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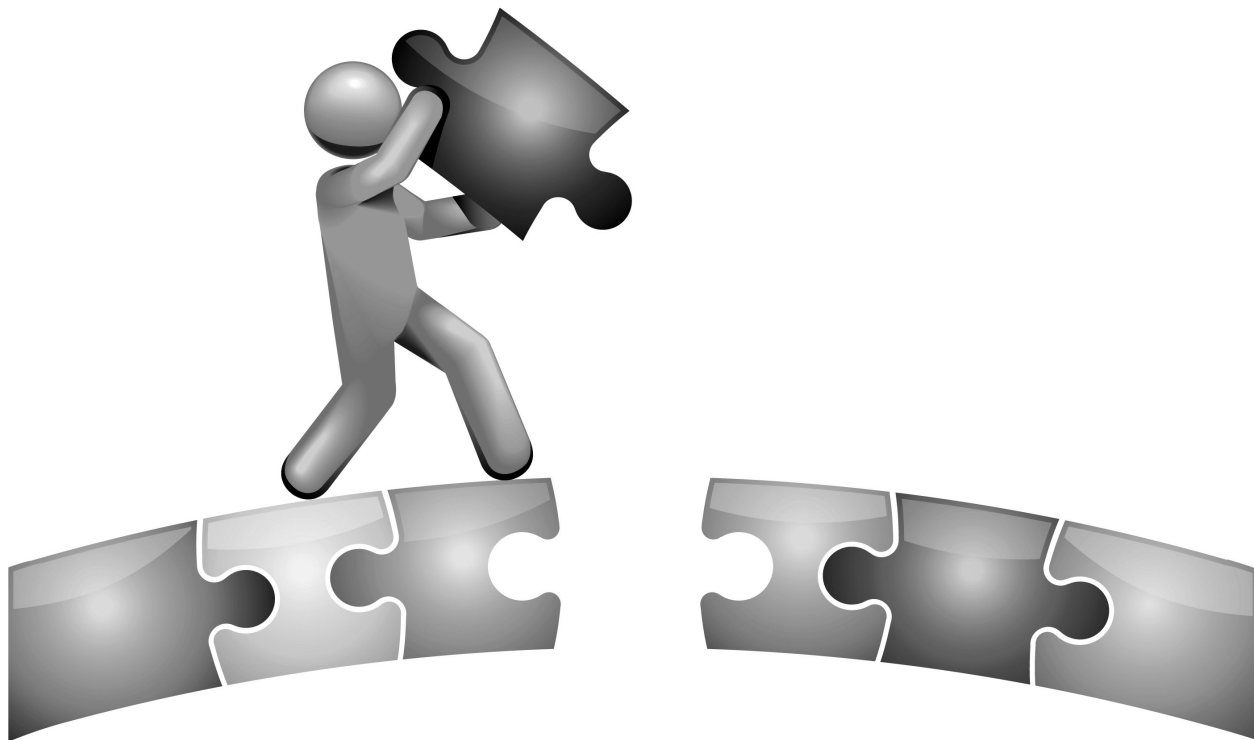
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ELIMINATING THE RACIAL WEALTH GAP

The Asset Perspective

By Karen K. Harris and Kathleen Rubenstein

Public policies have [played] and continue to play a major role in creating and sustaining the racial wealth gap, and they must play a role in closing it.

—Insight Center for Community Economic Development, Closing the Racial Wealth Gap Initiative (2008)

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Wealth is an indicator and determinant of a family's attaining economic security and the American Dream. Yet the gap between white and minority households' wealth remains large and, due to the recession, has grown larger still. Advocates around the country have crafted policy interventions to assist low-income individuals, particularly minorities, in building and growing assets. Here we discuss the racial wealth gap, the historical and continuing reasons for the gap, and effective policy solutions for decreasing it.

I. Wealth Accumulation and Asset Poverty

To be a poor man is hard, but to be a poor race in a land of dollars is the very bottom of hardships.

—W.E.B. DUBOIS, *THE SOULS OF BLACK FOLK* (1903)

Wealth and assets are the building blocks of economic stability and mobility. An intriguing body of research also suggests that wealth, independent of income, improves

an individual's future orientation and psychological well-being.¹ Higher levels of wealth also benefit society as a whole. Unfortunately, wealth inequality in the United States is not only wide but growing.

Until recently, scholars primarily used income as a measure of economic well-being. Income, however, does not fully describe a household's economic status. Focusing on income and income poverty merely examines whether or not a family is earning enough to get by.² Instead the focus should be on asset poverty, which is defined as not having enough assets to survive for three months if all outside income sources ceased. Defined simply, wealth, or net assets, is what we own versus what we owe. Subtracting debts, such as credit card balances, education loans, and secured debt (including mortgages and car notes), from assets, such as home equity, business capital, and financial assets (savings accounts, stocks), shows an individual's net worth. Asset poverty gives a much clearer picture of a family's and a nation's financial stability.

The current level of inequality in asset ownership in the United States is astounding—the wealthiest 20 percent of American households possess 80 percent of the country's total net worth.³ One-in-five American families are asset poor,

and 14 percent of households have zero or negative net worth.⁴ The racial wealth gap is even worse. While 16.4 percent of whites are asset poor, 37.2 percent of minorities, or nearly twice as many, are asset poor.⁵ In terms of household net worth, Latinos own twelve cents for every dollar owned by white households, and African American families own only ten cents.⁶ The wealth gap for women of color is even more pronounced. Compared to single white women's median net worth of around \$49,000, single black women's median net worth is only \$5,000, and for Latino women, it is a mere \$2,680.⁷

Racial wealth disparities will rise as the after-effects of the Great Recession continue. Although the recession affected all U.S. households' wealth—through unemployment, falling stock prices, and huge losses in home values—it affected minorities more. At the start of the recession, African Americans' unemployment rate was 8.6 percent and rose 7.2 percentage points to 15.8 percent within two years.⁸ Similarly Latinos' unemployment rate went from 5.8 percent to 12.9 percent.⁹ By contrast, the unemployment rate for whites went up to only 9.2 percent by 2009.¹⁰ These high minority unemployment rates follow a period of economic growth that did not benefit minorities—

¹See, e.g., MICHAEL SHERRADEN, *ASSETS AND THE POOR: A NEW AMERICAN WELFARE POLICY* 155–56 (1991) (assets are “hope in concrete form”); Ford Foundation, *Building Assets to Reduce Poverty and Injustice* 7 (2002), <http://bit.ly/kg3SMD> (assets provide an ability to take advantage of opportunities and a sense of security, control, and confidence); Dalton Conley, *Capital for College: Parental Assets and Postsecondary Education*, 74 *SOCIOLOGY OF EDUCATION* 59, 68 (2001) (doubling household net worth has been shown to increase by 8.3 percent the probability of going to college after graduating from high school).

²Moreover, the current poverty measure in the United States is outdated and does not reflect the true costs of today's reality (see generally Karen K. Harris, *Hard Numbers: A Measure Meant for Research, Not Eligibility*, *SHRIVER BRIEF* (April 19, 2010), <http://bit.ly/kNs0ir>).

³Michael I. Norton & Dan Ariely, *Building a Better America—One Wealth Quintile at a Time*, 6 *PERSPECTIVES ON PSYCHOLOGICAL SCIENCE* 9, 11 (2011); Dave Gilson & Carolyn Perot, *It's the Inequality, Stupid*, *MOTHER JONES*, March–April 2011, <http://bit.ly/l2IGlj>.

⁴CFED [Corporation for Enterprise Development], *2009–2010 Assets and Opportunity Scorecard* (2009), <http://scorecard.cfed.org> (dataset available at <http://bit.ly/mTKTDM>).

⁵*Id.*, Data Profile: United States, <http://bit.ly/kdrKAa>.

⁶Federal Reserve Board, *2007 Survey of Consumer Finances: Survey Data* (updated June 16, 2009), <http://1.usa.gov/jUilQJ>.

⁷Insight Center for Community Economic Development, *Lifting as We Climb: Women of Color, Wealth, and America's Future* 7–8 (Spring 2010), <http://bit.ly/jzz9Ag>. Most of the wealth owned by black and Latino women is in the form of vehicles, which are generally not included in net worth. Vehicles excluded, the median net worth of single black women is \$100; Latino women, \$120; single white women, \$41,500 (*id.*).

⁸Luke Reidenbach & Christian Weller, Center for American Progress, *The State of Minorities in 2010*, at 2 (Jan. 15, 2010), <http://bit.ly/l2Jwft>.

⁹*Id.*; Press Release, Bureau of Labor Statistics, U.S. Department of Labor, *The Employment Situation—March 2011* tbl.A-2 (April 1, 2011), <http://1.usa.gov/jqfLTd>.

¹⁰Press Release, Bureau of Labor Statistics, *supra* note 9, tbl.A-3.

minority unemployment rates in 2007 were the same as in 2001 when the most recent period of economic growth started.¹¹ Nor did minorities benefit as much from stock increases during these boom years, as minorities are less likely to own stock. In 2004, compared to less than 26 percent of black households and 19 percent of Latino households, 57 percent of white households owned stock either directly or indirectly or both.¹² Minorities disproportionately live in states that continue to bear the brunt of the economic downturn.¹³ Thus, while the stock market has regained a significant portion of its recessionary losses and unemployment figures have dropped slightly, minorities are not benefitting from these economic recoveries as much as whites.

