

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. paper	re: personal story of Helen (1 page)	n.d.	b(6)
001b. paper	re: personal story of Deborah (1 page)	n.d.	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 19580

FOLDER TITLE:

NPRM [Notice of Proposed Rulemaking] Re: UI [Unemployment Insurance] - Leave [2]

2013-0436-S

rc1308

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

EXPANDING THE FAMILY AND MEDICAL LEAVE ACT TO HELP FAMILIES BALANCE WORK AND FAMILY RESPONSIBILITIES

January 27, 1998

In the new economy, most parents work harder than ever. They face a constant struggle to balance their obligations to be good workers -- and their even more important obligations to be good parents. The Family and Medical Leave Act was the very first bill I was privileged to sign into law as President in 1993. Since then, about 15 million people have taken advantage of it, and I've met a lot of them all across this country. I ask you to extend that law to cover 10 million more workers, and to give parents time off when they have to go see their children's teachers or take them to the doctor.

--President Bill Clinton

State of the Union Address, 1/27/98

In his State of the Union Address, President Clinton called on Congress to extend the benefits of the Family and Medical Leave Act -- the first piece of legislation that the President signed into law -- to ten million more American workers.

BIPARTISAN REPORT SHOWS THE LAW IS WORKING. Since the Family and Medical Leave Act was enacted in 1993, at least fifteen million Americans have taken FMLA-covered leave. Today, workers are eligible for FMLA-protected leave if they work at a business with 50 or more employees and if they have worked at least twelve months and 1,250 hours for the employer. FMLA allows eligible employees to take up to 12 weeks unpaid, job-protected leave to care for a newborn or adopted child, to attend to their own serious health needs, or to care for a seriously ill parent, child or spouse. The bipartisan Commission on Leave -- chaired by Senators Craig and Dodd -- reported that the law is working:

- **67 million Americans -- over half of all workers -- are guaranteed they can take leave** from their job to care for a sick relative or a newborn child without fear of losing their job or health insurance.
- **Millions of Americans have taken leave since the enactment of FMLA.** During the 18-month period covered by the Commission's study (1/94 - 6/95), an estimated 12 million Americans took leave for FMLA-covered purposes.
- **40% of all workers think they will need to take leave** for a covered reason at some time in the next five years.
- **Despite its opponents' claims, compliance is easy and costs are low for most employers now covered by the law:**
 - **Nine out of ten employers find the law "very" or "somewhat" easy to administer.**
 - **Compliance entails either little or no costs for 89%-99% of businesses.**
 - **Smaller covered worksites found it easier to comply than larger sites.**
- **Some businesses have reported reduced employee turnover, enhanced productivity and improved morale** which they attribute to the Act.

NOW IS THE TIME TO EXPAND THE LAW TO COVER MORE WORKERS AND BETTER HELP WORKERS CARE FOR THEIR CHILDREN AND PARENTS. The President believes that it is time to expand the benefits of the law. He is urging the Congress to:

- **Enable workers at businesses with 25 or more workers to take unpaid, job-protected leave** - current law covers businesses of 50 or more employees. Lowering the employer coverage threshold from 50 to 25 workers will mean that FMLA will cover up to ten million more American workers, allowing them to take up to twelve weeks unpaid, job-protected leave to care for a newborn or adopted child, to attend to their own serious health needs, or to care for a seriously ill parent, child or spouse.
- **Allow FMLA-eligible workers to take up to 24 hours of additional leave each year to meet specified family obligations**, including routine doctors appointments and parent-teacher conferences. Leave could be taken to: (1) participate in school activities, such as parent-teacher conferences; (2) accompany your child to routine dental or medical appointments; and (3)

accompany an elderly relative to routine medical appointments or other professional services.

May 21, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: POLICY ANNOUNCEMENTS FOR GRAMBLING SPEECH

Your Grambling State University commencement address this Sunday focuses on the need to empower parents with greater tools to balance their responsibilities to their jobs and their families. You will release a new study by the Council of Economic Advisors that analyzes the “time crunch” that parents increasingly feel. In addition, you will announce a new policy that addresses this challenge for federal workers. You will direct the Office of Personnel Management to revise its regulations to allow federal workers to use up to 12 weeks of accrued sick leave to care for a spouse, child, or parent with a “serious health condition,” as defined under the Family and Medical Leave Act (FMLA). Currently, federal workers are allowed to use only 13 days of sick leave to care for an ill relative. This new policy will enable federal workers to use the sick leave they have earned on the job to take care of a loved one with a serious health condition.

The DPC also has led a policy process to examine non-legislative options for action to enable States on a voluntary basis to use their Unemployment Insurance systems to provide benefits to workers on some form of FMLA-covered leave. This year, in part responding to UI trust fund surpluses, four States – Massachusetts, Vermont, Maryland, and Washington – had bills introduced in their state legislatures that would do this. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL). While many question the prospects of State legislative efforts, DOL has been pressured from Senators Kennedy, Dodd, Leahy, and Murray, the AFL-CIO, and women’s groups to allow States this flexibility; business groups have weighed in strongly against opening up UI for this purpose.

Taking a non-legislative step to advance paid leave for American workers would be a way to enable workers to spend more time with their families during important times. The 1996 FMLA Study, *A Workable Balance*, found that lost wages are a significant barrier to taking leave, particularly for lower income workers. Even if no State immediately elected to use its UI system in this way (as many argue is very likely), advancing a proposal that would allow State experimentation would send a strong message that making leave affordable for workers is a new priority and that States should consider creative ways to provide paid leave benefits.

However, the challenges and risks to embracing an expansive change to the UI system are considerable. First, the expense of such a system, if ever fully implemented in all States, would be significant. It is not deficit neutral in the short term since taxes will not match benefit spending which is estimated to begin at \$2 billion annually, but will likely be deficit neutral in

the long term (10-20 years). Second, the breadth of purposes covered by the FMLA raises concerns. The majority of FMLA-covered leave is taken by workers caring for their *own* serious health conditions, and advancing a policy of providing UI benefits for this category of leave might transform the UI system into a paid sick leave program and lead to significant and regressive substitution effects (employers might abandon their sick leave benefit programs). Third, while today most UI tax collection is “experience rated” (meaning that employers pay into the system based on their workers’ use of it), the cost of this new policy should be borne as broadly as possible to guard against possible employer discrimination against women of child-bearing age.

Your advisors have come to a consensus recommendation that would enable you to advance the policy of paid leave, while mitigating the potential for unintended negative consequences. You would direct the Department of Labor (1) to issue regulations and (2) develop model legislation that together would guide the States to confine the allowance of new UI benefits to parents following birth or adoption (and, perhaps, other analogous categories) and that would ensure that these new benefits are not “experience rated.” The limitations of these new benefits primarily to leave following birth and adoption alleviates some concerns about expanding the uses of the UI system while responding to the area of greatest need. The 1996 FMLA report found that maternity-disability leave tends to be unpaid or partially paid, while all other types of leave are significantly more likely to be fully paid.

Ideally, DOL’s regulation would be able to confine States to this kind of expansion of the UI system. The DOL Solicitor’s Office is still reviewing whether it has the legal authority to do this; it may not be able to distinguish between parental leave and other FMLA categories. In this case, we would rely on model legislation to guide States toward this relatively modest expansion. Although this course has some risk (States, after all, could choose to ignore our direction and guidance and only Maryland of the four States previously mentioned would meet this construct), we are relatively confident that few States would elect to impose far greater burdens on their own UI systems.

This general approach would allow you to send a very clear signal about moving forward on unpaid leave for new parents, while also making clear that you will not countenance other, less appropriate uses of UI benefits. The action, however, will not be uncontroversial. Business groups and Republican allies on the Hill may object even to this limited expansion of the UI system and attempt to halt the regulatory process through appropriations riders.

All of the offices involved in this process – the DPC, NEC, OMB, DOL, the Department of Treasury, CEA, and First Lady’s Office – agree that the recommendation presented in this memorandum is an innovative and responsible approach to addressing this issue.

___ **PROCEED**

___ **HOLD OFF AT THIS TIME**

___ **LET’S DISCUSS**

DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT

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The DPC has also led a policy process to examine non-legislative options for action to enable States on a voluntary basis to use their Unemployment Insurance systems to provide benefits to workers on some form of FMLA-covered leave. This year, four States with surpluses in their UI trust funds – Massachusetts, Vermont, Maryland, and Washington – had bills introduced in their State legislatures that would do this. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL). While many question the prospects of State legislative efforts, DOL has been pressured from Senators Kennedy, Dodd, Leahy, and Murray, the AFL-CIO, and women’s groups to allow States this flexibility; business groups have weighed in strongly against opening up UI for this purpose.

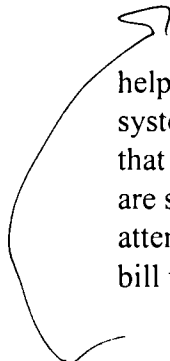
*keep in part the
UI trust fund
surpluses*

Taking a non-legislative step to advance paid leave for American workers would be a bold way to enable workers to spend more time with their families in important times. The 1996 FMLA Study, *A Workable Balance*, found that lost wages are a significant barrier to taking leave, particularly for lower income workers. Even if no State elected to use its UI system in this way (as many argue is very likely), advancing a proposal that would allow State experimentation would send a strong message that making leave affordable for workers is a new priority and that States should consider creative ways to provide paid leave benefits.

However, the challenges and risks to embracing an expansive change to the UI system are considerable. First, the expense of such a system, if ever fully implemented in all States, would be significant. It is not deficit neutral in the short term since taxes will not match benefit

spending which is estimated to begin at \$2 billion annually, but will likely be deficit neutral in the long term (10-20 years). Second, the breadth of purposes covered by the FMLA raises concerns. The majority of FMLA-covered leave is taken by workers caring for their *own* serious health conditions, and advancing a policy of providing UI benefits for this category of leave might transform the UI system into a paid sick leave program and lead to significant and regressive substitution effects (employers might abandon their sick leave benefit programs). Third, while today most UI tax collection is “experience rated” (meaning that employers pay into the system based on their workers’ use of it), the cost of this new policy should be borne as broadly as possible to guard against possible employer discrimination against women of child-bearing age.

Your advisors have come to a consensus recommendation that would enable you to advance the policy of paid leave, while mitigating the potential for unintended negative consequences. You would direct the Department of Labor (1) to issue regulations and (2) develop model legislation that together would guide the States to confine the allowance of new UI benefits to parents following birth or adoption (and, perhaps, other analogous categories) and *that would* ensure that these new benefits are not “experience rated.” Ideally, the binding regulations would confine States’ authority in these important ways. The DOL Solicitor’s office advises that while issuing regulations will enable us to set important parameters for State programs, we may not have this full authority (the question is under review). Even if we do not have this authority, however, we believe that we can accomplish much the same goal with a broader regulation encompassing all FMLA applications *my* if (a) you focus on new parents in a directive to DOL initiating the regulatory process, and (b) DOL accompanies the regulation with ~~this~~ model State legislation that guides States in program design.



The confinement of these new benefits to leave following birth and adoption not only helps to address some of the potential negative effects and criticisms of opening up the UI system, it also addresses an important challenge for new parents. The 1996 FMLA report found that maternity-disability leave tends to be unpaid or partially paid, while all other types of leave are significantly more likely to be fully paid. Still, this action may be seen on the Hill as an attempt to circumvent the legislative process to expand FMLA coverage, and it could result in bill riders (arguably a good fight to have).



This construct, however, does not mitigate many of the dangers of unintended consequences. We cannot ensure, for instance, that States would follow the model legislation we would propose and elect only to grant UI benefits to new parents, rather than the full category of FMLA covered leave (only Maryland of the four States previously mentioned would meet this construct). However, we would send clear signals about what the Administration believes is an appropriate new use of UI benefits and use the model State legislation to guide States in the right direction. Furthermore, you would only be on record as supporting this narrow new use of UI trust funds.

This option allows us the benefit of moving forward the important debate of making leave affordable for new parents, while also mitigating many potential downsides. All of the offices involved in this process – the DPC, NEC, OMB, DOL, the Department of Treasury, CEA,

and the First Lady's Office – agree that this is an innovative and responsible approach to addressing this issue.

___ **PROCEED**

___ **HOLD OFF AT THIS TIME**

___ **LET'S DISCUSS**

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May 21, 1999

DECISION MEMORANDUM FOR THE PRESIDENT

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SUBJECT: POLICY ANNOUNCEMENTS FOR GRAMBLING SPEECH

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The DPC has also led a policy process to examine non-legislative options for action to enable States on a voluntary basis to use their Unemployment Insurance systems to provide benefits to workers on some form of FMLA-covered leave. This year, four States with surpluses in their UI trust funds – Massachusetts, Vermont, Maryland, and Washington – had bills introduced in their State legislatures that would do this. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL). While many question the prospects of State legislative efforts, DOL has been pressured from Senators Kennedy, Dodd, Leahy, and Murray, the AFL-CIO, and women’s groups to allow States this flexibility; business groups have predictably weighed in strongly against opening up UI for this purpose.

Taking a non-legislative step to advance paid leave for American workers would be a bold way to enable workers to spend more time with their families in important times. The 1996 FMLA Study, *A Workable Balance*, found that lost wages are a significant barrier to taking leave, particularly for lower income workers. Even if no State elected to use its UI system in this way (as many argue is very likely), advancing a proposal that would allow State experimentation would send a strong message that making leave affordable for workers is a new priority and that States should consider creative ways to provide paid leave benefits.

However, the challenges and risks to embracing an expansive change to the UI system are considerable. First, the expense of such a system, if ever fully implemented in all States, would

be significant (~~estimates begin at \$2 billion annually~~). **It is not deficit neutral in the short term since taxes will not match benefit spending which is estimated to begin at \$2 billion annually, but will likely be deficit neutral in the long term (10-20 years).** Second, the breadth of purposes covered by the FMLA raises concerns. The majority of FMLA-covered leave is taken by workers caring for their *own* serious health conditions, and advancing a policy of providing UI benefits for this category of leave might transform the UI system into a paid sick leave program and lead to significant and regressive substitution effects (employers may abandon their sick leave benefit programs). Third, while today most UI tax collection is “experience rated” (meaning that employers pay into the system based on their workers’ use of it), the cost of this new policy should be borne as broadly as possible to guard against unintended labor force repercussions on women of child-bearing age.

Your advisors have considered various ways of advancing the policy of paid leave while also mitigating the potential for unintended negative consequences. Ideally, we would issue a regulation that confines the allowance of new UI benefits to parents following birth or adoption (and, perhaps, other analogous, limited categories) and ensures that these new benefits are not “experience rated.” The DOL Solicitor’s office advises that, while issuing regulations will enable us to set important parameters for State programs, we may not have the authority to limit them in these ways (the question is under review). Even if we do not have this authority, however, we believe that we can accomplish much the same goal with a broader regulation encompassing all FMLA applications if (a) you focus on new parents in a directive to DOL initiating the regulatory process, and (b) DOL accompanies the regulation with model State legislation that guides States in program design, confining this program to new parents and ensuring that the new benefit is not “experience rated.”

