualifying exigency leave related to the deployment of a parent, spouse, or child, though these types of leave account for a very small share of FMLA leave-taking. Congress added these provisions in 2008 and 2009. For more, see <https://www.dol.gov/agencies/whd/fmla>. For law text, see <https://www.govinfo.gov/content/pkg/BILLS-103hr1eas/pdf/BILLS-103hr1eas.pdf>
- 5 Then Rep. Bernie Sanders (I-VT) not included in partisan composition count.
- 6 51-49 if counting Sen. James Jeffords (VT), an Independent who caucused with the Democrats.
- 7 59-41 if counting Sen. Bernie Sanders (VT), an Independent, and Sen. Joe Lieberman (CT), an Independent Democrat, both of whom caucused with the Democrats.
- 8 The Healthy, Hunger-Free Kids Act passed during the lame-duck session of the 111th Congress, just before a change in House party control.
- 9 59-41 if counting Sen. Bernie Sanders (VT), an Independent, and Sen. Joe Lieberman (CT), an Independent Democrat, both of whom caucused with the Democrats.
- 10 The FIRST STEP Act passed during the lame-duck session of the 115th Congress, just before a change in House party control.
- 11 53-47 if counting Sen. Bernie Sanders (VT) and Sen. Angus King (ME), both Independents who caucused with the Democrats. Note that at the beginning of the 115th Congress, Republicans held a larger majority with 52-46, but Sen. Jeff Sessions's (R-AL) resigned to become Attorney General and Doug Jones, a Democrat, won the special election to replace him.
- 12 The law directed resources towards those countries most affected by HIV/AIDS (CRS, 2007). The original program covered 15 countries: Botswana, Cote d'Ivoire, Ethiopia, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Vietnam, Zambia, and Guyana (KFF, 2019a). As of 2019, more than 50 countries receive some kind of PEPFAR-related support, although 31 (Angola, Botswana, Burma, Burundi, Cambodia, Cameroon, Côte d'Ivoire, the Democratic Republic of the Congo, the Dominican Republic, Eswatini (formerly known as Swaziland), Ethiopia, Ghana, Haiti, India, Indonesia, Kenya, Lesotho, Malawi, Mozambique, Namibia, Nigeria, Papua New Guinea, Rwanda, South Africa, South Sudan, Tanzania, Uganda, Ukraine, Vietnam, Zambia, and Zimbabwe) receive the most support (KFF, 2019a).

13 An amendment proposed by Rep. Joseph Pitts (R-PA) required that one-third of prevention funding go towards abstinence programs. The Pitts amendment requirement was later relaxed, although abstinence programs continue to receive funding (Lo et al., 2016). A recent study comparing outcomes in countries that received abstinence program funding to outcomes in countries that did not found no evidence that such programs were associated with reductions in high-risk sexual behavior (Lo et al., 2016).

14 Child nutrition programs are programs overseen by the U.S. Department of Agriculture's Food and Nutrition Service (USDA-FNS) including the National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the Special Milk Program (SMP), and the Fresh Fruit and Vegetable Program (FFVP) (CRS, 2019b). The Special Supplemental Nutrition Program for Women, Infant and Children (WIC) was first piloted as an amendment to the Child Nutrition Act and made permanent in 1975 (CRS, 2015).

15 "Direct certification" refers to the process through which children apply for free/reduced-price meals and also to the process through which schools in low-income areas can apply for additional federal funding. Rather than submitting a household application for free/reduced-price meals or a school application for school-wide free meals (Community Eligibility Provision), direct certification allows schools to access information from local public assistance agencies (e.g., SNAP, TANF, Head Start, Medicaid, etc.) in determining a child's eligibility for benefits and/or the district's level of need (CRS, 2012a).

16 "Prerelease custody" refers to an earlier release from prison into a halfway house or home confinement (CRS, 2019c). For individuals convicted of violent crimes who are not eligible for prerelease custody, the law allows for credits to be used for

other benefits such as increased visitation or phone privileges (CRS, 2019c).