In the meantime housing values continue to deteriorate. Through February 2011, home price indices showed a 3.3 percent decline in housing prices since the prior year.¹⁴ Although whites are more than twice as likely to own their homes, the share of blacks' wealth in the form of housing is nearly twice as large as their white counterparts.¹⁵ Because blacks were more likely than whites to have been steered toward subprime loans or live in neighborhoods with high rates of subprime lending, the foreclosure crisis has also had a disproportionate impact on them.¹⁶ In terms of foreclosures, blacks and Latinos who took

out first liens on owner-occupied homes from 2005 to 2008 are more than 70 percent more likely to have lost their homes to foreclosure than whites and Asians.¹⁷ In fact, the foreclosure crisis has caused "the greatest loss of wealth for people of color in modern U.S. history."¹⁸ Minorities are estimated to have lost between \$164 billion and \$213 billion in subprime loans between 2000 and 2008.¹⁹

The ripple effects of foreclosures will continue to haunt communities of color disproportionately. Areas with high foreclosure rates suffer from neglect and blight, depreciation of nearby properties, high rates of vacancy, increased crime, revenue declines in local businesses, and a withering tax base.²⁰ The "spillover wealth" lost to African American and Latino communities between 2009 and 2012 as a result of depreciated property values alone has been estimated to be \$194 billion and \$177 billion, respectively.²¹ And, since the recession, there has been a decline in the availability of credit, especially for minorities. Whites and Asians have seen an approximate 30 percent decline in prime loans and a more than 80 percent decline in subprime loans.²² Blacks and Latinos have seen even more dramatic declines in both types of loans: a more than 75 percent decline in prime loans and a more than 90 percent decline in subprime loans.²³

¹¹Reidenbach & Weller, *supra* note 8.

¹²Sherman D. Hanna & Suzanne Lindamood, *Changes in Stock Ownership by Race/Hispanic Status, 1998–2004*, CONSUMER INTERESTS ANNUAL, 2007, at 96.

¹³Center for Social Inclusion, 2011 Recession Impact Index (n.d.), <http://bit.ly/mcytSp>.

¹⁴Press Release, S&P Indices, Home Prices Edge Closer to 2009 Lows According to the S&P/Case-Shiller Home Price Indices (April 26, 2011), <http://bit.ly/mmtRrO>.

¹⁵Darrick Hamilton & William Darity Jr., *Race, Wealth, and Intergenerational Poverty*, AMERICAN PROSPECT, Sept. 2009, at A11, <http://bit.ly/mOCAzX>.

¹⁶*Id.*

¹⁷Debbie Gruenstein Bocian et al., Center for Responsible Lending, *Foreclosures by Race and Ethnicity: The Demographics of a Crisis 8* (June 18, 2010), <http://bit.ly/iOM6Bx>.

¹⁸Amaad Rivera et al., United for a Fair Economy, *Foreclosed: State of the Dream 2008*, at vii (Jan. 15, 2008), <http://bit.ly/iNg3wc>.

¹⁹*Id.*

²⁰*Id.*

²¹Hamilton & Darity, *supra* note 15.

²²Maurice Joudain-Earl, ComplianceTech, *The Foreclosure Crisis and Racial Disparities in Access to Mortgage Credit 2004–2009*, at 19, 30 (Feb. 9, 2011), <http://bit.ly/lw9m8g>.

²³*Id.*

Accessing credit requires a credit score, and there are racial disparities in credit scores.²⁴ Though developed in the 1950s, credit scores—which are used to determine risk-based pricing premiums for credit cards, mortgages, and consumer and business loans—gained importance in the 1990s.²⁵ Typically used for determining eligibility and rates for mortgages and credit cards, credit scores are now being used as background information on job applicants and for home insurance.²⁶ Thus low credit scores, which have been lowered even further due to the recession, have far-reaching financial implications. Studies show that credit scoring systems contain inherent biases that disproportionately harm minorities, leaving them with lower scores and therefore less access to prime credit. Inevitably this increases their use of the “shadow financial industry,” such as payday lending and other predatory products, thereby further draining their wealth.²⁷

In less than a generation (from 1984 to 2007), the racial wealth gap has more than quadrupled, mostly as a result of rising white wealth.²⁸ The recession has likely exacerbated this gap because of the disproportionate loss in minority wealth. In order to understand the persistence of this discrepancy, one needs to examine the country’s historical and current discriminatory practices and policies.

II. Racial Wealth Gap: Historical and Current Causes

Over a hundred years after the end of slavery, more than thirty years after the passage of major civil rights legislation, and following a concerted but prematurely curtailed War on Poverty, we harvest today a mixed legacy of racial progress.

—MELVIN L. OLIVER & THOMAS M. SHAPIRO, *BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY* (1995)

Even when characteristics such as income, education, and other demographics are equal, minorities continue to have less wealth than similarly situated whites. Because this gap has persisted and continues to widen, its historical roots and continuing causes must be examined (see fig. 1).

In terms of de jure, or legal, discrimination, slavery is an obvious example of a policy that increased the racial wealth gap and created the opportunity for whites to build assets at the expense of minorities; however, other policies—promotion of white land acquisition, home ownership, retirement, and education—of the U.S. government have also racialized wealth acquisition.²⁹ Before, during, and after slavery the United States seized Native American lands.³⁰ Similarly the annexation of Mexican lands in the 1840s stripped Latinos of a significant portion

²⁴Geoff Smith & Sarah Duda, Woodstock Institute & Illinois Asset Building Group, *Bridging the Gap: Credit Scores and Economic Opportunity in Illinois Communities of Color 2* (Sept. 2010), <http://bit.ly/jOFFGp>. Scores typically range between 350 and 850, with 680 being considered a good score, and lenders typically use credit score thresholds, or “cutoffs,” to trigger approval or disapproval, increases in pricing, loan terms, and credit limits.

²⁵*Id.* See also Karen K. Harris & Susan Ritacca, *Alternative Credit Data: To Report or Not to Report, That Is the Question*, 44 *CLEARINGHOUSE REVIEW* 391 (Nov.–Dec. 2010).

²⁶*Use of Credit Information Beyond Lending: Issues and Reform Proposals: Hearing Before the Subcomm. on Fin. Insts. & Consumer Credit of the H. Comm. on Fin. Servs.*, 111th Cong. 39 (2010) (statement of Chi Chi Wu, Staff Attorney, National Consumer Law Center), <http://1.usa.gov/mp48pT>.

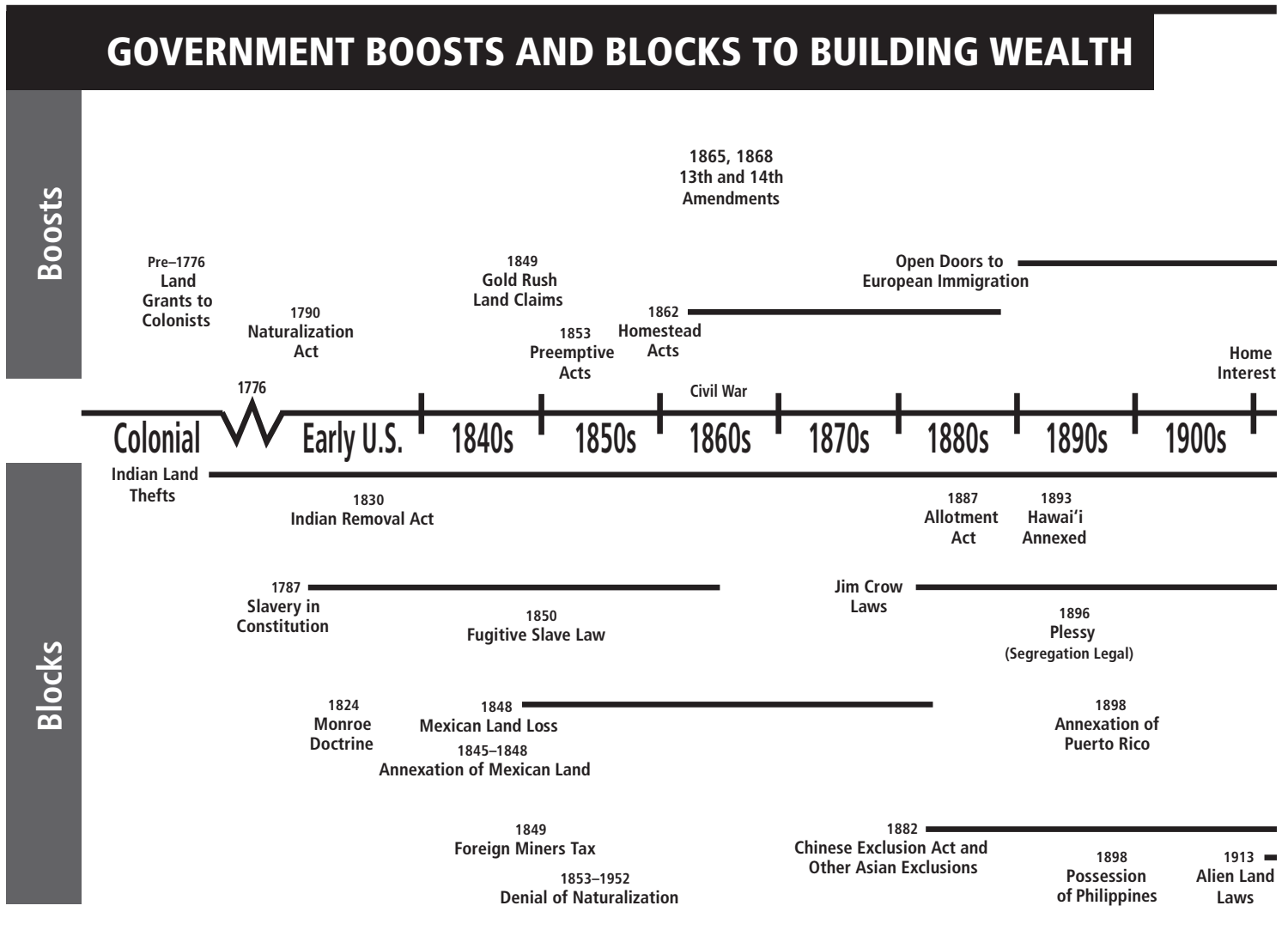
²⁷Harris & Ritacca, *supra* note 25, at 392.