This construct does not mitigate ~~all~~ **many of the** dangers of unintended consequences. We cannot ensure, for instance, that States would follow the model legislation we would propose and elect only to grant UI benefits to new parents, rather than the full category of FMLA covered leave (**only Maryland of the four states previously mentioned would meet this construct**). However, we would send clear signals about what the Administration believes is an appropriate new use of UI benefits and use the model State legislation to guide States in the right direction. Furthermore, you would only be on record as supporting this narrow new use of UI trust funds.

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3

Employers - State taxes -

Over a long time

-10 yrs - 20 yrs -

def. neutral, but at some fed. state

be significant (estimates begin at \$2 billion annually). Second, the breadth of purposes covered by the FMLA raises concerns. The majority of FMLA-covered leave is taken by workers caring for their *own* serious health conditions, and advancing a policy of providing UI benefits for this category of leave might transform the UI system into a paid sick leave program and lead to significant and regressive substitution effects (employers may abandon their sick leave benefit programs). Third, while today most UI tax collection is "experience rated" (meaning that employers pay into the system based on their workers' use of it), the cost of this new policy should be borne as broadly as possible to guard against unintended labor force repercussions on women of child-bearing age.

a consensus rec to (1) direct DOL to (1) ^{rec} (2) model leg.

Your advisors have considered various ways of advancing the policy of paid leave while also mitigating the potential for unintended negative consequences. Ideally, we would issue a regulation that confines the allowance of new UI benefits to parents following birth or adoption (and, perhaps, other analogous, limited categories) and ensures that these new benefits are not "experience rated." The DOL Solicitor's office advises that, while issuing regulations will enable us to set important parameters for State programs, we may not have the authority to limit them in these ways (the question is under review). Even if we do not have this authority, however, we believe that we can accomplish much the same goal with a broader regulation encompassing all FMLA applications if (a) you focus on new parents in a directive to DOL initiating the regulatory process, and (b) DOL accompanies the regulation with model State legislation that guides States in program design, confining this program to new parents and ensuring that the new benefit is not "experience rated."

52

This construct does not mitigate all danger of unintended consequences. We cannot ensure, for instance, that States would follow the model legislation we would propose and elect only to grant UI benefits to new parents, rather than the full category of FMLA covered leave. However, we would send clear signals about what the Administration believes is an appropriate new use of UI benefits and use the model State legislation to guide States in the right direction. Furthermore, you would only be on record as supporting this narrow new use of UI trust funds.

(only MD of new birth) (which in fact MA, VT & WA does)

This option allows us the benefit of moving forward the important debate of making leave affordable for new parents, while also mitigating many potential downsides. All of the offices involved in this process - the NEC, OMB, DOL, CEA, and the First Lady's Office - agree that this is an ~~exciting~~ and responsible approach to addressing this issue.

innovative

meet this test)

- ___ PROCEED
- ___ HOLD OFF AT THIS TIME
- ___ LET'S DISCUSS

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and
understand

For what?

For new
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this way

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leave benefit programs). Third, while today most UI tax collection is "experience rated" (meaning that employers whose workers claim UI benefits pay into the system proportionately), it would be important that the cost of this new policy is borne as broadly as possible to guard against unintended labor force repercussions on women of child-bearing age. Fourth, paid FMLA leave could lead employers to police workers taking FMLA-covered leave to a new extent. [Finally, data collection of initial claims or maintaining DOL authority as best possible? Abuse?]

Your advisors have devised a proposal to take significant action in this area, while mitigating the potential for unintended negative consequences. You would direct the Department of Labor to work with States on ways to use their UI systems to fund paid leave for parents *only following birth or adoption*. You might also ask DOL to consider whether other categories of leave would be appropriate, but birth and adoption are two easily verifiable and attractive conditions to embrace. You would direct DOL to develop regulations that define the scope of States' authority to provide this new benefit and sets parameters for program design. In addition, DOL would develop model legislation that guides States in program development. To the fullest extent possible under executive authority, DOL would address the issues discussed above in the regulation, which would be binding for States, ~~such as a separate data collection requirement~~. Remaining policy issues would be addressed in the model State legislation that would accompany the regulation.

no if?

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This option allows us the benefit of moving forward the important debate of making leave affordable for new parents, while also mitigating many potential downsides. Even if no State chooses to adopt this significant change in State UI policy, this step would be an important signal that States should be thinking of creative ways to provide paid leave benefits for American workers.

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- PROCEED
- HOLD OFF AT THIS TIME
- LET'S DISCUSS (could perhaps
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After considering this set of
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of your advisors (name)
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Your advisors have considered various
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while mitigating ...

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may not have authority ... Think we can

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to key ~~substantive~~ ~~regulatory~~ initiation, the
reg process

b) Dep's accompanying reg w/ model legis ...
continue to new parents
deep into

DRAFT

May 20, 1999

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The DPC has also led a policy process to examine non-legislative options for action to enable States on a voluntary basis to use their Unemployment Insurance systems to provide benefits to workers on some form of FMLA-covered leave. This year, four States with surpluses in their UI trust funds – Massachusetts, Vermont, Maryland, and Washington – had bills introduced in their State legislatures that would do this. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL). While many question the prospects of State legislative efforts, DOL has been pressured from Senators Kennedy, Dodd, Leahy, and Murray, the AFL-CIO, and women’s groups to allow States this flexibility; business groups have predictably weighed in strongly against opening up UI for this purpose.

Need more here { Taking a non-legislative step to advance paid leave for American workers would be a bold way to enable workers to spend more time with their families in important times. The 1996 FMLA Study, *A Workable Balance*, found that lost wages are a significant barrier to taking leave, particularly for lower income workers. *begin a r*

However, the challenges and risks to embracing an expansive change to the UI system are considerable. First, the expense of such a system, if ever fully implemented in all States, would be significant (estimates ~~range from \$2 to \$9 billion~~ annually). Second, the breadth of purposes covered by the FMLA raises concerns. The ~~vast~~ majority of FMLA-covered leave is taken by workers caring for their *own* serious health conditions, and advancing a policy of providing UI benefits for this leave might transform the UI system into a paid sick leave program and lead to significant and regressive substitution effects (employers may abandon their sick

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May 21, 1999

DECISION MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: POLICY ANNOUNCEMENTS FOR GRAMBLING SPEECH

Your Grambling State University commencement address this Sunday focuses on the need to empower parents ~~in this new economy~~ with greater tools to balance their responsibilities to their jobs and their families. You will release a new study by the Council of Economic Advisors that analyzes the "time crunch" that parents increasingly feel. In addition, you will announce a new policy that addresses this challenge for federal workers. You will direct the Office of Personnel Management to revise its regulations to allow federal workers to use up to 12 weeks of accrued sick leave to care for a spouse, child, or parent with a "serious health condition," as defined under the Family and Medical Leave Act (FMLA). Currently, federal workers are allowed to use only 13 days of sick leave to care for an ill relative. This new policy will enable federal workers to use the sick leave they have earned on the job to take care of a loved one with a serious health condition.

The DPC ~~has~~ ^{also} led a policy process to examine non-legislative options for action to enable States on a voluntary basis to use their Unemployment Insurance systems to provide benefits to workers on some form of FMLA-covered leave. This year, four States with surpluses in their UI trust funds – Massachusetts, Vermont, Maryland, and Washington – had bills introduced in their State legislatures that would do this. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL). While many question the prospects of State legislative efforts, DOL has been pressured from Senators Kennedy, Dodd, Leahy, and Murray, the AFL-CIO, and women's groups to allow States this flexibility; business groups have weighed in strongly against opening up UI for this purpose.

Taking a non-legislative step to advance paid leave for American workers would be a bold way to enable workers to spend more time with their families ^{during} important times. The 1996 FMLA Study, *A Workable Balance*, found that lost wages are a significant barrier to taking leave, particularly for lower income workers. Even if no State elected to use its UI system in this way (as many argue is very likely), advancing a proposal that would allow State experimentation would send a strong message that making leave affordable for workers is a new priority and that States should consider creative ways to provide paid leave benefits.

However, the challenges and risks to embracing an expansive change to the UI system are considerable. First, the expense of such a system, if ever fully implemented in all States, would be significant. It is not deficit-neutral in the short term since taxes will not match benefit

immune liability

spending, which is estimated to begin at \$2 billion annually, but will likely be deficit neutral in the long term (10-20 years). Second, the breadth of purposes covered by the FMLA raises concerns. The majority of FMLA-covered leave is taken by workers caring for their own serious health conditions, and advancing a policy of providing UI benefits for this category of leave might transform the UI system into a paid sick leave program and lead to significant and regressive substitution effects (employers might abandon their sick leave benefit programs). Third, while today most UI tax collection is "experience rated" (meaning that employers pay into the system based on their workers' use of it), the cost of this new policy should be borne as broadly as possible to guard against possible employer discrimination against women of child-bearing age.

Your advisors have come to a consensus recommendation that would enable you to advance the policy of paid leave, while mitigating the potential for unintended negative consequences. You would direct the Department of Labor (1) to issue regulations and (2) develop model legislation that together would guide the States to confine the allowance of new UI benefits to parents following birth or adoption (and, perhaps, other analogous categories) and that would ensure that these new benefits are not "experience rated." Ideally, the binding regulations would confine States' authority in these important ways. The DOL Solicitor's office advises that while issuing regulations will enable us to set important parameters for State programs, we may not have this full authority (the question is under review). Even if we do not have this authority, however, we believe that we can accomplish much the same goal with a relatively broad regulation encompassing all FMLA applications if (a) you focus on new parents in the directive to DOL initiating the regulatory process, and (b) DOL accompanies the regulation with this model State legislation that guides States in program design.

This construct, however, does not mitigate many of the dangers of unintended consequences. We cannot ensure, for instance, that States would follow the model legislation we would propose and elect only to grant UI benefits to new parents, rather than the full category of FMLA covered leave (only Maryland of the four States previously mentioned would meet this construct). However, we would send clear signals about what the Administration believes is an appropriate new use of UI benefits and use the model State legislation to guide States in the right direction. Furthermore, you would only be on record as supporting this narrow new use of UI trust funds.

The confinement of these new benefits to leave following birth and adoption not only helps to address some of the potential negative effects and criticisms of opening up the UI system, but also addresses an important challenge for new parents. The 1996 FMLA report found that maternity-disability leave tends to be unpaid or partially paid, while all other types of leave are significantly more likely to be fully paid. Still, this action may be seen on the Hill as an attempt to circumvent the legislative process to expand FMLA coverage, and it could result in bill riders (arguably a good fight to have).

This option allows us the benefit of moving forward the important debate of making leave affordable for new parents, while also mitigating many potential downsides. All of the offices involved in this process – the DPC, NEC, OMB, DOL, the Department of Treasury, CEA,

is still reviewing whether we would have regulatory authority to impose all these limits. Even if we do, however, we believe we can accomplish our goals with a broader regulation encompassing all FMLA applications.

* If the event we do not, we would still issue
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The limitation of these new benefits primarily to leave following birth and adoption alleviates concerns about expanding the uses of the UI system while responding to the area of greatest need. The 1996 FMLA report found that maternity-disability leave tends to be unpaid or partially paid, while all other kinds of leave are much more likely to be fully paid.

Ideally, the ~~regulation~~ DOL's ~~regulation~~ ^{regulation} ~~would~~ ^{be able to} continue states to this kind of expansion of the UI system. The DOL Solicitor's Office is still reviewing whether it has legal authority to do this; it may not be able to distinguish between parental leave and other FMLA categories. In this case, ~~however~~ we would rely on the model legislation to guide states toward this relatively modest expansion. Although ~~not eliminating the risk of~~ this course has some risk (states, ^{ultimately,} could choose to ignore our direction and guidance), we are relatively confident that few states would choose to impose far greater burdens on their own UI systems.

several

~~but~~ This ^{several} approach would allow you to send a very clear signal about moving forward on paid leave for new parents, while also making clear that you will not countenance other, less appropriate uses of ~~your~~ UI benefits. ^{The action, however, will not} ~~Add of the offices~~ be uncontroversial. ^{groups} ~~The~~ Business and their Republican allies on the Hill may object to ~~the regulation~~ even this limited expansion of the UI system and attempt to halt the regulatory process through appropriations riders.

All of the...

The recommendation presented in this memo
and the First Lady's Office – agree that ~~this~~ is an innovative and responsible approach to addressing this issue.

___ **PROCEED**

___ **HOLD OFF AT THIS TIME**

___ **LET'S DISCUSS**

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May 21, 1999

DECISION MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: POLICY ANNOUNCEMENTS FOR GRAMBLING SPEECH

Your Grambling State University commencement address this Sunday focuses on the need to empower parents in this new economy with greater tools to balance their responsibilities to their jobs and their families. You will ~~announce~~^{release} a new study by the Council of Economic Advisors that analyzes the "time crunch" that parents increasingly feel. In addition, you will announce a new policy that addresses this challenge for federal workers. You will direct the Office of Personnel Management to revise its regulations to allow federal workers to use up to 12 weeks of accrued sick leave to care for a spouse, child, or parent with a "serious health condition," as that term is defined ~~for the purpose of applying~~^{under} the Family and Medical Leave Act (FMLA). Currently, federal workers are allowed to use only 13 days of sick leave to care for an ill relative. This new policy will enable federal workers to use the sick leave they have earned on the job to take care of a loved one with a serious health condition.

The DPC has also led a policy process to examine non-legislative options for action to enable States on a voluntary basis to use their Unemployment Insurance systems to provide benefits to workers on some form of FMLA-covered leave. This year, four States with surpluses in their UI trust funds – Massachusetts, Vermont, Maryland, and Washington – had bills introduced in their State legislatures that would do this. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL). While many question the prospects of State legislative efforts, DOL has been pressured from Senators Kennedy, Dodd, Leahy, and Murray, the AFL-CIO, and women's groups to allow States this flexibility; business groups have predictably weighed in strongly against opening up UI for this purpose.

Taking a non-legislative step to advance paid leave for American workers would be a bold way to enable workers to spend more time with their families in important times. The 1996 FMLA Study, *A Workable Balance*, found that lost wages are a significant barrier to taking leave, particularly for lower income workers. Even if no State elected to use their UI system in this way (as many argue is very likely), advancing a proposal that would allow State experimentation would send a strong message that making leave affordable for workers is a new priority and that States should be thinking of creative ways to provide paid leave benefits ~~for~~^{workers.}

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However, the challenges and risks to embracing an expansive change to the UI system are considerable. First, the expense of such a system, if ever fully implemented in all States, would be significant (estimates begin at \$2). Second, the breadth of purposes covered by the FMLA raises concerns. The majority of FMLA-covered leave is taken by workers caring for their *own* serious health conditions, and advancing a policy of providing UI benefits for this leave might transform the UI system into a paid sick leave program ~~and~~ ^{lead to} significant and regressive substitution effects (employers may abandon their sick leave benefit programs). Third, while today most UI tax collection is "experience rated" (meaning that employers pay into the system based on their workers' use of it), the cost of this new policy should be borne as broadly as possible to guard against unintended labor force repercussions ~~on~~ ^{against} women of child-bearing age.