17 Previously, individuals with prior drug convictions of at least one year were required to fall under mandatory minimum sentencing guidelines, but the FIRST STEP Act increased this prior drug conviction threshold to 10-year convictions (CRS, 2018b). The law also shortened mandatory minimum sentences for individuals with one prior conviction from 20 years to 15 years and reduced the mandatory minimum for individuals with two or more prior convictions from a minimum lifetime sentence to a minimum 25-year sentence (CRS, 2019c). Other provisions of the law expanded "safety value" eligibility (which allows for exceptions to mandatory minimum rules) for some nonviolent drug offenders and removed "stacking" for certain offenders (which mandated a 25-year minimum sentence for conviction incidents involving both a firearm and drug trafficking or violent crime conviction) (CRS, 2019c).

18 See, for example, <https://www.aei.org/events/criminal-justice-reform-and-reducing-recidivism/>.

19 The repeal bill was sponsored by Rep. Brian Donnelly (D-MA) and co-sponsored by Rep. Martin Russo (D-IL), ranking member Rep. Bill Archer (R-TX), Rep. Clay Shaw (R-FL), and Rep. Barbara Kennelly (D-CT).

20 The bill's co-sponsors included Rep. Tom Lantos (D-CA), the only Holocaust survivor to have served in Congress, Rep. Barbara Lee (D-CA), who has authored or co-authored every major piece of legislation related to HIV/AIDS since 1998, Rep. James Leach (R-IA), and the former doctor, Rep. Dave Weldon (R-FL) (Cowen, 2008; Lee, 2019; Wilson Center, 2006; VOA, 2003).

21 The original sponsors and co-sponsors of the FIRST STEP Act were all members of the House Judiciary Committee – Rep. Doug Collins (R-GA), Rep. (and committee chair) Bob Goodlatte (R-VA),

Rep. Hakeem Jeffries (D-NY), and Rep. Karen Bass (D-CA).

22 “Blueprint for Legislative Action,” available here: <https://s31207.pcdn.co/wp-content/uploads/2019/07/USCAP-A-Blueprint-for-Legislative-Action.pdf>.

23 The House bill was sponsored by Rep. Henry Waxman (D-CA) and co-sponsored by Rep. Edward Markey (D-MA). The Senate bill was sponsored by Sen. John Kerry (D-MA), Sen. Barbara Boxer (D-CA), Sen. Paul Grattan Kirk Jr. (D-MA), and Sen. Benjamin Cardin (D-MD).

24 As discussed elsewhere in this report, Democratic opposition was focused on amendments by Republicans introduced related to abstinence programming and programmatic exemptions for faith-based organizations with religious objections.

25 The Bowen Report from HHS also listed high health care costs for uninsured young people and the cost of long-term care as key issues related to catastrophic health costs (Christensen & Kasten, 1988; Moon, 1990). Although there were a significant number of seniors who lacked sufficient acute care coverage (which is what the MCCA was intended to address), it is also important to note that prior to the law’s passage upwards of 70 percent of Medicare enrollees had privately purchased Medigap insurance, sometimes subsidized by an employer/former employer, to cover catastrophic health costs for acute care (Morreale, 1991). This is discussed in much more detail in the Political and Policy Context section of this report as a separate lesson learned.

26 The Seniors Coalition Against the Catastrophic Act is now known as the Seniors Coalition. It claims to “represent[] the interests and concerns of America’s senior citizens.” <https://www.senior.org/member-benefits> Importantly, however, according to SourceWatch, a publication of the Center for Media and Democracy, the Seniors Coalition is a “free-market” front group for pharmaceutical industry lobbyists (SourceWatch, 2019).

27 “Blueprint for Legislative Action,” available here: <https://s31207.pcdn.co/wp-content/uploads/2019/07/USCAP-A-Blueprint-for-Legislative-Action.pdf>.

28 For original report, see Paltsev, Sergey, Reilly, John M., Jacoby, Henry D., et al. “Assessment of U.S. Cap-and-Trade Proposals: Report 146.” MIT Joint Program on the Science and Policy of Global Change, April 2007, http://web.mit.edu/globalchange/www/MITJPSPGC_Rpt146.pdf; to view response letter to Rep. Boehner, see https://cdn.factcheck.org/UploadedFiles/Reilly_Response_Letter_1.pdf.