²⁸Thomas M. Shapiro et al., Institute on Assets and Social Policy, Heller School for Social Policy and Management, Brandeis University, *The Racial Wealth Gap Increases Fourfold* (May 2010), <http://bit.ly/kF2Kyx>.

²⁹Ebony Thomas & Chris Giangreco, Illinois Asset Building Group, *Disparities in Assets and Ownership: Limitations to the American Dream in Communities of Color 5* (March 2011), <http://bit.ly/kldVMY>.

³⁰*Id.*

Figure 1. Timeline of Federal Policies Affecting Asset Accumulation



of their most valuable asset.³¹ Nor were Asians immune to these policies; during the 1860s the Foreign Miners Tax was levied against Chinese gold miners to prevent them from acquiring wealth.³² These taxes funded one-fourth of California’s budget for at least a decade.³³ The 1862 Homestead Act, perhaps one of the country’s largest asset-building endeavors ever, gave land—taken from Native Americans and Mexicans—to whites.³⁴

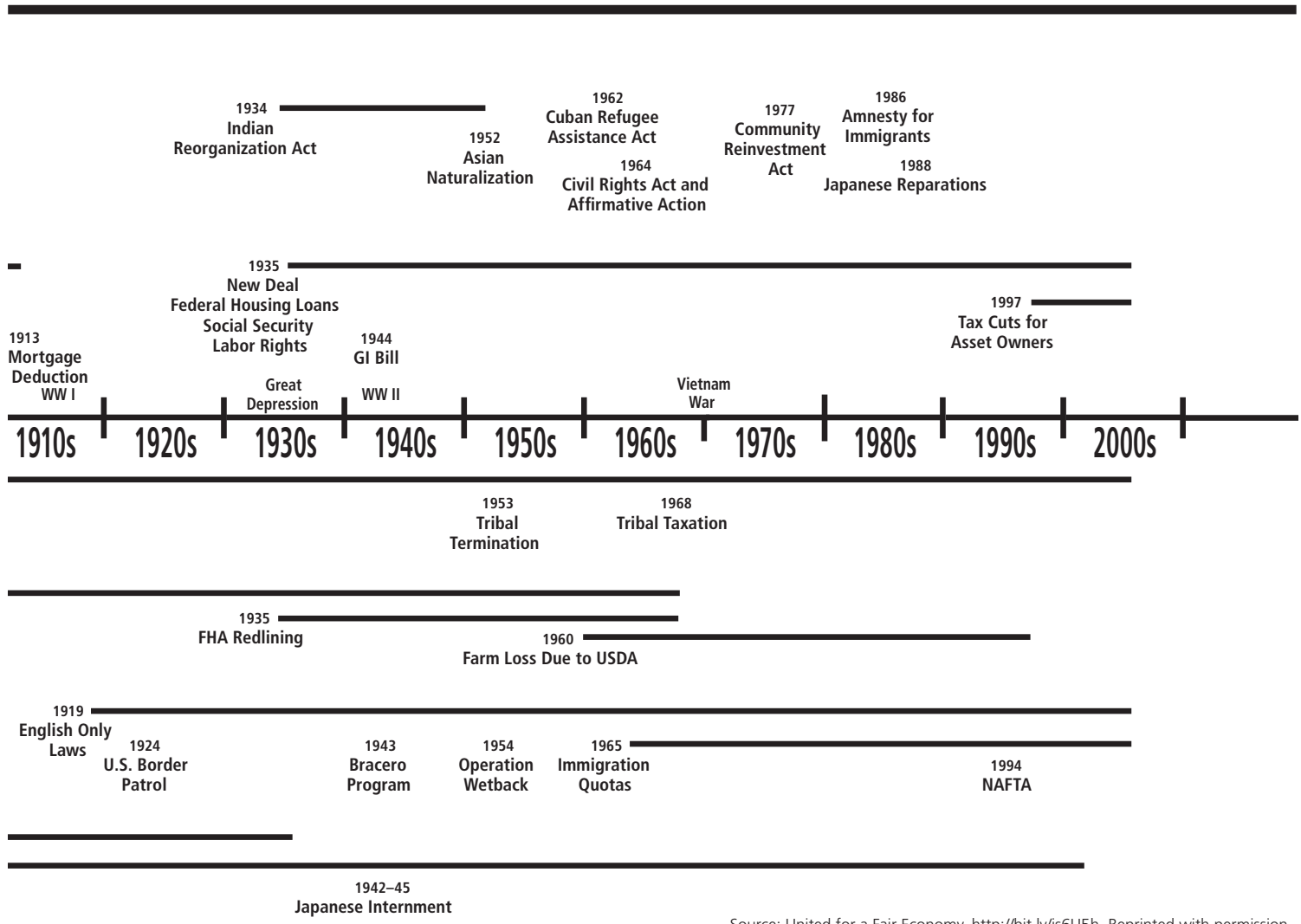
For nearly a century after the Civil War and the brief period of Reconstruction, Southern states had many laws, collectively referred to as “Jim Crow,” restricting the rights and opportunities of African Americans. In the 1930s and 1940s the U.S. government continued to create opportunities for whites to gain wealth at the expense of minorities. From the forced internment and sale of Japanese residents’ property to the implementa-

³¹In 1848, for instance, Mexico was forced to sign the Treaty of Guadalupe Hidalgo, and, despite American assurances that Mexico would retain ownership, the United States took half of Mexico’s land (i.e., the current states of New Mexico, California, and Texas) (*id.*).

³²*Id.* at 6.

³³*Id.* The 1924 Alien Land Act further diminished Asians’ wealth by prohibiting them from owning land (*id.*).

³⁴*Id.*



Source: United for a Fair Economy, <http://bit.ly/Is6U5h>. Reprinted with permission.

tion of the GI Bill, whites benefitted while minorities were excluded.³⁵

Although racial discrimination is no longer legal, de facto discrimination still exists in terms of government and social priorities, principles, and social norms. Housing discrimination, unequal educational systems, disparate treatment in the realm of criminal justice, and disparate employment opportunities all continue the current advantages that whites enjoy.

The Fair Housing Act of 1968 eliminated legal racial discrimination in housing, but de facto discrimination persists.³⁶ When minorities purchase homes, they are often relegated to neighborhoods where housing values are lower than in white enclaves. Furthermore, white flight causes housing values to decline in neighborhoods that are diverse or majority-minority. When more than 10 percent of residents are African American, neigh-

³⁵Meizhu Lui, *Doubly Divided: The Racial Wealth Gap*, in *THE WEALTH INEQUALITY READER* 42, 46 (Dollars and Sense & United for a Fair Economy eds., 2004), <http://bit.ly/IniDg1>. The GI Bill, for instance, offered veterans postsecondary education and housing subsidies but did not benefit blacks. (A recipient had to be accepted into a college to receive the education subsidy, and, because many colleges did not accept African Americans, most blacks could not receive the benefit.) (Thomas & Giangreco, *supra* note 29, at 5).

³⁶Fair Housing Act of 1968, 42 U.S.C. §§ 3601–3631 (2006).

neighborhood housing values are estimated to decline 16 percent.³⁷

Likewise, although *Plessy v. Ferguson*, the U.S. Supreme Court decision establishing the doctrine of “separate but equal,” was overturned by the Supreme Court’s decision in *Brown v. Board of Education*, discrimination remains due to de facto discriminatory state tax policies.³⁸ Because most states use local property taxes to pay for schools, schools in communities where the houses and businesses are less expensive (i.e., minority neighborhoods) have fewer funds to provide a high-quality education. Millions of African American and Latino students do not receive an education equal to their white counterparts because their neighborhoods do not have as much money as white neighborhoods as a result of de facto housing discrimination. If states’ tax policies were reformed to finance schools differently, every student, regardless of race, would go to schools of equal caliber.