Your advisors have considered various ways of advancing the policy of paid leave while also mitigating the potential for unintended negative consequences. Ideally, we would issue a regulation that confines the allowance of new UI benefits to parents following birth or adoption (and, perhaps, other analogous, limited categories) and ensuring that these new benefits are not "experience rated." The DOL Solicitor's office advises that while regulations provide us with significant ^{ability} ~~leverage~~ to set parameters for State programs, we may not have the authority to limit their scope as much as we would like. Nonetheless, we believe that we can accomplish much the same thing with a broader regulation encompassing all FMLA applications if (a) you focus on new parents in ^{your} ~~the~~ Presidential Directive to DOL initiating the regulatory process, and (b) DOL accompanies the regulation with model State legislation confining State programs to new parents and ensuring that the new benefit is not "experience rated."

This construct does not mitigate all danger of unintended consequences. We cannot ensure, for instance, that States would follow the model legislation we would propose and elect only to grant UI benefits to new parents, rather than the full category of FMLA covered leave. However, we would send clear signals about what the Administration believes is an appropriate new use of UI benefits and use the model State legislation to guide States in the right direction. Furthermore, you would only be on record as supporting this narrow new use of UI trust funds.

This option allows us the benefit of moving forward the important debate of making leave affordable for new parents, while also mitigating many potential downsides. All of the offices involved in this process – the NEC, OMB, DOL, CEA, and the First Lady's Office – agree that this is an exciting and responsible approach to addressing this issue.

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May 20, 1999

DECISION MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: POLICY ANNOUNCEMENTS FOR GRAMBLING SPEECH

Your Grambling State University commencement address this Sunday focuses on the need to empower parents in this new economy with greater tools to balance their responsibilities to their jobs and their families. You will announce a new study by the Council of Economic Advisors that analyzes the “time crunch” that parents increasingly feel. In addition, you will announce a new policy that addresses this challenge for federal workers. You will direct the Office of Personnel Management to revise its regulations to allow federal workers to use up to 12 weeks of accrued sick leave to care for a spouse, child, or parent with a “serious health condition,” as that term is defined for the purpose of applying the Family and Medical Leave Act (FMLA). Currently, federal workers are allowed to use only 13 days of sick leave to care for an ill relative. This new policy will enable federal workers to use the sick leave they have earned on the job to take care of a loved one with a serious health condition.

The DPC has also led a policy process to examine non-legislative options for action to enable States on a voluntary basis to use their Unemployment Insurance systems to provide benefits to workers on some form of FMLA-covered leave. This year, four States with surpluses in their UI trust funds – Massachusetts, Vermont, Maryland, and Washington – had bills introduced in their State legislatures that would do this. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL). While many question the prospects of State legislative efforts, DOL has been pressured from Senators Kennedy, Dodd, Leahy, and Murray, the AFL-CIO, and women’s groups to allow States this flexibility; business groups have predictably weighed in strongly against opening up UI for this purpose.

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However, the challenges and risks to embracing an expansive change to the UI system are considerable. First, the expense of such a system, if ever fully implemented in all States, would be significant (estimates begin at \$2). Second, the breadth of purposes covered by the FMLA

raises concerns. The vast majority of FMLA-covered leave is taken by workers caring for their own serious health conditions, and advancing a policy of providing UI benefits for this leave might transform the UI system into a paid sick leave program and lead to significant and regressive substitution effects (employers may abandon their sick leave benefit programs).

Third, while today most UI tax collection is "experience rated," (meaning that employers whose workers claim UI benefits pay into the system proportionately), it would be important that the cost of this new policy is borne as broadly as possible to guard against unintended labor force repercussions on women of child-bearing age.

pay into the system based on their workers' use of it)

Your advisors have considered various ways of advancing the policy of paid leave while also mitigating the potential for unintended negative consequences. Ideally, we would issue a regulation that confines the allowance of new UI benefits to parents following birth or adoption (and, perhaps, other analogous, limited categories) and ensuring that the costs of such a program are borne by all employers (i.e. not "experience rated"). The DOL Solicitor's office advises that while regulations provide us with significant ability to set parameters for State programs, we may not have the authority to limit the scope as much as we would like. Nonetheless, we believe that we can accomplish much the same thing with a broader regulation encompassing all FMLA applications if (a) you focus on new parents in the Presidential Directive to DOL initiating the regulatory process, and (b) DOL accompanies the regulation with model State legislation confining State programs to new parents and ensuring that the new benefit is not "experience rated."

Make new benefits

This construct does not mitigate all danger of unintended consequences. We cannot ensure, for instance, that States would follow the model legislation we would propose and elect only to grant UI benefits to new parents, rather than the full category of FMLA covered leave. However, we would send clear signals about what the Administration believes is an appropriate new use of UI benefits and use the model State legislation to guide States in the right direction. Furthermore, you would only be on record as supporting this narrow new use of UI trust funds.

This option allows us the benefit of moving forward the important debate of making leave affordable for new parents, while also mitigating many potential downsides. All of the offices involved in this process – the NEC, OMB, DOL, CEA, and the First Lady's Office – agree that this is an exciting and responsible approach to addressing this issue.

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___ HOLD OFF AT THIS TIME

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___ LET'S DISCUSS

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May 20, 1999

DECISION MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: POLICY ANNOUNCEMENTS FOR GRAMBLING SPEECH

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Your commencement ^{address} ~~speech~~ this Sunday at Grambling State University focuses on the need to empower parents in this new economy with greater tools to balance their responsibilities to their jobs and their families. You will announce a new study by the Council of Economic Advisors that analyzes the "time crunch" that parents increasingly feel. In addition, you will announce a new policy that addresses this challenge for federal workers. You will direct the Office of Personnel Management to revise its regulations to allow federal workers to use up to 12 weeks of accrued sick leave to care for a spouse, child, or parent with a "serious health condition," as that term is defined for the purpose of applying the Family and Medical Leave Act (FMLA). Currently, federal workers are allowed to use only 13 days of sick leave to care for an ill relative. This new policy will enable federal workers to use the sick leave they have earned on the job to take care of a loved one with a serious health condition.

That would do this.

The DPC has also led a policy process to examine non-legislative options for action to enable States on a voluntary basis to use their Unemployment Insurance systems to provide benefits to workers on some form of FMLA-covered leave. This year, four States with surpluses in their UI trust funds – Massachusetts, Vermont, Maryland, and Washington – had bills introduced in their State legislatures to use Unemployment Insurance (UI) to pay individuals on ~~some form of FMLA-covered leave~~. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL). While many question the prospects of State legislative efforts, DOL has been pressured from Senators Kennedy, Dodd, Leahy, and Murray, the AFL-CIO, and women's groups to allow States this flexibility; business groups have predictably weighed in ^{strongly} against opening up UI for this purpose.

#

Taking a non-legislative step to advance paid leave for American workers would be a bold way to enable workers to spend more time with their families in important times. The 1996 FMLA Study, *A Workable Balance*, found that 40 percent of leave-takers report that they cut their leave short due to lost wages, and 64 percent of respondents who did not take leave when needed (3.4 percent of respondents) cite cost as a barrier. Furthermore, the study found that lower-skilled, poorer workers are far less likely to have any wage replacement for FMLA leave; for instance, hourly employees, who are more likely to have lower incomes and lower levels of education, are four times as likely as salaried leave-takers to report receiving no pay during their leaves. And, most of the wage replacement that workers do report for their FMLA leave is in the form of sick, personal, or vacation pay.

*lost wages are a significant
barrier to taking ~~the~~ leave, particularly
for lower income workers.*

However, the challenges and risks to embracing an expansive change to the UI system are considerable. First, the expense of such a system, if ever fully implemented in all States, would be significant (ranging from \$2 to \$9 billion annually) ^{in the form of higher tax on business}. Second, the breadth of purposes covered by the FMLA raises concerns. The vast majority of FMLA-covered leave is taken by workers caring for their own serious health conditions, and advancing a policy of providing UI benefits for this leave might transform the UI system into a paid sick leave program and lead to significant and regressive substitution effects (employers may abandon their sick leave benefit programs). ~~Covering sick leave could also lead to abuse of this policy.~~ Third, paid FMLA leave could lead employers to police workers taking leave to a new extent. ^{FMLA-covered} Fourth, while today most UI tax collection is "experience rated" (meaning that employers whose workers claim UI benefits pay into the system proportionately), it would be important that the cost of this new policy is borne as broadly as possible to guard against unintended labor force repercussions on women of child-bearing age. [Finally, data collection of initial claims or maintaining DOL authority as best possible? Abuse?]

Your advisors have devised a proposal to take significant action in this area, while mitigating the potential for unintended negative consequences. You would direct the Department of Labor to work with States on ways to use their UI systems to fund paid leave for parents only following birth or adoption. (You might also ask DOL to consider whether other categories of leave would be appropriate). In so doing, you would direct DOL to develop regulations that define the scope of States' authority to provide this new benefit and set parameters for their action. ^{program design} In addition, DOL would develop model legislation that guides States ^{in program design} in implementing this change. To the fullest extent possible, DOL would address the issues discussed above in the regulation, such as a separate data collection requirement. Remaining policy issues would be addressed in the model State legislation that would accompany the regulation. ^{which would be binding for States}

This construct does not mitigate all danger of unintended consequences. We cannot ensure, for instance, that, ~~to the extent States would adopt any of this policy,~~ States would elect only to grant UI benefits to new parents, rather than the full category of FMLA covered leave. However, we would send clear signals about what the Administration believes is an appropriate new use of UI benefits and use the model State legislation to guide States in the right direction. Furthermore, you would only be on record as supporting this narrow new use of UI trust funds.

This option allows us the benefit of moving forward the important debate of making leave affordable for new parents, while also mitigating many potential downsides of such an. Even if no State chooses to adopt this significant change in State UI policy, this step would be an important signal that States should be thinking of creative ways to provide paid leave benefits for American workers.

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___ HOLD OFF AT THIS TIME

___ LET'S DISCUSS

*under executive
authority*

**Parental Leave
Q&A
November 8, 1999**

Q: Is the President exceeding his legal authority by proposing this change through regulation instead of in Congress?

A: No. The Department of Labor has the authority and responsibility to interpret Federal Unemployment Compensation (UC) statutes and has done so in the past with the UC program's requirements in such areas as jury duty, temporary layoffs, illness, and training.

The Administration is proposing to exercise this authority to examine how the UC system could help provide benefits for workers who take leave after the birth or adoption of a child. This pilot program would be voluntary, and is simply part of the Administration's overall effort to help working parents both on the job and at home.

Q: Would this change unfairly impact unemployed workers by draining resources away from the unemployed to provide for parents taking leave?

A: No. Each state has the responsibility to assess the cost to its unemployment fund whenever coverage changes, benefit expansions, or tax changes are considered within its UC program. Consequently, we expect prudent state decision-makers to examine the state's solvency and projected taxes and benefit payments under current law before deciding to enact any birth and adoption UC legislation.

Q: How much will it cost?

A: The cost estimate, which is based on the voluntary nature of the experiment and the expressed interest of a small number of states, ranges from zero to \$76 million. [Note: OMB is still determining how this program will be funded.]

Additional Question on Birth and Adoption Unemployment Compensation

How will this expansion of benefits be paid for?

Every State currently has its own Unemployment Trust Fund account funded by employer taxes to pay unemployment benefits to its workers. Any State that chooses to adopt a Birth and Adoption Unemployment Compensation (BAA-UC) program will use its own funds to pay benefits.

The decision of a State to adopt BAA-UC should not affect its ability to pay benefits to other unemployed workers. These trust funds are designed to be self-adjusting over time, in response to changing demands for unemployment compensation. The Department of Labor expects that a State will not enact changes in its unemployment compensation laws without assessing the effect on the solvency of its unemployment fund and its ability to pay benefits. Each State has the responsibility to assess the cost to its unemployment fund whenever coverage, benefit expansions, or tax changes are considered within its UC program.

May 22, 1999

GRAMBLING STATE UNIVERSITY COMMENCEMENT SPEECH

DATE:	May 23, 1999
LOCATION:	Eddie Robinson Stadium Grambling State University
EVENT TIME:	9:15am – 10:30am
FROM:	Bruce Reed

I. PURPOSE

To make remarks on the challenges facing families in the new economy. You will announce two new proposals to make leave more affordable for American workers, and release a new report that examines the “time crunch” that parents increasingly feel as they struggle to balance their responsibilities at home and at work.

II. BACKGROUND

You will be addressing an audience of over 20,000 students, faculty, graduates and their families, and community members. Grambling State University has a student population of 5,770, and approximately 500 are graduating this year. The student body is 83% African-American, and 58% of students are between the ages of 20-25. Approximately 95% of students receive financial aid, with 66% receiving PELL grants in 1998. The university is ranked 5th among all American colleges and universities in conferring baccalaureate degrees in all disciplines to African-Americans, and 1st in conferring bachelor or science degrees to African-Americans in the field of Computer and Information Science.

Grambling State University is a public, coeducational, historically black university, and was founded in 1901 as a relief school for black farmers. At the request of the Farmers' Relief Association of Ruston, LA, Dr. Booker T. Washington sent Charles P. Adams from Tuskegee Institute to establish the Colored Industrial and Agricultural School of Lincoln Parish in 1901. In 1905 the school moved to its current location, and was renamed the North Louisiana Agricultural and Industrial Institute. The school expanded over the years, and was ultimately granted university status in 1974, at which time it adopted its present name. The Grambling State University motto is “The Place Where Everyone is Somebody”.

In April the Board of Supervisors of the University of Louisiana System approved a request to confer upon you the honorary degree, *Doctor of Laws*. This honorary degree will be presented to you during the commencement ceremony.

At today's commencement you will make the following announcements:

Working to Make Parental Leave More Affordable. A 1996 study by the Commission on Family and Medical Leave found that loss of wages was the most significant barrier to parents taking advantage of unpaid leave following the birth or adoption of a child. Today, you will direct the Secretary of Labor to propose new regulations and model state legislation to enable states to develop innovative ways of using the Unemployment Insurance (UI) system to support parents taking leave to care for a newborn or adopted child. Several states recently have asked the Administration whether they could use the UI system for this purpose consistent with federal law. The new regulations will authorize this expansion of the UI system, thereby allowing states that wish to use unemployment insurance to assist new parents to put their plans into effect.

Enabling Federal Workers to Take Paid Leave to Care for Sick Family Members.