29 Sen. John Cornyn (R-TX) introduced the CORRECTIONS Act (S. 467) in 2015. The six original co-sponsors included Sen. Sheldon Whitehouse (D-RI), Sen. Mike Lee (R-UT), Sen. Richard Blumenthal (D-CT), Sen. Orrin Hatch (R-UT), Sen. Chris Coons (D-DE), and Sen. Lindsey Graham (R-SC). The same year, Sen. Chuck Grassley (R-IA) and Sen. Dick Durbin (D-IL) introduced the Sentencing Reform and Corrections Act (SRCA) (ABA, 2015).

30 Most entitlement program spending does not go through the annual appropriations process, but some funding, including for child nutrition programs, Medicaid, and some veterans’ programs, does (CRS, 2012d). “Appropriated entitlement” spending makes up 36-38% of spending allocated through annual appropriations acts (CRS, 2012d).

31 First established in the 1994 budget resolution, the Senate’s “pay go” rule requires new legislative provisions considered by the Senate that increase spending or reduce revenue to be offset by equivalent budgetary cuts and/or increases in revenue; waiving the rule requires the support of two-thirds of the chamber (CRS, 2018a).

32 In 2002, Bush said, “I call my philosophy and approach compassionate conservatism. It is compassionate to actively help our fellow citizens in need. It is conservative to insist on responsibility and results. And with this hopeful approach, we will make a real difference in people’s lives” (White House, 2002).

33 Ways and Means held three hearings focused wholly or partially on paid family and medical leave in the 116th Congress and the Education and Labor committee held two hearings, one on updating the Family and Medical Leave Act and a second on the issue of paid sick days, a policy that is closely related to paid family and medical leave. House Oversight and Government reform held one. See House Committee on Ways and Means hearings, <https://waysandmeans.house.gov/legislation/hearings/legislative-proposals-paid-family-and-medical-leave> (Jan. 28, 2020); <https://waysandmeans.house.gov/legislation/hearings/paid-family-and-medical-leave-helping-workers-and-employers-succeed-0> (May 8, 2019); <https://waysandmeans.house.gov/legislation/hearings/leveling-playing-field-working-families-challenges-and-opportunities-0> (March 7, 2019). See House Committee on Education and Labor hearings <https://edlabor.house.gov/hearings/the-healthy-families-act-hr-1784-examining-a-plan-to-secure-paid-sick-leave-for-us-workers-> (March 11, 2020); <https://edlabor.house.gov/hearings/balancing-work-health-and-family-the-case-for-expanding-the-family-and-medical-leave-act> (Feb. 11, 2020). See Government Oversight and Reform, <https://oversight.house.gov/legislation/hearings/examining-the-need-for-comprehensive-national-paid-family-and-medical-leave> (Dec. 10, 2019).

34 Tellingly, advocates are currently fighting to restore SNAP funding to American Recovery and Reinvestment Act levels to help mitigate the devastating effects of the COVID-19 recession on hunger. See, for example, <https://www.justharvest.org/tell-the-senate-to-pass-the-heroes-act-and-strengthen-snap-now/>.

35 Watch the video here: <https://paidleaveforall.org/cbc-video/>.

36 Both the Paid Leave for All campaign and the organization Paid Leave for the U.S. Action have created communications and social media campaigns that focus on these elements of messaging and

mobilization in the spring and summer of 2020. See Paid Leave for All COVID-19 Rapid Response Hub, <https://paidleaveforall.org/coronavirus-emergency-and-paid-leave-resources/>, and Paid Leave for the U.S. Action Fund's ad campaign #ANewNormal, <https://www.plusaction.us/anewnormal>.

37 See, for example, the name of the decade-old organization, Family Values @ Work (familyvaluesatwork.org), a coalition of organizations that have helped to win most of the country's state paid family and medical leave and state and local paid sick days laws; the Center for Public Justice's Families Valued campaign (https://www.cpjustice.org/public/page/content/families_valued), which seeks to bring a Christian lens to promoting paid leave.

38 For example, see: <https://www.gillibrand.senate.gov/news/press/release/senator-gillibrand-leads-group-of-27-senators-to-reintroduce-family-act>.

39 See, for example, the Center for American Progress' report, "The Rising Cost of Inaction on Work-Family Policies" available at <https://www.americanprogress.org/issues/women/news/2020/01/21/479555/rising-cost-inaction-work-family-policies/>.



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