In terms of employment, affirmative action during its tumultuous 50-year history has been both praised and pilloried as an answer to racial inequality. The term “affirmative action,” first introduced by Pres. John F. Kennedy in 1961, refers to a method of redressing discrimination, particularly in education and jobs.³⁹ Affirmative action policies require that active measures be taken to ensure that minorities enjoy the same opportunities as whites. From the outset affirmative action was envisioned as a temporary remedy that would end once there was a “level playing field” for all Americans.⁴⁰ Given, however, that blacks have a 375-

year history on this continent—245 involving slavery, 100 involving legalized discrimination, and only 30 involving anything else—achieving level opportunities will take time.⁴¹

Nevertheless affirmative action has been challenged almost since its inception. Claims of reverse discrimination in college admission policies, epitomized by the famous 1978 *Regents of the University of California v. Bakke* case, are an example.⁴² Although *Bakke* upheld the legality of using race-based criteria in admission decisions, the Supreme Court continues to be divided on exactly how race can be considered. In the 2003 cases of *Gratz v. Bollinger* and *Grutter v. Bollinger* the Court issued two of its most important rulings on affirmative action in education.⁴³ In these cases the Court noted that diversity was a “compelling state interest”; however, the Court also stated that race-conscious admission policies would not be considered constitutionally sound indefinitely. *Grutter* stated specifically that, in the twenty-five years since *Bakke*, student body diversity had increased and hoped that in another twenty-five years the use of racial preferences would no longer be necessary. While that is a laudable goal, the Court appears poised to do away with affirmative action before it succeeds in its goal of eradicating 375 years of discrimination. Racial discrimination is and will continue to be a major contributor to the racial wealth gap for some time to come. Thus a critical strategy in reducing this gap is identifying and eradicating current discriminatory government policies, whether de jure or de facto. Asset building is integral to this strategy.

³⁷Thomas M. Shapiro & Jessica L. Kenty-Drane, *The Racial Wealth Gap*, in *AFRICAN AMERICANS IN THE U.S. ECONOMY* 175, 177 (Cecilia A. Conrad et al. eds., 2005).

³⁸*Brown v. Board of Education*, 347 U.S. 483 (1954); *Plessy v. Ferguson*, 163 U.S. 537 (1896).

³⁹Exec. Order No. 10,925, 26 Fed. Reg. 1977 (March 6, 1961) (establishing the President’s Committee on Equal Employment Opportunity).

⁴⁰Borgna Brunner, *Affirmative Action History*, INFOLEASE (2007), <http://bit.ly/jja8CA>.

⁴¹Roger Wilkins, *Racism Has Its Privileges*, POVERTY AND RACE RESEARCH ACTION COUNCIL, May–June 1995, <http://bit.ly/kDF6gz>.

⁴²*Regents of the University of California v. Bakke*, 438 U.S. 265 (1978) (white medical school applicant claimed discrimination because school reserved 16 of 100 admission places for minority students).

⁴³*Gratz v. Bollinger*, 539 U.S. 244 (2003); *Grutter v. Bollinger*, 539 U.S. 306 (2003).

III. Government Asset-Building Strategies

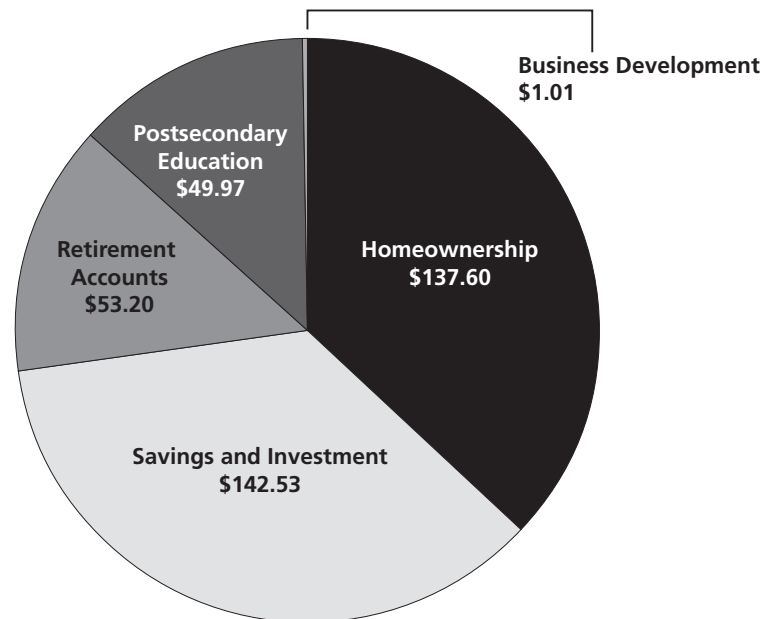
What is often not acknowledged is that the same social system that fosters the accumulation of private wealth for many whites denies it to blacks, thus forging an intimate connection between white wealth accumulation and black poverty.

—OLIVER & SHAPIRO, *BLACK WEALTH/WHITE WEALTH*

The federal government has always played a role in promoting asset and wealth creation and has continued this role through expenditures subsidizing asset building. In 2009 the United States spent nearly \$400 billion on asset-building policies.⁴⁴ Most of these asset-building subsidies take the form of tax credits and deductions, such as mortgage and property tax deductions and educational and retirement savings credits (see fig. 2). These subsidies, however, overwhelmingly go to those who already have significant wealth. For example, those earning more than \$160,000 received an average of \$5,109 in tax breaks per taxpayer, while those earning less than \$19,000 received an average of only \$5 in tax credits in 2009.⁴⁵ Because low-income households have little or no federal tax liability, tax credits do not create incentives for them to save or acquire assets unless they are refundable (i.e., the amount of the credit in excess of an individual's tax liability, if any, is refunded to the individual).

One-third of all current asset-building subsidies are tax credits for housing, which systematically advantage wealthy homeowners, who tend to be white.⁴⁶ Minorities' lower incomes and home

Figure 2. Federal Asset-Building Budget 2009 in Billions



Source: CFED [Corporation for Enterprise Development] & Annie E. Casey Foundation, *Upside Down: The \$400 Billion Federal Asset-Building Budget 5* (2010), <http://bit.ly/mKkzQR>. Adapted with permission.

values mean that they are less likely to itemize tax deductions and have enough tax liability to be able to fully use these credits.⁴⁷ Eighty percent of mortgage and property tax deductions go to those earning \$80,000 or more, which, along with limited access to credit and prime mortgages, contributes to minorities and low-income families continuing to have lower homeownership rates.⁴⁸ While many believe that tax credits, such as the mortgage deduction, encourage home ownership and increase the possibility of home ownership for all Americans, this is not the case. The amount or value of the credit is incorporated into the market price of the home, as buyers factor these savings into the amount they can spend, thereby making homes more expensive. Thus instead of making homeownership more affordable for everyone, these credits encourage and as-

⁴⁴Beadsie Woo et al., CFED & Annie E. Casey Foundation, *Upside Down: The \$400 Billion Federal Asset-Building Budget 2* (2010), <http://bit.ly/mKkzQR>.

⁴⁵*Id.* at 16.

⁴⁶*Id.* at 5. The major tax benefits for homeownership are the mortgage tax deduction, the property tax deduction, the exclusion of the imputed rental value of a home, and the exclusion of gains from the sale of a personal residence from income calculations.

⁴⁷Dorothy A. Brown, *Shades of the American Dream*, 87 *WASHINGTON UNIVERSITY LAW REVIEW* 329, 361 (2009), <http://bit.ly/izdy9p>.

⁴⁸Woo et al., *supra* note 44, at 6.

sist homeownership only for those with higher-than-average income, who in turn reap a larger-than-average savings from the tax credit. Minorities are also more likely to sell their homes at a loss, largely due to biases that make homes in predominately minority neighborhoods less valuable.⁴⁹ In sum, minorities and low-income families do not benefit as much as wealthy whites from the government's housing tax policies.

Shifting the government's asset-building expenditures toward the poor and minorities would alleviate the legacy of racial inequality and provide needed fiscal stimulus. We identify strategies for closing the racial wealth gap in three ways: (1) promoting savings, (2) increasing access to mainstream credit, and (3) improving and increasing financial education.

A. Promoting Savings

In 2005 the U.S. personal savings rate was at negative 0.5 percent, the lowest rate since the Great Depression.⁵⁰ The current economic crisis has helped Americans understand the crucial role of saving, but more saving opportunities targeted specifically at low- and moderate-income families and minorities are needed. Policy options to promote savings include but are not limited to the following.

1. Use Public Benefit Programs to Encourage, Rather than Discourage, Savings

One barrier to savings for low-income families is asset limits in public benefit programs. Many public benefit programs, such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), and Medicaid, limit eligibility to those who are both income and asset poor. As-

set limits vary greatly with both the state and the program; however, most are extremely low. Many allow only \$2,000 in permissible assets; this precludes substantial savings accumulation. Asset-limit policies actually discourage low-income families from saving and accumulating wealth.

To incentivize savings, Congress should remove asset limits from federal benefit programs. The SSI Savers Act of 2010, for instance, was introduced in Congress last year to reform the SSI program's asset tests.⁵¹ Currently eligibility for SSI is limited to those who have no more than \$2,000 in assets for an individual and \$3,000 for a couple. The definition of assets generally counts all resources, including defined-contribution retirement accounts such as 401(k)s and Individual Retirement Accounts (IRAs), deemed accessible to an individual. The bill proposed to raise the asset limit to \$5,000 for a single filer and to \$7,500 for joint filers and index these limits for inflation. The bill also proposed to exclude savings for education (e.g., 529 or Coverdell accounts) and retirement accounts from asset-test calculations.⁵² Unfortunately the bill did not pass.