In an effort to set an example for all employers, you will also direct the Office of Personnel Management (OPM) to revise its government-wide regulations to allow federal employees to use up to 12 weeks of accrued sick leave each year to care for a spouse, son, daughter, or parent with a "serious health condition," as that term is defined for the purpose of applying the Family and Medical Leave Act. Currently, the amount of sick leave that can be used to care for a family member who is ill is limited to 13 days each year for most federal employees. By enabling federal workers to use the sick leave they have earned, according to conditions established by the FMLA, this measure will remove a significant barrier to caring for a family member with a serious health condition. You will also direct the OPM to establish an Interagency Family Friendly Workplace Working Group to develop, promote, and evaluate federal family friendly workplace initiatives. You have previously taken other actions to ensure that the federal government is a model employer, including: allowing federal employees to donate annual leave to other employees; expanding flexible family-friendly work arrangements, such as job sharing, career part-time employment, alternative work schedules, telecommuting, and satellite work locations; and directing improvements in the quality of federally sponsored child care.

A New Study on the Amount of Time Available for Families. You will release a report by your Council of Economic Advisers (CEA) today that details the factors that have led to decreased amounts of time available for parents to spend with their children. The report, *Families and the Labor Market, 1969-1999: Analyzing the "Time Crunch,"* demonstrates that the increase in hours mothers spend in paid work, combined with the shift toward single-parent families, has resulted in families experiencing an average decrease of 22 hours a week (14 percent) in time that parents spend with their children. The report concludes that the increased time at work among parents requires policy-makers to seek new ways to promote strong families, including greater flexibility in paid

work hours, more affordable child care, better support for families with low-wage earning parents, and methods for encouraging two-parent families to form and stay together.

Advancing An Agenda To Help Parents Balance Their Responsibilities At Home And At Work. In your balanced budget request, you put forward a bold agenda to provide families with greater tools to meet their responsibilities at home and at work. This agenda includes: an historic initiative to make child care better, safer, and more affordable for working families; a tripling of our investment in after-school programs through the 21st Century Community Learning Center program; a new tax credit to help Americans struggling with long-term care costs; and proposals to expand the Family and Medical Leave law to cover more workers and allow leave for more parental activities, including parent-teacher conferences and routine doctor's visits.

III. PARTICIPANTS

Stage Participants:

Secretary Rodney Slater

Senator Mary Landrieu (D-LA)

Representative William Jefferson (D-LA)

State Senator Randy Ewing

State Representative Pinkie Wilkerson

E. Joseph Sovoie, Louisiana Commissioner of Higher Education

Dr. Eddie Robinson, Sr., Retired GSU Football Coach

Doug Williams, GSU Head Football Coach and Super Bowl MVP

Members of the University of LA Board of Supervisors, Board of Regents, and Southern University Board of Supervisors

Grambling State University Administrators

Grambling State University "Golden Reunion Graduates" (27)

Program Participants:

Mayor John Williams

Reverend E. Edward Jones, President, National Baptist Convention of America

Bobby Jindal, Acting President, University of Louisiana System

Dr. Steve Favors, President, Grambling State University

This is Dr. Favors' first year as president, and this is his first commencement at the university. He served previously as vice president of student affairs and athletic director at Howard University.

Tony Eason, Jr., President, Grambling State University Student Government

Martha Fondel, Miss Grambling State University

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- **YOU** will meet approximately 12 Grambling State University faculty and students.
- **YOU** will be announced onto the stage, accompanied by President Steve Favors.
- The National Anthem will be performed.
- Reverend E. Edward Jones will deliver the invocation.
- Mayor John Williams will deliver a greeting.
- Bobby Jindal will make brief remarks.
- Tony Eason, Jr. will make brief remarks.
- Martha Fondel will make brief remarks.
- The Grambling State University Marching Band will perform a musical selection.
- President Steve Favors will make brief remarks and present **YOU** with an Honorary Doctor of Law.
- **YOU** will make remarks and depart.

VI. REMARKS

To be provided by speechwriting.

VI. ATTACHMENT

- Council of Economic Advisers' Report *Families and the Labor Market, 1969-1999: Analyzing the "Time Crunch"* Executive Summary

Hurdles for Clinton Paid-Leave Plan

By ALICE ANN LOVE Associated Press Writer

WASHINGTON (AP) -- President Clinton's proposal to let states tap into their unemployment funds to offer paid leave for new parents faces significant obstacles, benefit analysts say, because states likely will be reluctant to draw on accounts reserved for out-of-work people.

Among the biggest concerns: What would happen if the unemployment rate, now the lowest in nearly three decades, escalated sharply and depleted state benefit accounts now flush with cash?

"The business cycle does occur, and good times are followed by tougher times economically," said Emily DeRocco, director of the Interstate Conference of Employment Security Agencies, an association of state employment officials.

DeRocco predicted that states, which individually would have to adopt Clinton's plan, will think "very, very carefully" before adding new parents to their unemployment rolls.

The 1993 Family and Medical Leave Act has eased the strain on workers who must care for new babies by guaranteeing up to 12 weeks' unpaid leave. But additional help is needed for those who cannot afford to take time off without pay, Clinton said in a speech two weeks ago.

The president announced he had directed the Labor Department to write new regulations letting states provide unemployment benefits to parents of newborn or newly adopted children who choose to take the leave guaranteed under the 1993 law.

As many as 6 million parents could be eligible for such programs each year nationwide, administration officials estimate.

"The economy has been good and unemployment has been down and states have benefited," said Grace Kilbane, director of the federal Unemployment Insurance Service. "If states have very healthy balances in their (unemployment) funds, then they're in a good position if they want to broaden eligibility."

Advocates of adding new parents to the unemployment rolls in Maryland, Massachusetts, Vermont and Washington requested the federal clearance. Their proposals generally would offer full unemployment benefits, averaging \$200 a week nationally, during leave.

Clinton's endorsement has sparked hope that state legislatures might now take the idea more seriously.

"It hits a chord with people. People understand it. ... The best way to take care of your family is to do it yourself," said Vermont state Sen. Jan Backus, a Democrat who has sponsored legislation.

An economic expansion -- the longest in the nation's peacetime history -- has boosted tax collection and padded many states' unemployment accounts beyond what is normally kept in reserve.

The Massachusetts account, for example, is approaching \$1.8 billion, enough to pay benefits for at least two years. Labor unions, women's groups and others pushing for paid leave there have calculated it would cost \$150 million a year, or about \$1.25 per worker per week.

"Our view is, can you afford a cup of coffee for your employees per week so they can have the peace of mind?" said Monica Halas, senior employment attorney at Greater Boston Legal Services.

Employers who pay the taxes that fill unemployment coffers do not see it that way.

"You've got a bit of a bait and switch here," said Dan Danner, vice president for public policy at the National Federation of Independent Business. "An attitude by some ... is let's expand the programs to fit the taxes, and if we have a surplus, heaven forbid you give it back."

In addition to state taxes, employers must pay a federal unemployment tax of 0.8 percent on the first \$7,000 of each workers' wages. That money goes, in part, to a bailout fund that makes loans to states when their own accounts prove insufficient.

The \$7.4 billion federal account has no loans outstanding. But

Draft Outline of Dodd Bill on FIRST Insurance Demonstration Program

Title: FIRST (Family Income to Respond to Significant Transitions) Insurance Demonstration Project

Findings:

- * Nearly two-thirds of employees who need to take a family or medical leave but do not take one report that they cannot afford to take a leave.
- * Although some Americans already receive wage replacement during periods of family or medical leave, the benefit is not shared equally in the workforce. Employees with lower education and income are less likely to be paid than higher educated and salaried employees. Furthermore, women, minority group members, and younger workers are slightly less likely to receive wage replacement than male, White, and older workers respectively.
- * In order to cope financially with taking a leave, 40% of leave-takers without full wage replacement cut their leaves short, 39% put off paying bills, 25% borrowed money, and 9% obtained public assistance.
- * Taking a leave often drives low-wage earners into poverty, with 21% of low-income leave-takers without full wage replacement resorting to welfare.
- * Many studies have documented shortages in the current supply of infant care, and this situation is expected to deteriorate as welfare reform is implemented. For example, the GAO estimates that by the time the 50% welfare-to-work participation goal is reached in 2002, 88 percent of infants needing child care in the Chicago area will not be able to find it.

Program: Authorize \$200 million for a demonstration program of FIRST Insurance. The program would be jointly run by the Department of Labor and the Department of Health and Human Services and would fund demonstration projects in a number of states or local communities to experiment with different mechanisms of providing parents with wage replacement after the birth or adoption of a child.

Encourage the DOL and HHS to fund projects utilizing different approaches, including expansion of state or private Temporary Disability Insurance plans and expansion of state Unemployment Insurance Compensation programs to provide partial or full wage replacement to those taking time off to care for a new child.

States, substates or local governments would be eligible to apply for funding.

Applications would be required to show:

- 1) planning that involved the employer and employee communities;
- 2) estimates of costs and benefits;
- 3) extent of coverage, and;
- 4) how the proposal builds on existing state and private systems.

Applicants would need to show how they would assist working Americans taking time to care for a new child. But they would not be limited to just this group. States could choose to expand this group to additional families, including those taking FMLA leaves or other leaves to care for family members, or those parents who choose to stay at home with their babies.

Evaluation: Require that projects be thoroughly evaluated, particularly on the costs and benefits of the insurance. In addition, a small portion of the funding would be set aside for national research, evaluation and coordination, including research comparing the different mechanisms of providing insurance and the experiences of the different demonstration projects, and analyzing the overall need for insurance.

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Parents Rank Violence as Top Worry in New Nationwide Survey *Also, Almost Three in Four Want to Stay Home to Raise Children*

Washington, D.C.— Overwhelmed by worry about violence, parents across America fear not only that their children will be the next victims, but also that they know children who are likely to commit violent acts — their own children included. This is just one set of findings from a nationwide survey sponsored by **Parents** magazine and the **I Am Your Child Foundation (IAYC)**.

Almost universally, parents (82 percent) believe raising children is tougher now than ever before, and in a dramatic turnabout, 77 percent of mothers today wish they could stay home to raise their children, compared to 29 percent in a 1996 **Parents** magazine reader poll. A plurality of parents (41 percent) believes they are doing a better job with their children than their parents did with them. However, they find the advice of today's experts largely unrealistic.

The survey, conducted on behalf of **Parents** and **IAYC** by Penn, Schoen & Berland Associates and Luntz Research, explored parents' views on a variety of vital parenthood issues, particularly violence, the time parents spend with their children, child care and the practicality of experts' advice.

"Regardless of gender, age, race or household income, violence figures prominently in parents' considerations for their children," said Sally Lee, editor-in-chief of **Parents** magazine. "Three out of four parents worry about their child being the victim of a violent act. Even more alarming, one in four fear their own child might be capable of violence."

Rob Reiner, founder and chairman of **I Am Your Child**, said "What this poll clearly indicates is that we need to provide a comprehensive support system — access to health care, increased quality child care, expanded family leave, and government and business support — so that parents and caregivers can provide children with a good, healthy start in life."

(more)

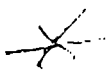
Violence hits close to home

Three out of four (75 percent) parents worry about violence in schools, and for one-third (33 percent), violence and danger outside of the home top their list of fears about raising their children.

In many cases these fears come from circumstances close to home. The research found that more than one in five parents (22 percent) know a child who has been a victim of violence. Thirty percent of all parents, and 43 percent of parents with children between ages six and 12, say they know a child they believe is *capable* of violence.

"Despite understandable fear and a sense of despair about the violence issue, parents tell us that accountability lies with them," Lee said. Seventy-three percent said that if a child under age 18 engages in violence, the parents should be held responsible.

Interestingly, parents who are satisfied with the amount of time they spend with their children are less likely to worry about their children being victims of violence.



Five hours feels right

Perhaps this, in part, accounts for parents' increasing desire to stay home to raise their children. Seventy-two percent of parents (77 percent of moms and 66 percent of dads) say they would rather do so than work, if money were not an issue.

Either way, parents set a high bar for the amount of time they want to spend with their children — *at least five hours a day*. Unfortunately, only one-half of all parents surveyed (52 percent) report spending that much time with their children. Twenty-nine percent spend three to five hours a day with them, and 18 percent spend less than three hours.

Among working parents, two-thirds of fathers (66 percent) and one-half of mothers (51 percent) are unhappy with the amount of time they dedicate to their children.

Little wonder, when two in three parents (66 percent) must place their children in the care of relatives, babysitters, neighbors or formal child care centers for significant amounts of time each day.

Finding affordable, quality child care is not easy

The survey found that the most popular type of child care provider is a relative. Nearly half of the parents who use child care leave their children with a member of their extended family. Approximately 18 percent choose a formal child care center. Only one in nine (11 percent) use a neighbor or other provider outside of their home. Still smaller numbers use babysitters, nannies or au pairs.

(more)

 Each year American parents struggle to find child care for 1.5 million infants *alone*. For 38 percent of those parents whose children are under a year old, finding quality child care that they can afford is difficult. The same holds true for 31 percent of parents seeking child care for children under three years old.

Once they commit to a child care situation, two thirds of parents (66 percent) say they are satisfied with it, rating it an "A." By contrast, only 21 percent rate other people's child care an "A." And surprisingly, 65 percent believe the quality of child care is not related to the cost.

Much expert advice is unrealistic

The survey also delved into parents' knowledge of and adherence to the advice of experts in child development and child rearing, such as the American Medical Association (AMA) and the American Academy of Pediatrics (AAP). The survey found that parents largely are unable to adhere to the advice of these organizations.

Virtually no parents surveyed keep their children in car seats or booster seats until the age of eight, and only 36 percent of parents think it's realistic to do so, despite expert recommendations to that effect.

The AAP says children should breastfeed for the first 12 months of their lives but only one in four women (27 percent) say that is realistic. One in three mothers do not breastfeed their children at all. Of those who do, 67 percent have stopped by the time the child is five months old.

Thirty-six percent of parents disregard the AMA warning that letting a child under two years old sleep in their parents' bed could put the child at risk. Only 23 percent of parents say this recommendation is realistic.

Eighty-seven percent of parents let their children under two years of age watch television or videos, even though the AAP recently issued a pronouncement against allowing children under two years old to watch television for fear that it could slow their development. Only 13 percent believe preventing children under age two from watching TV is a realistic expectation.

This survey inaugurates a new partnership between **Parents** magazine and the **I Am Your Child Foundation**, joining the widespread reach of the undisputed leader in parenthood magazines with the expertise of one of America's top early childhood organizations. The two organizations, which both have a strong commitment to improving the lives of children, are combining resources to advocate more forcefully on behalf of children and parents. They plan to continue leveraging their combined strength in future projects to raise public awareness and to support work being done on behalf of America's children and families.

###



Lifetime Television commissioned EDK Associates to conduct a national poll of registered women voters on January 24 and 25, 2000. Lifetime's poll confirms that the presidential candidates need to pay more attention to the concerns of women and the issues that are most important to them.

Women say candidates aren't listening.

- More than one-third of undecided women voters (35%) indicate that none of the candidates is really talking about the issues of top concern to women.

Bush and Gore nearly tied on women's vote.

- A breakdown of the women's vote for the frontrunners: 25% of women say they would support Bush, 24% Gore, 8% John McCain, and 8% Bill Bradley.

One-third of women are undecided about who should be the next president.