States must also reform their asset tests for programs such as TANF, SNAP, and Medicaid. States that have eliminated asset tests or that allow certain restricted-use savings such as Individual Development Accounts (IDAs) beyond the asset limit often see increases in either liquid assets or vehicle ownership among likely TANF recipients, although these results are not universal.⁵³ States that have raised their asset limits also see female-headed, low-income families' savings increase over time as such families learn about the new rules and are able to save small amounts of money.⁵⁴

⁴⁹*Id.* at 16.

⁵⁰Massimo Guidolin & Elizabeth A. La Jeunesse, *The Decline in the U.S. Personal Saving Rate: Is It Real and Is It a Puzzle?*, 89 FEDERAL RESERVE BANK OF ST. LOUIS REVIEW 491 (2007), <http://bit.ly/mUFh5t>.

⁵¹SSI (Supplemental Security Income) Savers Act of 2010, H.R. 4937, 111th Cong. (2010).

⁵²*Id.*

⁵³SONDRA BEVERLY ET AL., URBAN INSTITUTE ET AL., DETERMINANTS OF ASSET BUILDING 56–58 (March 2008), <http://bit.ly/lDlGnY>.

⁵⁴*Id.*

2. Create Children's Accounts

A child savings or developmental account could be provided to every child and seeded with an initial government deposit. Supplemental and matching deposits for low-income children would be available.⁵⁵ Designed to build financial aspirations for children and their families, the accounts would be linked to age-appropriate financial education.⁵⁶ Account funds would not be available for use until a child reached 18 and could be used only for an approved purpose, such as education, homeownership, or entrepreneurship.⁵⁷

Federal legislation to create such accounts has been introduced in nearly every Congress since 2004.⁵⁸ Saving for Education, Entrepreneurship and Downpayment (SEED), a national ten-year demonstration and research project, has shown the effectiveness of such accounts.⁵⁹ States and cities have also begun exploring this strategy. San Francisco, for example, recently began a Kindergarten to College Program to provide universal college savings accounts to kindergartners.⁶⁰ The accounts, which are integrated into school-based finan-

cial education, start with an initial deposit of \$50, and an additional \$50 is deposited for those children eligible for free- or reduced-cost lunches.⁶¹ Matching funds of up to \$100 are provided to lower-income children through private-sector donations.⁶²

3. Improve 529 College Savings Plans

Established under the federal tax code, 529 accounts are specialized savings accounts that provide special tax treatment when they are used for qualified college expenses.⁶³ A recent survey by Gallup and Sallie Mae revealed that only 33 percent of Americans use 529 plans, with only 17 percent of families with incomes below \$35,000 using them.⁶⁴ The sample size of the study having been relatively small, the first step in using 529 plans as asset-building tools is to require program administrators to collect demographic data, such as race or ethnicity, income, and education level, to develop strategies for increasing minorities' use of 529 accounts.

Financial aid reforms are also needed. For federal student financial aid, savings in 529s are considered an asset of the ac-

⁵⁵See Initiative on Financial Security, Aspen Institute, *The Case For Child Accounts* (2007), <http://bit.ly/l0bVg8>; Jamie Zimmerman & Jeff Meyer, New America Foundation, *Child Savings Accounts: A Primer* (July 2008), <http://bit.ly/kCGyoR>; Dory Rand & Stephanie Holmes, *Children's Development Accounts Promote Inclusive Prosperity*, 41 CLEARINGHOUSE REVIEW 473 (Nov.–Dec. 2007).

⁵⁶Initiative on Financial Security, *supra* note 55.

⁵⁷*Id.*

⁵⁸America Saving for Personal Investment, Retirement, and Education Act (Aspire Act) of 2010, H.R. 4682 & S. 3577, 111th Cong. (2010); Aspire Act of 2008, S. 3557, 110th Cong. (2008); Aspire Act of 2007, H.R. 3740, 110th Cong. (2007); Aspire Act 2005, H.R. 1767 & S. 868, 109th Cong. (2005); Aspire Act of 2004, H.R. 4939 & S. 2751, 108th Cong. (2004). See also 401Kids Family Savings Act of 2011, H.R. 37, 112th Cong. (2011); 401Kids Family Savings Act of 2009, H.R. 30, 111th Cong. (2009); 401Kids Family Savings Act of 2007, H.R. 87, 110th Cong. (2007); 401Kids Family Savings Act of 2006, H.R. 5314, 109th Cong. (2006); Savings Competitiveness Act of 2006, S. 2431, 109th Cong. (2006) (Young Savers Accounts).

⁵⁹CFED, *The SEED Initiative* (2011), <http://bit.ly/kzPWfQ>. As of December 2007, a total of 1,171 children had saved \$1.8 billion, with an average account balance of \$1,518 (Lisa Reyes Mason et al., Center for Social Development, Washington University in St. Louis, *SEED Account Monitoring Research: Participants, Savings, and Accumulation 19* (March 2009), <http://bit.ly/kFHjuM>).

⁶⁰Press Release, Office of the Mayor, San Francisco, Cal., Mayor Newsom and City Leaders Launch "Kindergarten to College" Financial Savings Program for Families (Oct. 5, 2010), <http://bit.ly/iYWyzV>.

⁶¹CFED, *Building Economic Security in America's Cities: New Municipal Strategies for Asset Building and Financial Empowerment* 41 (Jan. 2011), <http://bit.ly/kheliS>.

⁶²*Id.*

⁶³Margaret Clancy & Michael Sherraden, Center for Social Development, Washington University in St. Louis, *The Potential for Inclusion in 529 Savings Plans: Report on a Survey of States 1* (Dec. 2003), <http://bit.ly/loMknR>.

⁶⁴David Newville, New America Foundation, *The Potential of Inclusive 529 College Savings Plans: Policy Options for Expanding and Improving 529s for Low- and Moderate-Income Families 4* (May 2010), <http://bit.ly/lXypyA>.

count holder, typically the parents, and a maximum of 5.64 percent of parental assets can be counted against aid.⁶⁵ Although most low- and moderate- income families will be exempt from any required family contributions, some families may be confused by these complex rules.⁶⁶ Currently roughly half of all states exclude 529 savings from their financial aid calculations or consider 529 savings only beyond a very high amount. The remainder of states should be encouraged to follow suit.⁶⁷ Savings in 529 accounts should also be excluded from states' public benefit programs' asset limit calculations.

4. Expand Individual Development Accounts

The federal government began funding Individual Development Account (IDA) programs in 1998 through the Assets for Independence Act of 1998.⁶⁸ Through the Act the U.S. Department of Health and Human Services awards grants to nonprofit organizations, which then partner with financial institutions that provide matching dollars for the grants. The nonprofit organization administers savings programs for qualified individuals and matches participants' savings with the matching dollars. The savings accumulated in IDAs may be used only for qualified purposes: purchasing a home, paying for higher education, or capitalizing a small business. The matched savings feature increases both participation in IDA savings programs and the amount saved.

Over the past decade about 85,000 low-income people have opened an IDA, but millions more qualify.⁶⁹ To maximize the potential of this program, funding for the

Assets for Independence Act needs to be reauthorized and increased to ensure that IDA programs are financially viable. A major challenge for IDA programs is obtaining private matching funds. Because nonprofit organizations must match the federal grant dollar for dollar, they are limited in how many IDA participants they can accommodate. Requiring fewer or no matching funds, as part of the Assets for Independence Act's reauthorization, would increase the number of IDA programs. The Savings for Working Families Act, which would provide \$4.05 billion over ten years to support financial institutions' efforts to provide matching funds, should therefore be enacted.⁷⁰ Estimates indicate that this would increase the number of IDA programs to thirty times existing levels.⁷¹

5. Increase Workplace-Based Saving Opportunities

Expanding employer-facilitated savings would increase saving opportunities for millions of Americans. At the very least, employers should be encouraged to use direct deposit and split pay options, which are cheaper and safer than checks or cash, to facilitate savings and connect workers with mainstream financial institutions. Doing so would encourage more individuals to become "banked," save employees check-cashing fees, and decrease employers' costs.

The City of San Francisco, for instance, recently announced its plans to launch the Safe Pay San Francisco program, which would require that all employees be able to access their wages electronically.⁷² Similarly a 2010 report on find-

⁶⁵*Id.*

⁶⁶*Id.*

⁶⁷Currently nineteen states exclude 529 savings from state need-based financial aid calculations (Arizona, Georgia, Indiana, Iowa, Kentucky, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, Virginia, Washington, West Virginia, and Wisconsin) (Savingforcollege.com, 529 Plans: Compare by Features: Does the Sponsoring State Exclude the Value of an Account for State Financial Aid Purposes? (2011), <http://bit.ly/IDbmlm>).

⁶⁸ 42 U.S.C. § 604 note (2006) (Assets for Independence).

⁶⁹Thomas & Giangreco, *supra* note 29, at 12.

⁷⁰Savings for Working Families Act of 2009, H.R. 2277 & S. 985, 111th Cong. (2009).

⁷¹Reid Cramer et al., New America Foundation, The Assets Agenda 2011: Policy Options to Promote Savings and Asset Development 14 (Sept. 2010), <http://bit.ly/iouDyM>.

⁷²Eugénie FitzGerald & Leigh Phillips, CFED, Financial Empowerment Through Employer Engagement: Migrating a City to a Paperless Payday 3 (March 2011), <http://bit.ly/lxXYs1>.

ings from an AutoSave demonstration pilot program indicates potential positive effects of employer-facilitated savings. Under the AutoSave pilot program, employers diverted, through payroll deduction, small percentages of their employees' salaries and deposited them into low-cost savings accounts.⁷³

Employer-based retirement savings would also expand low-income and minority families' saving opportunities. While 47 percent of white private-sector workers had access to employer-sponsored retirement plans in 1999, only 41 percent of black and 27 percent of Latino workers had such access.⁷⁴ Minorities and low-income workers tend to work for small employers or in the service industry, where a majority of employers do not offer retirement plans. Both nationally and on the state level, Automatic IRA bills have been introduced to provide more employer-based retirement saving opportunities. Similar to the AutoSave pilot program, employers would automatically deduct a portion of a worker's earnings and deposit it into an IRA.⁷⁵ Although funds would be limited to retirement purposes, rather than immediately available, Automatic IRAs would help provide financial stability in retirement and promote savings habits in general.

6. Increase Savings at Tax Time

Many low-income families receive a lump sum through their tax returns, and since this sum may be their only large amount of money on hand during the year, tax time is ideal to kick-start sav-

ings. The first step in maximizing savings at tax time is through free local tax preparation sites. The Internal Revenue Service (IRS) established the Volunteer Income Tax Assistance (VITA) program to assist low-income families in tax preparation. VITA sites are operated by community-based organizations and offer free tax preparation to income-eligible taxpayers. The sites help taxpayers use all of the tax credits available to them and reduce the need for families to pay costly tax preparation fees to private tax-preparation companies. The sites also educate taxpayers about the benefits of opening bank accounts and provide financial education. But the sites are underfunded, and many taxpayers are not familiar with them.⁷⁶ To ensure that the sites are available to greater numbers of people, the IRS should increase VITA funding and prominently include, with income tax forms, information about VITA sites and services.

For the 2010 tax season, the IRS enabled individuals to purchase U.S. bonds directly on tax forms, allowed refunds to be direct-deposited into a bank account, and piloted the use of prepaid cards for refunds.⁷⁷ New York City's \$aveNYC Account initiative takes this concept further by allowing users of free tax preparation to purchase certificates of deposit, and purchasers who do not withdraw them for one year will receive a 50 percent match up to \$500.⁷⁸ This program is expanding to a multicounty pilot called \$aveUSA.⁷⁹

⁷³Alejandra Lopez-Fernandini, New America Foundation, *AutoSave Pilot Convening: Operations, Findings, and Future Directions* (July 2010), <http://bit.ly/18KAGZ>.

⁷⁴BEVERLY ET AL., *supra* note 53, at 28.

⁷⁵See generally Karen [K.] Harris & Michael Lezaja, *Universal Voluntary Retirement Accounts: A Financially Secure Retirement*, 43 CLEARINGHOUSE REVIEW 366, 367 (Nov.–Dec. 2009), <http://bit.ly/mmTZQI>. For proposed federal legislation, see the Automatic IRA [(Individual Retirement Account)] Act of 2010, H.R. 6099 & S. 3760, 111th Cong. (2010). For proposed state legislation, see the Illinois Automatic IRA Act of 2011, H.B. 1672 & S.B. 1844, 97th Gen. Assemb. (Ill. 2011).

⁷⁶In the 2008 tax year fewer than 3.5 million Americans used Volunteer Income Tax Assistance (VITA) sites. More than 24 million people received earned income tax credit (EITC) refunds, but only 12 percent of them used VITA tax preparation services (Cramer et al., *supra* note 71, at 24).

⁷⁷IRS.gov, *Now You Can Buy U.S. Series I Savings Bonds with Your Tax Refund for Anyone* (Jan. 4, 2011), <http://1.usa.gov/lpbn3F>. In January 2011 the IRS (Internal Revenue Service) announced a pilot program to invite 600,000 low- and moderate-income families to have their refunds deposited on prepaid cards (Press Release, U.S. Department of the Treasury, *Treasury Launches Pilot Program of Prepaid Debit and Payroll Cards for Fast, Safe and Convenient Tax Refunds* (Jan. 13, 2011), <http://1.usa.gov/1DF3fq>).

⁷⁸CFED, *supra* note 61, at 40.

⁷⁹NYC Center for Economic Opportunity, *SaveUSA* (2011), <http://bit.ly/1HJALJ>.

Refundable tax credits also increase the potential amounts that can be saved at tax time. Research shows an increase in IDA deposits during tax season.⁸⁰ Various nonprofit organizations encourage clients to save all or part of their federal earned income tax credit (EITC). States also have EITCs, typically some percentage of the federal EITC amount, which could be increased. A few municipalities have also begun to provide local EITCs, and more local ones could be created.⁸¹ Moreover, the savers' tax credit, for voluntary contributions to a qualified retirement account, and the child tax credit, for low-income families with children, could be made fully refundable.⁸² The amount and number of refundable tax credits that effectively incentivize savings for low-income individuals should be increased.

Tax refunds are sometimes squandered when individuals take out short-term, high-interest loans, called refund anticipation loans and sold through tax-preparation sites such as H&R Block and Jackson Hewitt. To consumers the money appears to be an "instant" refund rather than a loan secured by their tax refund. Recently the IRS, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the

U.S. Department of the Treasury Department have taken steps to rein in refund anticipation loans.⁸³ Most significant, in August 2010 the IRS announced that it would no longer supply tax preparers with the "debt indicator," which is used to underwrite refund anticipation loans. The Office of the Comptroller of the Currency and the Office of Thrift Supervision issued cease-and-desist letters to banks that fund tax preparers offering refund anticipation loans because, according to these letters, underwriting such loans without this indicator constitutes a risky and unsound banking practice.⁸⁴

B. Increasing Access to Mainstream Financial Credit

According to a 2009 FDIC survey, an estimated thirty million Americans are either unbanked (meaning they have neither a checking nor a savings account) or underbanked (meaning they have a bank account but primarily use alternative financial services), and anywhere from thirty-five to fifty-four million have either no credit score or a "thin file."⁸⁵ These credentials are required to access today's mainstream financial systems. Without access to mainstream credit, many people are forced to use high-cost products and services. To increase access to safe, affordable credit, there are options.

⁸⁰MARK SCHREINER & MICHAEL SHERRADEN, CAN THE POOR SAVE? SAVING AND ASSET BUILDING IN INDIVIDUAL DEVELOPMENT ACCOUNTS 7 (2007).

⁸¹CFED, *supra* note 61, at 35 ("Ranging from 1–5% of the federal credit, municipalities including, San Francisco, New York City, Washington, DC and Montgomery County, MD, now offer credits that build off the federal and/or state EITC.").

⁸²As part of the American Recovery and Reinvestment Act, Congress increased the amount of several tax credits. The savers' credit is available up to a maximum of \$1,000 for an individual (\$2,000 for couples) if the individual contributes to certain qualified retirement savings plans (e.g., IRAs and 401(k)s) (American Recovery and Reinvestment Act, Pub. L. No. 111-5, 123 Stat. 115 (2009)); see also IRS.gov, Get Credit for Your Retirement Savings Contributions (Feb. 21, 2011), <http://1.usa.gov/jzPnJY>. The child tax credit is up to \$1,000 per child under 17. Taxpayers must earn more than \$12,550 in order for the child tax credit to be refundable, in which case the refund, known as the additional child tax credit or the refundable child tax credit, is available (IRS.gov, Ten Facts About the Child Tax Credit (Feb. 10, 2011), <http://1.usa.gov/IWEi55>). Congress passed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 to keep the \$1,000 rate for credits for the 2011–2012 tax season instead of reducing it down to the original \$500 (H.R. 4853, 112th Cong. (2010)).

⁸³Karen K. Harris, *Another One Bites the Dust: Crackdown on RAL Providers Continues*, SHRIVER BRIEF (Feb. 22, 2011), <http://bit.ly/jVeVkh>.

⁸⁴Chi Chi Wu & Jean Ann Fox, National Consumer Law Center & Consumer Federation of America, End of the Rapid Rip-Off: An Epilogue for Quickie Tax Loans 2 (Feb. 2011), <http://bit.ly/IEAazP>. Assuming that the three remaining banks that fund refund anticipation loans exit the market in compliance with these cease-and-desist letters, such loans may be a thing of the past; however, refund anticipation checks, a product similar to refund anticipation loans with the same wealth-draining effect, may be marketed instead (*id.* at 7).

⁸⁵FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC), FDIC NATIONAL SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS 11, 15 (Dec. 2009), <http://1.usa.gov/iRUGBx>; Political and Economic Research Council & Brookings Institution Urban Markets Initiative, Give Credit Where Credit Is Due: Increasing Access to Affordable Mainstream Credit Using Alternative Data 2 (2006), <http://bit.ly/iCqaaX>. "Thin file" means that there is not enough information to determine a score (*id.* at 8).

1. Bank the Unbanked

Millions of Americans do not have a checking or savings account. The thirty million unbanked or underbanked American households in the FDIC survey are particularly vulnerable to predatory practices by nonbank check-cashing services, payday loans, rent-to-own agreements, or pawn shops or all four, all of which have high fees that sap wealth.