- With Texas Governor George W. Bush and Vice President Al Gore essentially neck and neck among all women voters, by far the largest group of women (33%) revealed that they have not yet made up their minds about their candidate of choice.

When asked what worries them, at least one-half of women voters indicate concern about the threat to medical benefits, access to childcare, the insufficient effort to cure breast cancer, inadequate attention to gun control, the rising cost of a college education, the connection between pollution and health risks, violence against women and pay equity.

Breast Cancer

- 70% of women voters "worry a great deal" (50%) or "a good amount" (20%) that "we will not make enough of an effort to find a cure for breast cancer."

Health Risk and the Environment

- Candidates may not realize that women are extremely concerned about how the environment relates to health risks. When asked whether the statement "I am very concerned that environmental pollution is increasingly posing a health risk" described them, 85% of women voters answered that it was a very or somewhat accurate description of their attitude.

Medical Benefits

- 69% of women worry a great deal that medical benefits that they and their family now receive will be reduced or eliminated.

Childcare

- Concern about childcare, which the presidential candidates have addressed much less regularly than medical benefits, is also very significant among women voters. 60% of all women voters worry either "a great deal" or "a good amount" that "working parents do not have enough good childcare options."

*** Family and Medical Leave**

- Two-thirds of women voters indicate that government should provide paid family and

medical leave to parents who have recently had or adopted a baby.

Pay Equity

- Women are extremely concerned about pay equity. 71% of women identify strongly with a statement about the need for Congressional action to address pay inequities between men and women.

Workplace Discrimination

- 85% of women say that the sentence "American women still face discrimination in the workplace" is either a very or somewhat accurate description of their beliefs.

Violence Against Women

- 87% of women voters say that the sentence "I am very concerned that not enough is being done to end violence against women" is either very or somewhat accurate as a description of themselves.

College Education

- Half of the women voters worry "a great deal" that "a good college education is becoming too expensive."

Race Relations

- 57% of women also worry quite a bit that "this country has problems with race relations that are not being addressed or talked about."

Social Security and Tax Cuts

- Almost three-fourths of women voters say that their perspective is very accurately captured by the following statement of concern: "Guaranteeing that social security benefits will be available to future generations must be a higher priority than tax cuts."

Guns

- 51% of women voters are worried "a great deal" that "not enough is being done to make it harder to own a gun."

The results of this poll are a good indication of what the candidates need to do in order to motivate undecided women voters to select a particular candidate.

A Workable Balance

14 days or fewer, and almost 90 percent of non-covered employees take leave that lasts fewer than 14 days.

The data also reveal some distinctive variations in length of leave among leave-takers (see Appendix E, Table 5.F). Women, as noted above, take longer periods of leave (with a median length of 15 days, and a mean of 41, as opposed to 10 days and 33 days, respectively, for men). This is not surprising, given that only women bear children, and that women are still more likely than men to be responsible for most kinds of family care. Men, however, take longer periods of leave for their own serious health conditions. Hourly (as opposed to salaried) workers, and by those with relatively lower levels of education are more likely to take leave lasting over 28 days.

Length of leave does not appear to vary significantly by income level. However, salaried employees are more likely to take shorter leave - up to seven days - (47.2 percent) compared with employees who are paid by the hour (39.5 percent).

In sum, most periods of leave are short. The majority of leave to care for a seriously ill child, parent or spouse) lasts fewer than 14 days, as does roughly half of leave taken to recover from one's own serious health condition. Parental leave and maternity-disability leave lasts longer.

E. Employees Who Needed but Did Not Take Leave

According to the Employee Survey, 3.4 percent of employees said that they needed leave for a reason covered by the FMLA, but did not take it. As noted above (see Appendix E, Table 5.A), these leave-needers who did not take leave are especially likely to be African American, to be hourly workers, to have one or more children, to have low levels of family income and to have some college education, but less than a four-year degree.

The leave-needers surveyed are most likely to need leave for their own serious health condition or to care for a sick child, parent or spouse - over 40 percent in both categories (see Figure 5.4). Almost none of the workers in this sub-sample needed, but did not take, maternity-disability leave. In addition, almost ten percent of leave-needers report they wanted to take parental leave but did not. Despite demographic variations among leave-needers, it is not possible to link demographic variables on the particular patterns of need, given the small sub-sample

Employers' and Employees' Experiences with Leave Since Enactment of the FMLA

sizes (see Appendix E, Table 5.G).

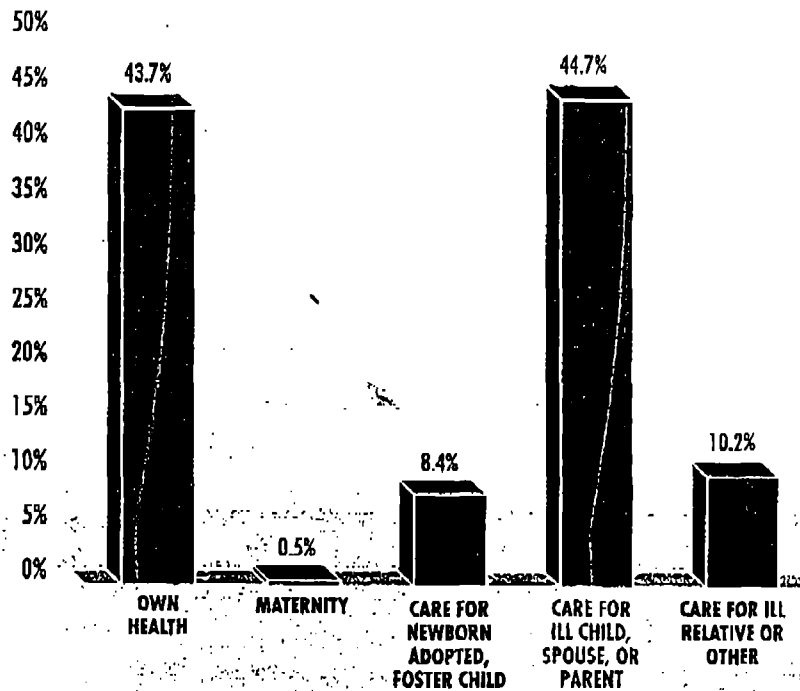
The importance of wage replacement to leave-takers is underscored by the finding that among the employees who needed but did not take leave, fully 63.9 percent were unable to take leave because they could not afford the associated loss of wages (see Figure 5.5, next page). This was far more frequently cited than any other reason given for not taking leave by those who needed leave (see Appendix E, Table 5.H)⁹.

The fact that almost two-thirds of those who needed but did not take leave cite financial constraints as a reason for not taking leave is consistent with other research in this area. For in-

stance, evidence regarding the impact of wage replacement on leave-taking is found in a study of state parental leave laws. In Rhode Island, which had both Temporary Disability Insurance (TDI) and a new leave law, the population of women with household incomes under \$20,000 per year who took less than six weeks of leave after childbirth dropped to zero percent. This compared with an average of 19 percent for similarly-situated women in three states with no TDI coverage (that is,

FIGURE 5.4

Reason for Needing Leave Among Employees Who Needed but Did Not Take Leave



SOURCE: AGUIRRE INTERNATIONAL TABULATION OF DATA FROM INSTITUTE FOR SOCIAL RESEARCH, SURVEY RESEARCH CENTER, UNIVERSITY OF MICHIGAN, SURVEY OF EMPLOYEES, 1995.

Note: Percentages do not sum to 100% because respondents could choose more than one category.

⁹ It is also noteworthy that only nine percent of males reported that their employer denied their leave request, while 19 percent of female leave-needers cited this as a reason for not taking leave. While this subpopulation is too small to allow for inferences of statistical significance, the Employee Survey notes the need for further research to determine whether there is a significant relationship between sex and being denied a leave request. McGonagle, et al., p. 23.

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Tuesday February 8 2:06 PM ET

Study: Child Care Remains a Problem

By JANELLE CARTER Associated Press Writer

WASHINGTON (AP) - Affordable, quality health care remains a critical problem for millions of families, a new study concluded Tuesday. The results came a day after President Clinton submitted a proposal for \$1.1 billion in child care aid.

Lawmakers cited the report by the National Council of Jewish Women in urging expansion of child-care efforts.

"We need to do better by our children and families," said Sen. Mary Landrieu, D-La.

The report by the 90,000-member organization looked at obstacles families face in finding child care. The study, which compiled recent child-care research, urges both the public and private sectors to work toward better access and affordable, quality care.

The survey came a day after the release of President Clinton's fiscal 2001 budget, which seeks \$1.1 billion for child-care and development block grants to states, an increase of \$573 million. The grants are the primary source of child-care subsidies for poor families.

Clinton also wants new tax credits for businesses building or expanding child-care programs for workers, an investment of \$42 million next year and \$1.4 billion for the decade.

The report found that in 15 states, the average cost of day care for 4-year-olds can be nearly twice the annual cost of college tuition.

"For most working parents, searching for child care is like running an Olympic track race - every hurdle they leap is followed by another," said Jan Schneiderman, president of the organization.

The struggle is just as evident for child-care workers, according to the report. The Bureau of Labor Statistics says the average annual salaries of janitors and bartenders are higher than those of child-care workers.

Almost one-third of child-care workers leave their jobs each year because of money, said Rep. Connie Morella, R-Md. "They get paid less than they would at a fast-food place slinging hamburgers."

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State Family Leave Laws That Are More Expansive than the Federal Family and Medical Leave Act

The federal Family and Medical Leave Act (FMLA) guarantees that people who work for companies with 50 or more employees can take up to 12 weeks of unpaid leave a year to care for a newborn or newly-adopted child or for a seriously ill child, spouse, or parent, or to recover from their own serious health conditions. The first bill signed into law by President Clinton, the FMLA became effective on August 5, 1993.

The FMLA allows states to set standards that are more expansive than the federal law. Today, *19 states have family leave laws that apply to private-sector employees and that are in some respects more generous than the FMLA.* For example, almost 190,000 more Oregonians have family leave coverage because that state's FMLA covers businesses with 25 or more employees.

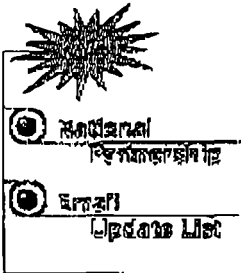
Following is a brief summary of the various state laws that are more generous than the FMLA. Although some states specifically provide additional family or medical leave benefits to their state employees, this summary only covers family and medical leave laws that apply to private-sector as well as state employees.

A. Three states have comprehensive family and medical leave laws that apply to employers of fewer than 50 employees:

- **Vermont** (10 or more employees for leaves for new child or adoption; 15 or more employees for leaves for family member's or own medical condition)
- **District of Columbia** (20 or more employees)
- **Oregon** (25 or more employees)

B. Twelve states have narrower leave laws that apply to employers of fewer than 50 employees:

- **Kentucky** (all employees for leave for adoption of child under age 7)
- **Hawaii** (1 or more employees for leave for maternity disability ¹)
- **Montana** (1 or more employees for leave for maternity disability)
- **Connecticut** (3 or more employees for leave for maternity disability)
- **Iowa** (4 or more employees for leave for maternity disability)
- **California** (5 or more employees for leave for maternity



- disability)
- **Massachusetts** (6 or more employees for leave for maternity)
- **New Hampshire** (6 or more employees for leave for maternity disability)
- **Minnesota** (21 or more employees for leave for leave for birth or adoption)
- **Maine** (15 or more employees for family and medical leave for 10 weeks/2 years)
- **Louisiana** (25 or more employees for leave for maternity disability)
- **Puerto Rico** ²(all employees for leave for maternity disability)

C. Eight states require leave for participation in children's educational activities:

- **California** (40 hours/year; no more than 8 hours/month)
- **District of Columbia** (24 hours/year)
- **Illinois** (8 hours/year; no more than 4 hours/day)
- **Louisiana** (16 hours/year)
- **Massachusetts** (24 hours/year)
- **Minnesota** (16 hours/year)
- **Nevada** (no maximum time, but prohibits terminating employees who go to school conferences or are notified of their child's emergency)
- **Vermont** (24 hours/year; up to 4 hours/month)

D. Two states require leave for family medical needs not covered by the federal law:

- **Massachusetts** (24 hours leave per 12 months for accompanying a child, spouse, or elderly relative to routine medical, dental, or other professional medical appointments)
- **Vermont** (24 hours leave per 12 months for seeing to the routine or emergency medical needs of a child, spouse, parent, or parent-in-law; no more than 4 hours in any 30-day period)

E. Four states use a more expansive definition of a "family member" for whose illness an employee may take family medical leave:

- **District of Columbia** (includes all relatives by blood, legal custody, or marriage, and people with whom employees live and have a committed relationship)
- **Hawaii** (includes in-laws, grandparents, and grandparents-in-law)
- **Oregon** (includes spouse's parent)
- **Vermont** (includes spouse's parent)

F. Eight states provide longer periods of family and medical leave:

- **California** (12 weeks family leave plus 4 months maternity disability leave may be combined for a total of 28 weeks/year)
- **Connecticut** (16 weeks/2 years)

- **District of Columbia** (16 weeks of family leave plus 16 weeks of medical leave/2 years)
- **Louisiana** (4 months for maternity disability)
- **Oregon** (12 weeks family leave plus 12 weeks maternity disability/year)
- **Puerto Rico** (up to 20 weeks for complicated pregnancies)
- **Rhode Island** (13 weeks/year)
- **Tennessee** (4 months for maternity disability)

updated 3/25/99

ENDNOTES

1. "Maternity disability" leave laws guarantee women employees' their jobs only for the period when they are actually disabled by pregnancy and childbirth.

2. Puerto Rico is the only U.S. jurisdiction that requires employers to continue employees' salaries during leave: employers must pay at least half salary for 8 weeks to women on maternity disability leave.

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AMERICANS SUPPORT FAMILY-LEAVE INSURANCE

Findings from *Family Matters: A National Survey of Women and Men*,
conducted for the National Partnership for Women & Families
by Lake Sosin Snell Perry & Associates
February, 1998

Summary. A large majority of Americans think it's important to make family leave more affordable. They support the creation of state family leave insurance programs that would help working people makes ends meet while on leave to care for new babies or sick family members. This support crosses lines of sex, age, family structure, income, race, and political affiliation, with especially strong support among women and among people under age 45.

Specifically, we asked this question:

"Some states are considering proposals that would establish Family Leave Insurance. They could do this by expanding unemployment or disability insurance to provide partial wages when people need to take time from work to care for a newborn or a newly adopted child; to care for a seriously ill parent, child, or spouse; or to recover from their own serious illness. Would you **STRONGLY** favor, **SOMEWHAT** favor, somewhat **OPPOSE**, or **STRONGLY** oppose that proposal?"