Around the country, cities, nonprofit organizations, and financial institutions have partnered in “Bank On” initiatives, through which banks, financial institutions, and community groups design, implement, and market low-cost checking and savings accounts for low-income, unbanked individuals. San Francisco, the first to start a Bank On program, reports that more than 70,000 accounts have been opened since its inception in 2006.⁸⁶ Since then, more than seventy cities and states have launched similar Bank On programs.⁸⁷ President Obama’s budget proposals have also requested funds to create Bank On USA in order to reach unbanked and underbanked households nationally.⁸⁸

Numerous hurdles in the unbanked market can be remedied and opportunities exploited to increase access. Banks routinely use ChexSystem, a database of an individual’s history with banks, to determine account eligibility. If there is any negative information, the bank denies the individual an account.⁸⁹ Among reasons for being in ChexSystem are failing to pay fees, insufficient funds transactions, and fraud, but no distinction is made between less serious (e.g., failure

to pay a small fee) and major (e.g., fraud) infractions. Moreover, the length of time that an individual’s name remains in ChexSystem is typically five or more years. This system should be reformed to differentiate between the types of previous problems and to decrease to three years the time frame for including negative information.⁹⁰ Providing financial education for previous ChexSystem customers would also reduce the risk of them improperly using an account again.

Another barrier to accessing mainstream financial institutions is the federal “Know Your Customer” rules required by the USA Patriot Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism).⁹¹ Under these rules, financial institutions must (1) verify, to the extent reasonably practical, the true identity of any person seeking to open an account; (2) maintain records of the documents used to verify identity; and (3) determine whether the person is on any terrorist lists.⁹² The rules list the information that must be collected and the types of permissible documents to use to collect this information; however, financial institutions can determine which documents to accept.⁹³ This has created different requirements to open an account depending on the institution. As a result, whether a bank will allow customers to use alternative identification documentation, such as matriculation cards, is frequently unclear. Banks that do not accept such documentation hinder minorities with alternative identification, especially Latinos, from participating in mainstream banking. These

⁸⁶Leigh Phillips & Anne Stuhldreher, New America Foundation, Building Better Bank Ons: Top 10 Lessons from Bank On San Francisco, at i-ii (Feb. 2011), <http://bit.ly/kUdOvg>.

⁸⁷*Id.* at ii.

⁸⁸Garrett Hatch, Congressional Research Service, Financial Services and General Government (FSGG): FY2011 Appropriations 16 (Oct. 14, 2010), <http://bit.ly/jMHsl>.

⁸⁹Cramer et al., *supra* note 71, at 18.

⁹⁰*Id.*

⁹¹Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot) Act of 2001 § 326, 31 U.S.C. § 5318 (2006).

⁹²Customer Identification Programs for Banks, Savings Associations, Credit Unions, and Certain Non-Federally Regulated Banks, 31 C.F.R. § 1020.220 (2010).

⁹³*Id.* § 1020.220(a)(2).

rules need to delineate that, if a customer so requests, alternative forms of identification will be accepted.⁹⁴

2. Ensure Access to Affordable Mainstream Credit

The overall decline in the availability of credit must be resolved. The disproportionate rate of low credit scores among minorities precludes them from accessing prime credit.⁹⁵ The biases in the credit-scoring industry must be rectified and a more inclusive system created. Full reporting and alternative data reporting have garnered interest recently. Full reporting would reward Americans for making timely payments as opposed to penalizing them only for late payments.⁹⁶ Alternative data reporting means reporting payments for energy utilities (e.g., gas, electric, heating oil, water), telecommunications, rent, and other nontraditional credit transactions and payments. Because most low-income and minority households do not have traditional sources of credit information (e.g., mortgage, student loans, car loans), these kinds of alternative data would ensure that there is enough, perhaps positive, information when their credit scores are calculated.

Banking regulators must ensure that financial institutions actually extend credit. After billion-dollar bailouts, banks are still claiming themselves to be poor.

Rather than offering loans, they are using their bailout money to prop up their balance sheets.⁹⁷ One tool that regulators can use to combat this is the Community Reinvestment Act.⁹⁸ The Act requires banks to lend in low- and moderate-income neighborhoods and meet the financial needs of these communities. Revising the Act to increase these lending requirements, as well as requiring data to be collected on racial lending demographics, will expand access to credit.

3. Make Homeownership a Safe and Effective Asset-Building Strategy

The foreclosure crisis has led to \$6 trillion in lost home equity, with another \$2 trillion predicted.⁹⁹ The first step toward mitigating these losses is for the government to prevent foreclosures. States and localities can create foreclosure mediation programs, which help banks and homeowners come to an agreement.¹⁰⁰ Homeownership counseling has proven to lower foreclosure rates and should be incorporated in the purchasing arrangement, especially through existing government-sponsored housing programs.¹⁰¹ Similarly IDA programs aimed at saving for homeownership should require counseling as part of the program.¹⁰²

In terms of returning foreclosed homes back to residents, the federal government could increase funding to commu-

⁹⁴Cramer et al., *supra* note 71, at 17–18.

⁹⁵A good credit rating can save \$250,000 through a lifetime of lowered interest payments (Credit Builders Alliance, Credit Builders Toolkit 1 (2010), <http://bit.ly/mtEnXH>).

⁹⁶Harris & Ritacca, *supra* note 25, at 394. See also Michael Turner et al., Information Policy Institute & Political and Economic Research Council, Credit Reporting Customer Payment Data: Impact on Customer Payment Behavior and Furnisher Cost and Benefits 6 (March 2009), <http://bit.ly/j2wv2l>.

⁹⁷*Credit Crisis—The Essentials: Overview*, NEW YORK TIMES (Jan. 10, 2011), <http://nyti.ms/ksMaBJ>.

⁹⁸Community Reinvestment Act, 12 U.S.C. §§ 2901–2908. Banking regulators have already held forums across the country to hear suggestions for reforming Community Reinvestment Act regulations, and bills have been proposed to amend the statute to expand the types of financial institutions covered, strengthen scoring requirements, collect racial demographics, and increase lending requirements (American Community Investment Reform Act of 2010, H.R. 6334, 111th Cong. (2010); Press Release, Board of Governors of the Federal Reserve System et al., Agencies Announce Public Hearings on Community Reinvestment Act Regulations (June 17, 2010), <http://1.usa.gov/kbTTO>).

⁹⁹Sylvia A. Allegretto, Economic Policy Institute, The State of Working America's Wealth, 2011: Through Volatility and Turmoil, the Gap Widens 1 (March 23, 2011), <http://bit.ly/mtuk06>.

¹⁰⁰For a list of the programs around the country, see Resolution Systems Institute, Foreclosure Mediation Program Models (Oct. 28, 2010), <http://bit.ly/k27SY0>.

¹⁰¹Cramer et al., *supra* note 71, at 26–27.

¹⁰²*Id.*

nity development financial institutions to help them buy foreclosed properties or failing mortgages at a discount and sell the homes back to the homeowners under new mortgage terms. This is already happening at Boston Community Capital, and other community development financial institutions are exploring the possibility.¹⁰³ Similarly states, localities, and non-profit organizations can partner to form land banks to purchase, maintain, and sell properties with reasonable terms.¹⁰⁴

In other ways the government can assist individuals in developing equity while guaranteeing affordability. For instance, the U.S. Department of Housing and Urban Development's Family Self-Sufficiency Program enrolls Housing Choice Voucher participants in a five-year program that supplements housing subsidies with financial education, supportive services, and goal identification.¹⁰⁵ As participants increase their income and their rent rises, the increased rent is set aside in a savings account, which is available to the participant upon the successful completion of the program.¹⁰⁶ The federal government could extend the Section 8 program to allow more voucher holders to use their vouchers to pay a mortgage and share in the equity with the government.¹⁰⁷ This would allow voucher holders to grow equity and may shore up housing prices for those who have underwater mortgages. One model of the shared equity homeownership movement has a home being sold at a low price and the price of subsequent sales being restricted to guarantee long-term affordability.¹⁰⁸

4. Restrict Predatory Financial Services and Products

The Consumer Financial Protection Bureau, which was created as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, will supervise banks, credit unions, and financial companies and create and enforce federal consumer financial protection laws.¹⁰⁹ However, loopholes remain in this newly enacted law.

The Consumer Financial Protection Bureau's jurisdiction, for instance, must be expanded to include auto title lenders and other lenders or products that were specifically excluded from its jurisdiction.¹¹⁰ Because vehicles constitute the most common nonfinancial asset that families have, auto loans are among the most common credit products; more than a third of families have installment loans for auto purchases.¹¹¹ Excluding these prominent loans from consumer protection laws is a mistake that must be corrected.

The Consumer Financial Protection Bureau has been given jurisdiction over payday lenders and must enact regulations finally capping their usurious interest rates.¹¹² For years, payday lenders have found ways to escape state reforms and fee-cap limits. Some payday lenders have avoided caps on loan fees by issuing checks instead of cash for a loan and charging fees in excess of the cap as a "check-cashing fee." Other payday lenders have partnered with Native American tribes, which are not subject to federal

¹⁰³PBS NewsHour: Boston Firm Offers Homeowners a Second Chance After Foreclosure (PBS television broadcast Oct. 20, 2010), <http://to.pbs.org/mMEa4Q>.

¹⁰⁴*Id.*

¹⁰⁵Chicago Housing Authority, Family Self-Sufficiency Program (FSS) (2011), <http://bit.ly/lh6BkZ>.