Findings. Among the consistent majorities favoring that proposal are:

All Americans	79%	Women	82%
		Men	75%
Americans under age 45	84%		
Americans age 45 and over	74%		
Democrats	85%	Women only	86%
Republicans	71%	Women only	75%
Independents	79%	Women only	83%
Dem. Women under age 45	89%		
Rep. Women under age 45	91%		
Ind. Women under age 45	91%		
People with Children at Home	82%	Women only	86%
People without Children at Home	77%	Women only	80%
Parents Working for Pay	83%	Women only	89%
Parents not Working for Pay	80%	Women only	81%
Working People without Children	81%	Women only	85%

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NEW SURVEY ON YOUNG WORKERS' CONCERNS

High Hopes, Little Trust, the AFL-CIO's new survey of working women and men aged 18-34, found that today's young workers are particularly concerned about work/family issues and think employers should do more to support working families. Among the policy solutions most favored by young workers are expanding the federal Family and Medical Leave Act (FMLA) to cover more working people and providing paid family leave. Their high level of concern about balancing work and family and strong support for private and public solutions are shared by most Americans and echo the findings of our *1998 Family Matters* survey.

HIGHLIGHTS

- Young workers' top worry is about not having enough time for both family and work.

47% of young workers -- 49% of young women and 45% of young men -- worry often about this, more than are worried about being able to afford to retire, educate their children, or pay for health care.

- A majority (55%) of young workers say employers aren't doing enough to help working parents.
- 79% of young workers support expanding the Family and Medical Leave Act to cover more employees.
- 82% of young workers support expanding the Family and Medical Leave Act to provide paid leave.

Source: *High Hopes, Little Trust: A Study of Young Workers' and Their Ups and Downs in the New Economy*, AFL-CIO (1999), research conducted by Peter D. Hart Research Associates

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Bingham Barbara <bingham-barbara@dol.gov>

02/09/2000 12:58:44 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP, Bergman Terry <bergman-terry@dol.gov>

cc:

Subject: RE: TDI

<<factsh post omb \$20m.wpd>> Ann -- Terry thought this might be of use to you. We used it in our budget briefing books. Barbara

From: Bergman Terry
Sent: Wednesday, February 09, 2000 12:13 PM
To: Ann_O'Leary@opd.eop.gov
Cc: Bingham Barbara
Subject: TDI

On your TDI question, 5 states plus Puerto Rico, have TDI programs. Our folks are checking on legislative activity, but where I'm aware of something I note it --

CA (Gov. Davis has proposed expansion for fathers; adoption)
NY (advocates seeking FMLA expansion)
NJ
HI
RI



- factsh post omb \$20m.wpd

FACT SHEET

Family Leave Initiative

- * This budget initiative, "Making Family Leave More Affordable," would provide \$20 million for competitive planning grants to states and other interested entities to explore ways to make parental leave and other forms of family leave more affordable and accessible for American workers.
- * Many workers face barriers to taking advantage of unpaid leave. In 1996, the bipartisan Commission on Family and Medical Leave published the study, "*A Workable Balance: Report to Congress on Family and Medical Leave Policies*," that found loss of wages was the most significant barrier to parents taking advantage of unpaid leave following the birth or adoption of a child. This budget initiative would enable states and others to identify the workers who need financial assistance to take parental leave or other forms of family leave and to evaluate and develop options to aid these workers.
- * Grant monies would be made available to states and appropriate sub-state entities to be used to identify the needs of workers within a State or locality, building upon the national data that will come from this year's surveys of employers and employees. For example, among other things, some grantees will conduct in-depth program evaluations and/or state or local surveys of businesses or employees.
- * The \$20 million requested will fund approximately 15 competitive planning grants ranging from \$250,000 to \$2,000,000.

Background

Currently, a few states provide partial wage replacement for some types of parental leave through Temporary Disabilities Insurance and others are looking at doing so. Some employers also provide full or partial wage replacement for parental/maternity leaves. In addition, over the last few years, several state governments have been exploring other strategies to provide wage replacement for parents who want to take leave to care for a newborn or newly adopted child but cannot afford to do so. The Department of Labor, at the direction of the President, has proposed an opportunity for States to pay, under a voluntary experimental program, Unemployment Compensation

¹ The proposed rule was published December 3, 1999. The rule will be finalized later this year.

parents who take time off from employment after the birth or adoption of a child.¹

Under this budget proposal, the Administration would further assist states and other entities in this effort, and encourage them to develop other paid leave options. Grants could be used to identify the needs of workers within a state or other locality, building upon the national data that will come from this year's surveys of employers and employees.² For example, among other things, some grantees will conduct in-depth program evaluations and/or state or local surveys of businesses or employees. This initiative would provide for the development of approaches targeted at addressing the specific problems identified and determine which are the most promising models.

¹ The proposed rule was published December 3, 1999. The rule will be finalized later this year.

² The Department of Labor received funds in FY 2000 to update the surveys conducted by the Commission.

h:\budget\factsh post omb \$20m



Bergman Terry <bergman-terry@dof.gov>

02/09/2000 12:15:56 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP

cc:

Subject: FW: Press Release - Statement of Rep. Bill Goodling (R-PA) on the Clinton-Gore Prop

FYI

From: Bergman Terry

Sent: Tuesday, February 08, 2000 11:58 AM

To: Hildebrand Gerard W-ETA; ATKINSON CHERYL-ETA; KILBANE GRACE A-ETA

Subject: Press Release - Statement of Rep. Bill Goodling (R-PA) on
the Clinton-Gore Prop

<<Press Release - Statement of Rep. Bill Goodling (R-PA) on the
Clinton-Gore Proposed Budget.url>>

http://www.house.gov/ed_workforce/press/budget2700.htm

This is a link to the Goodling press release on the budget...it contains a
mention of BAA-UC, which I thought you would want to see.



- Press Release - Statement of Rep. Bill Goodling (R-PA) on the Clinton-Gore Proposed Budget.url

Committee on Education and the Workforce**FOR IMMEDIATE RELEASE****February 7, 2000****Contact: Becky Campoverde
or Dan Lara (202) 225-4527****Statement of Rep. Bill Goodling (R-PA)
On the Clinton-Gore Proposed Budget**

WASHINGTON – House Education and the Workforce Committee Chairman Bill Goodling (R-PA) issued the following statement today regarding the Clinton-Gore Administration's proposed budget for FY 2001:

Statement on the education budget:

"This is a disappointing budget submission from a number of perspectives. First, there is an insufficient increase for disabled children in the **IDEA** (Individuals with Disabilities Education Act) program. The \$290 million increase won't do much to get us closer to fulfilling the federal commitment to this program. When the law was passed, we agreed to fund 40 percent of the excess costs to educate a child with a disability. For the current fiscal year, we're at 12 percent, and we need more than token increases to increase the federal government's participation gradually but significantly.

"I have to give the administration credit. Just when I thought we had actually killed any notion of a **national test**, they've slipped in \$5 million to continue developing so-called 'voluntary' national reading and math tests. The spike we used in the last Congress apparently did not go through the heart of a national test. But we'll refine the target and make sure it stays dead this time.

"The Clinton-Gore **Teacher Quality Initiative** has a nice name, and I'm glad they have finally partially awakened to the fact that their class size reduction program has contributed to putting thousands of unqualified teachers in classrooms around the country. Our Teacher Empowerment Act, which the House approved last year and is pending in the Senate, is the better way to address both quality and hiring issues, by leaving those decisions to the people who know best: local school districts.

"The administration has failed to understand the benefits of family literacy programs, as evidenced by the proposed level funding of the **Even Start** program. I am convinced that engaging the entire family is key to ending the cycle of poverty and illiteracy, and I will work with appropriators to ensure that these programs receive the emphasis they deserve.

"I am disappointed that the president has chosen to cut state grants for **vocational education** and focus funds instead on Washington-based programs such as adult education leadership activities, a pot of money controlled by the Secretary. Clearly, the emphasis should instead be on putting dollars in the classroom, particularly for those students who do not go on to postsecondary education.

"Rather than provide more than \$1 billion for grants for **construction or renovation of school buildings**, we should put funding into the IDEA program for disabled children. That will free up additional state and local funds for buildings. The President vetoed a \$1.4 billion tax proposal last

year that would have given school districts more flexibility to issue bonds and build schools. Congress will give the president another opportunity to approve this needed bill this year.

"I am also disappointed that the President is back again with **student loan proposals** in the budget that are dead on arrival. It's ironic that while the administration claims to support both the Federal Family Education Loan (FFEL) Program and the Federal Direct Student Loan (FDSL) Program, it sends a budget to Congress that is clearly designed to lead to the elimination of the Federal Family Education Loan Program.

"The Federal Family Education Loan Program has served students for 30 years and continues to provide 70 percent of the student loans made each year. In fact, the Federal Direct Student Loan Program has suffered declining school participation over the past two years. Proposals that are sure to reduce the number of participating lenders and guaranty agencies in the FFEL Program and severely curtail the quality of services provided to students and their families, as well as institutions of higher education, only serve one purpose and that is to prop up the failing FDSL Program."

Statement on workforce and civil rights budgets:

"The Clinton-Gore Administration's workforce initiatives remain flawed, and in some cases, hazardous to workers and our economy. The emphasis placed on stepped up enforcement and training by the **Equal Employment Opportunity Commission** is a thinly veiled attempt to create a more litigious approach to dealing with employment issues. This does little to improve working conditions or opportunities for women.

"Any increase in the **minimum wage** should be coupled with tax incentives that will ensure continuous creation of new jobs in a sound economy.

"The key to sound improvements in **healthcare** is whether we increase coverage for the 44 million Americans who are uninsured. Real reform will increase access, accountability, and affordability.

"I remain deeply concerned about the **risky regulatory frenzy** of the Clinton-Gore administration in its final months. The following regulatory initiatives will have detrimental effects on our nation's workforce and the economy:

- The Department of Labor's (DOL) plan to proceed with **ergonomics regulations** before we have a scientific appraisal of the cause and definition of musculoskeletal injuries, what causes them, and how we can prevent them.
- The department's Wage and Hour Division issued an advisory letter stating that companies granting **stock options** must include the value of the options in hourly workers' base pay. This changes the compensation due to these employees under the Fair Labor Standards Act and creates an administrative nightmare of increased costs, paperwork and liability. I am concerned that this will result in fewer companies offering stock options to rank-and-file workers.
- An aborted attempt by DOL to expand health and safety rules to **telecommuters** and others who work at home has left employers and workers in limbo regarding flexible work arrangements.
- The administration is also moving forward with plans to allow states to use **unemployment insurance funds** for purposes never intended -- to provide paid family leave for employed workers. This could leave unemployed workers competing for funds with those who hold

jobs but voluntarily choose to take time off.

- The administration's attempt to "**blacklist**" **certain contractors** unfairly and prevent them access to federal contracts is a blatant over-reach of regulatory authority."

###



Bergman Terry <bergman-terry@dol.gov>

02/09/2000 12:13:24 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP

cc: Bingham Barbara <bingham-barbara@dol.gov>

Subject: TDI

On your TDI question, 5 states plus Puerto Rico, have TDI programs. Our folks are checking on legislative activity, but where I'm aware of something I note it --

CA (Gov. Davis has proposed expansion for fathers; adoption)

NY (advocates seeking FMLA expansion)

NJ

HI

RI



Bergman Terry <bergman-terry@dol.gov>

02/09/2000 11:57:28 AM

Record Type: Record

To: Ann O'Leary/OPD/EOP

cc:

Subject: your questions

Barbara Bingham just called me with your questions and I am trying to get some answers for you, but let me share a few items which might be helpful.

1. The item below was in the OCIA report to Chuck Brain last week and covers the information I had at the time on the comments. You should know that Chairman Goodling and his colleagues on Ed and Labor have made this an issue and may try to block us legislatively. Jurisdiction actually lies with Ways and Means and Chairman Archer and Subcommittee Chair Nancy Johnson have indicated that they want a hearing on the regulatory proposal. And the small business committee types, particularly Senate Chair Bond are raising a number of procedural issues regarding the reg.

BIRTH AND ADOPTION UNEMPLOYMENT COMPENSATION RULES: The comment period for these rules, which was extended by 15 days, expired on February 2. While all comments have not yet been logged, we estimate the total will top 3,000. Of the 1,800 currently logged in, the comments were roughly divided pro and con. A number of Congressional comments were of note. Senators Kennedy and Dodd (D-CT) each wrote individually and also joined with 14 other Democratic Senators in sending a letter of support. Representative Lynn Woolsey (D-CA) wrote a letter of support which included seven other members. We also received a letter of support from Representatives DeLauro (D-CT) and Lowey (D-NY) which was cosigned by 11 other members. On the opposing side, we received a letter from House Ways and Means Chairman Bill Archer (R-TX) and Subcommittee on Human Resources Chair Nancy Johnson (R-CT) in opposition to the regulation. The letter accuses the Department of "legislating by stealth" and urges the Department to defer the issuance of a final regulation and to instead propose legislation to Congress. We have also received comments from Chairman Kit Bond (R-MO) of the Senate Committee on Small Business raising a number of regulatory process issues and also requesting that the regulation be withdrawn.

2. The latter comments are very extensive, on both the part of the opponents and the proponents (who are questioning the limits to only birth and adoption). Therefore, the schedule below -- which was proposed by the UI program people -- is a very ambitious one and will require expedited review by OMB. While there may be folks here who want a faster timetable, I think we also need to be aware that we could come under criticism if we move so rapidly as to appear not to have considered the comments.

March 3rd ETA final rule drafted

	March 17th	ETLS clears final rule
	March 31st	Departmental level clearance of final rule
	April 7th	Transmit to OMB after incorporating any
Departmental changes		
requested)	May 8th	OMB clears (expedited 30 days clearance will be
	May 15th	Estimated publication date of final rule
	May 24th	Anniversary of President's announcement

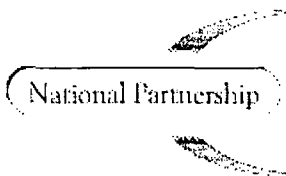
3. There are still only a handful of states looking at this.

MA -- The one most likely to adopt is Massachusetts, because 1. they have done a lot of work on the issue and 2. their legislature stays until mid July. However, there is no evidence that they are trimming their proposal from full FMLA and may play a game of chicken with us on the broader population.

VT -- This is one of a number of competing proposals and I would not give them better than a 50-50 chance.

Others -- WA adopted extended benefits for training and is unlikely to take this up this year. MD had an unfavorable committee report on the bill last year and does not have the solvency levels of other states so I would rate them as unlikely. We here there is interest in CT, NH, OR and perhaps GA...but nothing solid.

I plan to call you, but wanted to share this information first.

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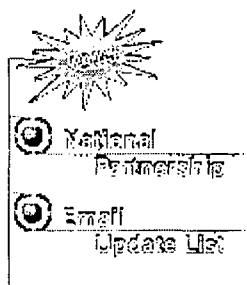
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State Family-Leave Income Initiatives: *Making Family Leave More Affordable*

Around the country, activists for women, children, seniors, and working families are organizing to make family leave more affordable through *family leave income*. Efforts have been undertaken in at least eleven states to provide family leave benefits. For example, many states are considering expanding unemployment or disability insurance to provide some pay during periods of unpaid family and medical leave.

- Most Americans -- fully 82% of women and 75% of men -- support such "family leave insurance" proposals. (National Partnership for Women & Families, *Family Matters: A National Survey of Women and Men* (1998)).

Currently, the federal Family and Medical Leave Act (FMLA) guarantees covered employees 12 weeks of *unpaid* leave each year to care for a newborn or newly adopted child or seriously ill family member (family leave), or to recover from their own serious health condition (medical leave). The FMLA was an essential step toward recognizing Americans' work and family responsibilities. However, because FMLA leave is unpaid, many employees cannot afford to take time off at the very time their families need them most.

- The bipartisan Family Leave Commission found that nearly two-thirds of employees who needed but did not take family or medical leave cited lost wages as the reason. (Commission on Leave, *A Workable Balance: Report to Congress on Family and Medical Leave Policies* (1996)).

Existing public and private responses are limited. For instance, five states (as well as Puerto Rico) require employers to offer temporary disability insurance (TDI), which provides partial wage replacement to employees who are temporarily disabled for non-work-related reasons, and many employers voluntarily offer TDI as an employee benefit. While TDI covers disabilities arising from pregnancy or childbirth, TDI currently offers no benefits for employees who take leave beyond the period of maternal disability, or take leave for paternity, for adoption, or to care for seriously ill family members. And while the five states with TDI systems employ 22% of working Americans, employees in the other states

have no such coverage guarantees.

To make family leave more affordable for more Americans, state legislators, activists, and researchers are mobilizing behind a range of innovative proposals. Here is a sampling of current state efforts:

[California](#) [Connecticut](#) [Iowa](#) [Maryland](#) [Massachusetts](#)

[Minnesota](#) [New Hampshire](#) [New Jersey](#) [New York](#) [Vermont](#) [Washington](#)

California

A dynamic coalition of advocates for women, children, and labor is advancing a family leave agenda for the 1999 legislative session. California recently enacted a law requiring a study of the cost of extending the state's TDI program to cover family leave, and increasing the weekly TDI benefit cap from \$336 to \$490. Earlier this year, California also passed a law requiring employers who offer paid sick leave to let employees use some of their sick leave to care for a sick child, parent, or spouse.

Contact:

Lisa Ecks
California Labor Federation
(916) 444-3676

Netsy Firestein
Labor Project for Working Families
(510) 643-6814

Aimee Durfee and Emily Katz Kishawi
Equal Rights Advocates
(415) 621-0672

Patricia Shiu
Employment Law Center
(415) 864-8848

Connecticut

In November 1999, the co-chairs of the Connecticut General Assembly's Labor Committee, Representative Christopher Donovan and Senator Edith Praigue, convened a task force to investigate the problem of unpaid leave and to make recommendations about family leave income legislation to be introduced in the 2000 legislative session.

Contact:

State Representative Christopher Donovan

(860) 240-0540

Leslie Brett
Connecticut Permanent Commission on the Status of Women
(860) 240-8300

Iowa

A bill introduced during the 1998 legislative session would have established a fund for providing benefits to employees on family leave. It would also have created a work and family task force to examine the impact of this family leave insurance program.

Contact:

State Senator Michael Gronstal
(515) 281-3901

Maryland

A bill was introduced during the 1999 legislative session to expand unemployment insurance to include employees who voluntarily leave work immediately following the birth or adoption of a child and are the child's primary care providers.

Contact:

Cathy Brennan
Maryland Women's Law Center
(410) 321-8761

Massachusetts

Spearheaded by the Women's Statewide Legislative Network, a diverse and active Family Leave Coalition is rallying support for a bill to extend unemployment benefits to employees taking family and medical leave. The estimated cost of providing unemployment benefits for family and medical leave is less than \$1.25 per week per employee. Also pending is a bill aiming to create a "family and employment security trust fund." On April 7, the state legislature's Joint Committee on Commerce and Labor (chaired by Senator Stephen Lynch, sponsor of the unemployment insurance bill) held a hearing on two bills. A broad array of researchers, legislators, advocates, and leave-takers testified in support of the bills, and the hearing was widely and favorably reported by media across the state. The bills are currently pending in the Joint Committee on Commerce and Labor. Further, Massachusetts recently unveiled a \$13 million plan to make the state a more "family friendly" employer, including a proposal to allow state workers to use up to 12 weeks of accumulated sick leave for maternity or adoptive leave.

without a doctor's note.

Contact:

Monica Halas
Greater Boston Legal Services
(617) 371-1270, ext. 621

Linda Johnson
Women's Statewide Legislative Network
(617) 426-1878

Minnesota

Since July 1998, a state-funded, at-home infant child care program has allowed working parents who fulfill income eligibility requirements to receive subsidies for caring for infants under the age of one.

Contact:

Cherie Kotilineck
Department of Children, Family and Learning
(651) 582-8562

New Hampshire

A new bill introduced in November 1999 would provide up to 12 weeks of unemployment insurance benefits to employees who take family and medical leave.

Contact:

Representative Mary Stuart Gile
(603) 224-2278

Jonathan Baird
New Hampshire Legal Assistance
(603) 542-8795

New Jersey

A bipartisan bill introduced in the 1998 legislative session proposed to extend New Jersey's statewide TDI system to cover family leave. The bill would also have established a task force to study the impact of family leave benefits on workers, their families, employers, and the general public.

Contact:

Laurel Brennan
New Jersey AFL-CIO
(609) 989-8730

Meryl Frank
New Jersey Coalition for Family & Medical Leave
(732) 247-3561

New York

A dedicated group of labor unions is generating support for family leave insurance in New York. A bill has been introduced to amend New York's TDI law to cover employees taking family leave.

Contact:

Assemblywoman Catherine Nolan
Attention: Geri Riley
Counsel for Labor Committee
New York State Assembly
Office of Program and Counsel
(518) 455-4311

Deborah King
New York Union Child Care Coalition, AFL-CIO
(212) 494-0524

Vermont

A bill was introduced in the 1999 legislative session to authorize unemployment benefits for employees who take family or medical leave.

Contact:

State Senator Jan Backus
(802) 655-7455

Michael Sirotkin
Vermont AFL-CIO
(802) 658-6951

Washington

On February 3, the Washington State Senate Committee on Labor and Workforce Development passed a bill providing 5 weeks of unemployment benefits for employees taking leave to care for newborn or newly adopted children. Similar legislation is also pending in the Washington House of Representatives. Washington law already allows employees to use accrued sick leave to care for

sick children.

Contact:

John Burbank
Economic Opportunity Institute
(206) 633-6580

Jeff Johnson
Research Director, Washington State Labor Council, AFL-CIO
(360) 943-0608

State Senator Lisa Brown
(360) 786-7604

State Representative Mary Lou Dickerson
(360) 786-7860

[Return To Main Campaign for Family Leave Income Page](#)

updated 12/99

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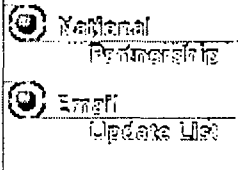
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TEMPORARY DISABILITY INSURANCE AND FAMILY LEAVE INCOME

Temporary disability insurance (TDI) provides partial wage replacement to employees who are temporarily disabled for non-work-related reasons, including pregnancy and childbirth. In five states (New York, California, New Jersey, Rhode Island, and Hawaii) and Puerto Rico, employees currently receive TDI benefits that are funded by a combination of employer and employee contributions; these states cover 22% of the nation's private workforce. However, this approach offers no benefits to employees who take leave beyond the period of maternal disability, or employees who take leave for paternity, for adoption, or to care for seriously ill family members. Furthermore, employees in the other 45 states lack even the limited coverage guarantees of TDI.

Expanding TDI to cover family leave offers a compelling opportunity to help more employees afford to take time off when their families need them most. Efforts to explore such expansions are currently under way in New York, California, and New Jersey:



California recently passed a law to study the cost of extending the state's TDI program to include employees taking family leave. This law also raises the current maximum weekly benefit from \$336 to \$490, making TDI benefits equal to workers' compensation benefits.

California recently passed a law to study the cost of extending the state's TDI program to include employees taking family leave. This law also raises the current maximum weekly benefit from \$336 to \$490, making TDI benefits equal to workers' compensation benefits.

A bipartisan bill introduced in the 1998 legislative session proposed to extend New Jersey's statewide TDI system to cover family leave. The bill would also have established a task force to study the impact of family leave benefits on workers, their families, employers, and the general public. (See box at right.)

Family Leave Income Proposal: New Jersey

During the 1998 legislative session, a bipartisan bill was introduced in the state legislature to provide family leave insurance through the state's TDI program. The bill would provide some income to employees who take leave to care for a newborn or newly adopted child or a seriously ill spouse, child, or parent. (New Jersey's TDI program already covers employees who take leave for their own serious health condition.)

Benefits Provided:

Employees would receive 2/3 of their salary (to a cap of \$350 per week) for up to 12 weeks of leave -- the same benefits provided under the state's TDI law.

Funding:

There would be *no* increase in total taxes paid by employers or workers. The total cost would be about \$1.12

per week per covered employee.

Another possibility for family leave income involves creating a new benefit system similar to TDI:

Massachusetts is considering a bill to create a "family and employment security trust fund" that would provide partial wage replacement to employees on family and medical leave, and would be funded by a separate payroll tax.

A bill introduced in Iowa during the 1998 legislative session would have established a new fund for providing benefits to employees on family leave. It would also have created a "work and family task force" to study the impact of this family leave insurance program.

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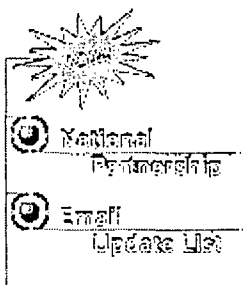
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UNEMPLOYMENT INSURANCE AND FAMILY LEAVE INCOME

Unemployment insurance (UI) is already available in all 50 states and the District of Columbia to provide a safety net for workers who become unemployed by ensuring that they receive some income during their period of unemployment.

Allowing employees on family and medical leave to collect UI benefits is an innovative approach to modernizing the unemployment system to accommodate the real-life challenges facing today's families.

In several states, such as Maryland, Massachusetts, New Hampshire, Vermont, and Washington, initiatives are already under way to implement this approach:

Maryland, Massachusetts, New Hampshire, Vermont, and Washington have all recently considered providing UI to people on family and medical leave. The Massachusetts, New Hampshire, and Vermont bills would provide UI benefits to workers taking leave to care for a newborn or newly adopted child or a seriously ill family member, or to recover from their own serious illness. The Washington and Maryland proposals would offer unemployment benefits only to employees taking leave following the birth or adoption of a child.

The Massachusetts bill is currently pending. (See box at right and attached legislation.)

Family Leave Income Proposal: Massachusetts

Massachusetts' "Act to Provide Unemployment Benefits for Family and Medical Leave Recall" would extend the state's unemployment system to include employees who take time off to care for a newborn or newly adopted child or a seriously ill spouse, child, or parent, or to recover from their own serious health condition.

Benefits Provided:

Employees would receive up to 12 weeks of leave at 50% of their base salary, with a cap at 57.5% of the state's average weekly wage. (As of October 1999, the maximum weekly benefit rate was \$431.)

Funding:

Funding for this program would come from the state's unemployment solvency fund, rather than individual employers' accounts. Thus, no new taxes would be imposed on either employers or workers. The total cost would be about \$1.25 per week per covered employee.

In May 1999, the President responded to state interest by announcing an important new unemployment insurance regulation specific to family leave. The President

directed the U.S. Labor Department to propose a regulation confirming that states may use unemployment insurance to offer family leave income benefits to parents taking leave to care for a newborn or newly adopted child.

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January 28, 2000

MEMORANDUM FOR HILLARY RODHAM CLINTON

FORM: NICOLE RABNER

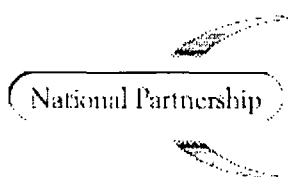
SUBJECT: UPDATE ON BANKRUPTCY REFORM LEGISLATION

This week, the Senate returned to the pending bankruptcy reform legislation as its first piece of business, as Senator Lott had filed a cloture petition just prior to recess. A unanimous consent agreement to limit debate and the number of amendments was reached among the leadership, and floor debate will continue through Tuesday, February 1st, when final votes are expected. As you know, the Republican version of the minimum wage increase and tax package is attached to the bill and the Administration has threatened to veto if those pieces are included in the final conference report. Still, the Senate bill is poised to pass with overwhelming support – only five to eight Senators are expected to vote against it. Senator Daschle, however, is organizing Senate Democrats to release statements promising that if the Republican tax package and insufficient minimum wage increase are included in the conference report, they will vote “no.” Staff predict a speedy conference, with a final bill reaching the President as early as March.

The Administration is working with Senate Democrats to improve the underlying bankruptcy bill principally through three floor amendments. One is the Torricelli credit card disclosure amendment (requiring that credit card companies provide guidance on how long it would take to pay the balance if only minimum payments are made). This provision, even in its watered down state, has recently garnered resistance from the credit card industry. The second would establish a meaningful “safe harbor” provision, exempting from creditor motions and/or means tests debtors below a certain income level. And, the third would curb coercive reaffirmation agreements through increased disclosure and judicial review. This provision, arguably the most important in terms of restoring balance to the bill, is in most jeopardy. In addition to these amendments, votes are expected on some version of the Schumer amendment to make nondischargeable debt incurred from damages stemming from a health clinic violence suit, and the Levin amendment to make nondischargeable debt incurred from any lawsuit involving guns. These latter two amendments should garner significant debate (the Administration supports the Schumer amendment, but has reservations about the scope of the Levin provision).

Attached please find yesterday’s Washington Post editorial on bankruptcy reform, Congress Daily’s assessment on bill’s expected movement, and the Administration’s Statement of Administration Position on the bill, which we released when it first reached the floor in November, 1999.

If you are asked about the bill in the coming days, you might consider saying that you continue to support fair and balanced bankruptcy reform, that Senate bill reflects some improvements over the House-passed bill (amendments expected to be offered would improve it further), and that you hope that the conference report will improve it further – to reduce abuses of the bankruptcy system and require debtors and creditors alike to act responsibly.



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Family Leave For More Working People: Expanding The FMLA To Cover Mid-Sized Businesses

The Family and Medical Leave Act (FMLA) has benefitted millions of working families, but more employees should have access to its protections. A 1997 study by the National Partnership for Women & Families found that expanding the law to cover businesses with 25-49 employees would bring an additional 13 million working women and men within the FMLA's protections, while affecting only a small percentage (6.4%) of private businesses.¹

The FMLA Helps Millions of American Working Families

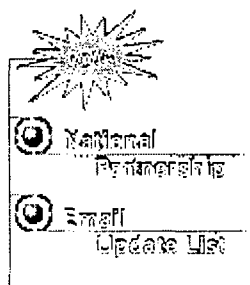
The FMLA allows eligible employees to take up to 12 weeks' unpaid leave every year to care for a new baby or seriously ill family member, or to recover from their own serious illness. Currently, it applies to employers with 50 or more employees, covering 57.5% of this country's private workforce, or almost 55 million private employees. Since the FMLA became law in 1993, an estimated 20 million working Americans have taken protected family or medical leave.²

More American Working Families Need the Protection of the FMLA

Because the FMLA applies only to employers of at least 50 employees, almost 41 million private employees (nearly 43% of the private workforce) are not protected by the FMLA.