¹⁰⁶*Id.*

¹⁰⁷Robert I. Lerman, Progressive Policy Institute, Homeownership Vouchers: A Plan to Reinitalize the Economy While Helping Low-Income Families (March 2011), <http://bit.ly/jWbMEq>.

¹⁰⁸JOHN EMMELUS DAVIS, NATIONAL HOUSING INSTITUTE, SHARED EQUITY HOMEOWNERSHIP: THE CHANGING LANDSCAPE OF RESALE-RESTRICTED, OWNER-OCCUPIED HOUSING (2006), <http://bit.ly/jZCifv>.

¹⁰⁹Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 § 1024, 12 U.S.C. § 5514.

¹¹⁰Cramer et al., *supra* note 71, at 20.

¹¹¹*Id.* at 20–21.

¹¹²Dodd-Frank Wall Street Reform and Consumer Protection Act § 1024.

or state laws, to evade state laws capping rates.¹¹³ Although Congress capped payday loan fees to the military at 36 percent, it failed to extend these protections to other types of payday loans.¹¹⁴

Simply prohibiting these types of predatory products, however, is not enough. The demand for short-term, small-dollar loans is evident in the number of payday loans that are obtained every year.¹¹⁵ Consumer advocates, financial institutions, and financial regulators have begun working together to promote and develop responsible alternative small-dollar loans that meet consumers' needs while protecting consumers from usurious lending practices. Mainstream financial institutions can benefit from alternative small-dollar lending by serving as the arbiter of sound financial practices for low- and moderate-income clients, building off their current advantages over payday lenders, receiving Community Reinvestment Act credit, and profiting in a responsible way from the current demand for such products.¹¹⁶

The FDIC began a two-year pilot small-dollar loan program in February 2008. The pilot aimed to assess the business practices of banks in developing and offering profitable small-dollar loan programs alongside other mainstream services. Among other points, the guidelines for financial institutions to participate in the pilot were amortization periods longer than a single pay cycle and up to thirty-six months for closed-end credit; annual percentage rates below 36 percent; no prepayment penalties; origination or maintenance or both kinds of fees limited to the amount necessary to cover actual

costs; and an automatic savings component.¹¹⁷ Results from the first year of the program showed that such loans had the same write-off rates as regular loans.¹¹⁸ Similarly the Dodd-Frank Act authorized grants for multiyear demonstrations of small-dollar loan programs.¹¹⁹ And the Federal Financial Institutions Examination Council, the entity that conducts Community Reinvestment Act examinations, recognizes that small-dollar loans meet a credit need of underserved communities, and offering such loans can earn a positive Community Reinvestment Act rating.¹²⁰ All of these initiatives should be supported.

C. Improving and Increasing Financial Education

Despite repeated studies and research indicating that financial education improves financial stability, the United States has yet to adopt a cohesive, comprehensive financial education strategy. Because the importance of financial education cannot be overstated, such initiatives as the following must be undertaken.

1. Incorporate Financial Education in School Curricula

A growing consensus among policymakers and educators is that many Americans are functionally illiterate in financial matters. A national 2009 study of adults—conducted by the Treasury Department in consultation with the FINRA (Financial Industry Regulatory Authority) Investor Education Foundation—showed that, although individuals might rate themselves highly in terms of financial knowledge, in actuality they

¹¹³Karen K. Harris, *Rent-a-Tribe Payday Lenders*, SHRIVER BRIEF (Feb. 14, 2011), <http://bit.ly/mHwW5A>.

¹¹⁴John Warner National Defense Authorization Act for Fiscal Year 2007 § 670, 10 U.S.C. § 987.

¹¹⁵Illinois Asset Building Group, *Alternative Small Dollar Loans in Illinois: Creating Sound Financial Products Through Regulation and Innovation 2* (Nov. 2009), <http://bit.ly/mTJ5Syy>.

¹¹⁶Federal Deposit Insurance Corporation, *Small-Dollar Loan Pilot Program* (last updated June 23, 2010), <http://1.usa.gov/ljU15c>.

¹¹⁷Lyn E. Haralson, *Community Development Specialist, Little Rock Office, Federal Reserve Bank of St. Louis, Presentation at the National Community Tax Coalition's Annual Meeting: Fringe Banking and Payday Loan Alternatives* (May 2008).

¹¹⁸*Id.*

¹¹⁹Dodd-Frank Wall Street Reform and Consumer Protection Act §§ 1024–1025, 12 U.S.C. §§ 5623–5624.

¹²⁰Illinois Asset Building Group, *supra* note 115, at 6–7.

are not financially literate.¹²¹ In fact, less than 10 percent were able to answer all of the questions correctly.¹²²

On the state level, an increasing number of states are incorporating economics or personal finance classes or both in their K-12 curricula. Forty-four states have mandated content requirements for a financial education curriculum; however, only thirty-four states actually implement these requirements.¹²³ While twenty-eight states mandate that financial education be taught in high school, only nine states actually test this subject as part of their statewide testing.¹²⁴ As a result, 73.9 percent of high school students failed Jump\$tart Coalition's biannual survey of students' financial literacy in 2008.¹²⁵

To deal with the widespread lack of financial knowledge, the Treasury Department issued Core Competencies for Financial Education, and the Federal Financial Literacy and Education Commission published a national financial education strategy.¹²⁶ School curricula should be revised to reflect the core competencies, and financial education must be given higher priority and tested.

2. Integrate Financial Education into Public Benefit Programs

To narrow down the racial wealth gap, financial literacy courses for adults must be specifically geared to the challenges

faced by individuals with limited financial resources. The Financial Links for Low-Income People (FLIIP) program (now called "Your Money & Your Life") was developed for those with limited resources and financial knowledge.¹²⁷ An evaluation of the program showed both increased knowledge and better asset-building behavior after the training.¹²⁸ The FLIIP program qualified for the work requirement under Illinois's TANF program, thereby encouraging public benefit recipients to participate. Ultimately their participation should assist them in moving off TANF permanently.

3. Create New Programs with Financial Incentives

At a time of spiking need and declining resources, the Family Independence Initiative offers an efficient, innovative model of financial empowerment.¹²⁹ Under this initiative families join a peer support group and attend monthly meetings to discuss their financial actions, goals, and challenges. Each family identifies goals for itself, records its financial activities, and is compensated for its time and achieving discrete financial successes (e.g., saving, improving a credit score, networking, or reaching educational goals). Families in the program increased their income over 20 percent in two years and had other positive financial and nonfinancial outcomes.¹³⁰



¹²¹FINRA [Financial Industry Regulatory Authority] Investor Education Foundation, Financial Capability in the United States: National Survey 5 (Dec. 2009), <http://bit.ly/mfRDMY>.

¹²²*Id.* at 18.

¹²³Council for Economic Education, Survey of the States: Economic, Personal Finance and Entrepreneurship Education in Our Nation's Schools in 2009, at 4 (n.d.), <http://bit.ly/iuSUBR>.

¹²⁴*Id.*

¹²⁵LEWIS MANDELL, JUMP\$TART COALITION FOR PERSONAL FINANCIAL LITERACY, THE FINANCIAL LITERACY OF YOUNG AMERICAN ADULTS: RESULTS OF THE 2008 NATIONAL JUMP\$TART COALITION SURVEY OF HIGH SCHOOL SENIORS AND COLLEGE STUDENTS 14 (2008), <http://bit.ly/jJdn0r>.

¹²⁶Financial Literacy and Education Commission, Promoting Financial Success in the United States: National Strategy for Financial Literacy 2011 (n.d.), <http://1.usa.gov/kyZnX7>.

¹²⁷For a description of the Financial Links for Low-Income People curriculum, see Sargent Shriver National Center on Poverty Law, Financial Links (n.d.), <http://bit.ly/k6Fr6r>.

¹²⁸STEVE ANDERSON ET AL., SCHOOL OF SOCIAL WORK, UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN, FINANCIAL LINKS FOR LOW-INCOME PEOPLE (FLLIP): FINAL EVALUATION REPORT (June 2004), <http://bit.ly/mI5UJP>.

¹²⁹Anne Stuhldreher & Rourke O'Brien, New America Foundation, The Family Independence Initiative: A New Approach to Help Families Exit Poverty 4 (Feb. 2011), <http://bit.ly/jphhCk>.

¹³⁰*Id.*

Because wealth is such a key determinant of an individual's economic mobility and stability, removing the racial wealth gap is critical to achieving equal opportunity for all. The Great Recession has revealed and exacerbated racial inequality in unemployment, access to mainstream credit, and loss in home values. The recession's effects will continue for decades to come.

To ameliorate these effects and permanently close the racial wealth gap, we must end discrimination, both *de jure* and *de facto*, while promoting and defending affirmative action as a means of proactively resolving previous racial inequality. Among these affirmative actions is creating asset-building opportunities specifically targeted for minorities.

The federal government already spends hundreds of billions of dollars a year on asset building, primarily through tax expenditures. Yet these go overwhelmingly to those Americans who already have significant wealth. By refocusing the government's asset-building priorities toward low-income and minority households, the racial wealth gap can be reduced considerably. Many of these policies must be changed at the federal level; however, states and municipalities can promote savings, increase access to mainstream financial institutions, and improve financial literacy so that more minorities can cross the yawning wealth gap and grasp the American Dream.



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