If the FMLA applied to employers of 25 or more, it would cover:

- 71.3% of the private workforce.
- 11.2% of private employers.
- More than 13 million additional privately employed workers, for a total of more than 68 million private employees across the United States.



FMLA Coverage in the United States			
	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	54,619,688	13,084,394	67,704,082
% Employees covered	57.5%	13.8%	71.3%
# Employers covered	322,579	431,843	754,422
% Employers covered	4.8%	6.4%	11.2%

An Expanded FMLA Would Not Hurt Businesses

We believe that providing family leave is a "win-win" situation for both our company and our employees.

-- Flora Green, co-owner of
Foliage by Flora, Kendall, Florida

The vast majority of employers of 100 or more employees (84%) find that the benefits of providing family and medical leave offset or outweigh the costs.³ Evidence shows that this will be true for mid-sized businesses as well. In fact, the FMLA already covers about 58,000 worksites of between 25 and 49 employees -- if they are part of a larger company with at least 50 employees within a 75-mile radius. According to the bipartisan Family Leave Commission, the majority of these covered worksites found it easy and inexpensive to comply with the FMLA:

- 93% of covered worksites with 25 to 49 employees found it very or somewhat easy to determine worksite coverage, and 98% found it very or somewhat easy to determine employee eligibility.
- 75% of covered worksites with 25 to 49 employees experienced little or no increase in their administrative costs; 89% experienced little or no increase in benefits costs; 83% experienced little or no increase in hiring and training costs, and 95% experienced little or no increase in other costs.

The Family Leave Commission also found that covered businesses' actual experiences with the FMLA were much more positive than non-covered businesses anticipated:

- Although almost 17% of non-covered worksites anticipated that complying with the FMLA would require a large increase in administrative costs, fewer than 2% of covered worksites actually experienced a large increase.
- Although more than 18% of non-covered worksites anticipated a large increase in hiring/training costs, only 1% of covered worksites actually experienced a large increase.

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Complying with the FMLA would not involve major adjustments for the many mid-sized businesses that already provide some form of family leave:

- In fact, some form of maternity leave -- of some length -- is available to 95% of all employees at private-sector companies with 25-49 employees.⁴
- 15 states already require businesses of fewer than 50 employees to provide some form of family or medical leave.⁵

For more information, read our research report:

[Expanding the Family and Medical Leave Act to Cover Businesses with 25-49 Employees.](#)

Also read about the [impact this change would have in each state](#).

ENDNOTES

¹ *Expanding the Family and Medical Leave Act to Cover Businesses with 25-49 Employees: The Impact in the U.S. and In Each State* (1997). For the full report, contact the National Partnership for Women & Families. Except where noted,

data come from U.S. Department of Labor, Bureau of Labor Statistics, "Covered Employment and Wages (ES-202) Program," (1995) and assume even distribution of establishments of 20-49 employees who work in establishments of 20-49 employees. In this fact sheet, we use the terms "employer" and "business" interchangeably with the Bureau of Labor Statistics' "establishment."

2. Calculations based on findings from *A Workable Balance: Report to Congress on Family and Medical Leave Policies* (Family Leave Commission, 1996).

3. Ellen Galinsky and James T. Bond, *The 1998 Business Work-Life Study* (Families and Work Institute, 1998).

4. James T. Bond, Ellen Galinsky, and Jennifer E. Swanberg, *The 1997 National Study of the Changing Workforce* (Families and Work Institute, 1997).

5. National Partnership for Women & Families, *"State Family Leave Laws That Are More Expansive Than The Federal Family and Medical Leave Act"* (1998).

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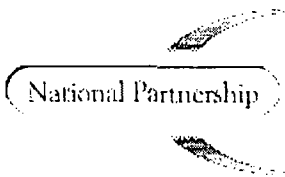
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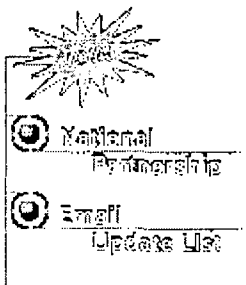
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Family Leave For More Family Needs

The Family and Medical Leave Act (FMLA) currently guarantees covered employees 12 weeks of unpaid leave each year to care for a newborn or newly adopted child or a seriously ill family member, or to recover from their own serious health conditions. This law is an enormous help to families in these situations. But it doesn't help resolve many other significant conflicts between family and work demands. In fact, two-thirds of employed parents with children under 18 say they don't have enough time for their children!

Working Parents Need More Time to Participate in Their Children's Education

The FMLA does not protect parents' jobs when they need to attend to their children's educational needs. Yet parental involvement in children's education can significantly affect their success in school:
2



- Attending parent-teacher conferences may significantly influence children's academic performance. Children become higher achievers when their families are consistently informed about their progress at school.
- In elementary schools where parents were actively involved, fourth-grade average reading scores were 17 points above the national average.
- Parental involvement is more important than family education level or income in determining student success.
- Teachers ranked strengthening parents' roles in their children's learning as the top issue that should receive the highest priority in public education policy over the next few years.
- Parents who are involved in their children's education develop a greater appreciation of their role in their children's education, an improved sense of self-worth, stronger social networks, and even the desire to continue their own education.

Parents are often unable to take the time they need to be actively involved in their children's education.³

- 28% of employed parents report that they face problems at work when they want to attend school activities.
- 23% report that they face problems at work when they need to attend parent-teacher conferences.
- 40% of employed parents believe they aren't devoting enough time to their children's education.
- The total time parents spend with their children has diminished by about one third in the past 30 years.⁴

Nine states -- California, Florida, Illinois, Louisiana, Massachusetts, Minnesota, Nevada, North Carolina, and Vermont -- and the District of Columbia already have laws giving public or private employees unpaid leave to attend or participate in their children's school-related activities.

Working Parents Need Job-Guaranteed Leave to See to Their Children's Routine and Nonemergency Health Needs

The FMLA covers only children's serious illnesses. Yet children suffer from a range of illnesses that, while not covered by the law, still require parental care:

- 24% of employed parents report that they face problems at work when they have to care for a sick child.
- The overwhelming majority of children frequently suffer from common illnesses that require them to stay home from school. In addition, about 10 million children have chronic medical conditions.⁵
- 65% of respondents to one poll reported missing work in the past year because of a child's illness or other emergency.⁶
- More than 1 in 3 families need at least 2 weeks each year to care for an ill family member; 1 in 4 families need at least 3 weeks each year.⁷

Working Americans Need Job-Guaranteed Leave to Care for Older Relatives' Routine and Nonemergency Health Needs

If an employee needs to care for an elderly relative, the current FMLA applies only if the relative is the leave-taker's parent (or

spouse) and is seriously ill. Yet older people increasingly rely on family members' care for help with routine medical care and other important needs.

- For example, the current law does not cover an employee who needs to take her elderly and ailing parent to inspect a nursing home or to a routine medical appointment.
- Employees also need to care for elderly relatives other than their own parents (or spouses), such as in-laws and grandparents.
- In fact, in 1991, family members and friends provided 80 to 90% of the care for the frail elderly.⁸
- In 1996, approximately 22.4 million U.S. households (nearly one in four) were currently providing informal care to a relative or friend age 50 or older, or had done so in the last 12 months.⁹

As our population ages, more employees will need family and medical leave to care for elderly relatives:

- More than half of Americans (54%) say it is somewhat likely or very likely that they will be responsible for the care of an elderly relative or parent in the next ten years.¹⁰
- Between 1990 and 1995, the percentage of Americans 65 years or older more than tripled -- from 4.1% in 1990 to 12.8% in 1995 -- a jump from 3.1 million to 33.5 million in this age group.¹¹
- The ratio of Americans age 65 and older to all other Americans is expected to increase to 1 in 5 by the year 2030.¹²
- People age 85 and over are expected to be the fastest growing part of the elderly population into the next century.¹³

The Clinton Administration has proposed expanding the FMLA to help working Americans both to meet these additional family needs and to keep their jobs. President Clinton's proposed legislation would allow workers to take up to 24 hours of unpaid leave each year for (1) school activities directly related to children's educational advancement, such as parent-teacher conferences; (2) routine family medical purposes, such as annual medical or dental check-ups or vaccinations; and (3) tending to older relatives' health needs, such as accompanying them to medical appointments or interviewing nursing homes.

ENDNOTES

1. Paul B. Finney, *The PTA/Newsweek National Education Survey*, *Newsweek*, May 17, 1993.
2. Unless otherwise stated, these data are from U.S. DEPT. OF EDUCATION, *STRONG FAMILIES, STRONG SCHOOLS* 11, 3, 6-7 (1994).
3. Unless otherwise stated, these data are from Finney, *The PTA/Newsweek National Education Survey*, *Newsweek*, May 17, 1993.
4. Carnegie Foundation, 1993.
5. S. Jody Heymann, Harvard School of Public Health study, 1996.
6. Greater Cincinnati Business Coalition on Sick and Emergency Child Care, 1996.
7. S. Jody Heymann, Harvard School of Public Health study, 1996.
8. Susan E. Foster & Jack A. Brizius, *Caring Too Much?*, 1991.
9. National Alliance for Caregiving & American Association of Retired Persons, *Family Caregiving in the U.S.* (June 1997).
10. Survey by National Partnership for Women & Families, *Family Matters*, 1998.
11. Family Caregiver Alliance, *Fact Sheet: Selected Caregiver Statistics*, 1995.
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13. Family Caregiver Alliance, *Fact Sheet: Selected Caregiver Statistics*, 1995.

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PRESIDENT WILLIAM J. CLINTON
DEPARTURE REMARKS
PARENTAL UNEMPLOYMENT PAY
THE WHITE HOUSE
NOVEMBER 30, 1999

Update to
parent pay
and leave
time for
families
hurry

Good morning. In a few minutes I am heading to Seattle where I will engage in a dialogue with America's trading partners from around the world about how we can best use the enormous potential of the global economy to not only grow our prosperity, but to also improve the everyday lives of citizens and working families. Before I go, I want to tell you how we are using the enormous potential of our strongest economy in years, to help American families balance the sometimes tremendous demands of work and family.

Surging technology and soaring prosperity define America at this moment. But those achievements don't come cheap. They require an enormous commitment of time and effort from America's workers, many of whom are being forced to make an unacceptable choice: between being good workers and being good parents. The truth is, in our 'round-the-world, 'round-the-clock' economy there just don't seem to be enough hours in the day for parents to do everything they need to do.

Part-time
working

I am proud that the first bill I signed as President was the Family and Medical Leave Act. Since 1993, millions of Americans have used it to take up to 12 weeks of unpaid leave to care for a newborn or a sick relative without losing their jobs. The importance of this option has been confirmed by the testimony of experts and parents at the first White House Conference on Child Care in 1997 and from groups like the American Academy of Pediatrics. They all tell us that the healthy development of newborn babies absolutely depends on quality bonding and nurturing time with parents or other primary caregivers in the early months of life.

After school
at night
daylight

Childcare

Quality childhood development & learning

But, the current law just meets a fraction of the need. Too many families can't take advantage of the Family and Medical Leave law because they can't afford to take the time off without a paycheck. In fact, many low-income workers who use the benefit wind up on public assistance to make ends meet. This is simply unacceptable. No other civilized, industrial nation treats parents this way.

Overstays
Point
the law
? |
Ransom
but for
all the
parents
don't see to
be a model

the legislation from unemployment fund
but new way

Last May, in a commencement speech at Grambling State University, I directed the Secretary of Labor to issue a rule to allow states to offer paid leave to new mothers and fathers. Today, I am announcing the Labor Department's proposed regulations that will authorize the use of unemployment insurance by any state that wishes to do so to help new parents. **I believe that the flexible and voluntary use of this option by states will go a long way toward strengthening families and keeping working parents on the job at work and at home.**

Employees who
needed but
didn't take
from the
last year
to be here.

As I have said, on the eve of the 21st century, we ought to set a goal that all working Americans can take time when they need it to care for their families without

humor
relaxation

Parent can have better life with it

to remain the old thing 7 years work

losing the income they need to support their families. This new authority by states move us in the right direction and gives us a new tool in our national efforts to strengthen the American family and reward the dignity of work.

Thank you.

- Carl this 1/5/50

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to be made in 5010
and to
for the future

nothing to be done - when to make the
will make



Karin Kullman

11/29/99 09:03:32 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Nicole R. Rabner/WHO/EOP@EOP, Ann O'Leary/OPD/EOP@EOP, Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP

Subject: Advocates Attending Paid Leave Statement

PARENTAL LEAVE STATEMENT ATTENDEES

Judy Lichtman
National Partnership for Women and Families

Maurice Emsellem
National Employment Law Project

Karen Nussbaum
AFL-CIO

Deborah Greenfield
AFL-CIO

Linda Tarr-Whelan
Center for Policy Alternatives

Vicky Lovell
Institute for Women's Policy Research

Danielle Ewen
Children's Defense Fund

Matthew Melmed
Zero to Three Foundation

Monica Halas
Greater Boston Legal Services

Donna Lenhoff
National Partnership for Women and Families

Lauren Asher
National Partnership for Women and Families

Joel Marks
American Small Business Alliance

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Stephanie A. Cutter/WHO/EOP@EOP
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William T. Glunz/WHO/EOP@EOP
Sarah E. Gegenheimer/WHO/EOP@EOP

IDAs, extending generous matches to all low- and moderate-income families to encourage them to develop savings and assets. A person who participated for 40 years in this savings program could accumulate over \$266,000 – enough to produce \$24,000 a year of income in retirement. This proposal would cost \$54 billion over 10 years.

Expand Pension Coverage for Workers at Small Businesses. In an effort to encourage more small businesses to offer pensions for their employees, the President's budget will announce a proposal to provide a 50 percent tax credit ~~for toward the cost of starting a new qualified pension plan. qualified contributions to employees' pensions.~~ This provision would cost \$17 billion over 10 years.

Expanding Housing Vouchers and Opportunities for Hard Pressed Working Families. President's budget will include \$690 million for 120,000 new housing vouchers to subsidize the rents of low-income families. These housing vouchers subsidize the rents of low-income Americans, enabling them to move closer to job opportunities – many of which are being created far from where these families live. Of the 120,000 new housing vouchers, 32,000 will be targeted to families moving from welfare to work, 18,000 to homeless individuals and families, and 10,000 to low-income families moving to new housing constructed through the Low Income Housing Tax Credit, with the remaining 60,000 vouchers allocated to local areas to help address the large unmet need for affordable housing. These new vouchers build on the 110,000 new housing vouchers secured through the President's leadership over the past two years. In addition, the President's budget proposes to increase the Low-Income Housing Tax Credit volume cap by \$.50 per capita and to index the cap to inflation after 2001, which will provide additional incentive to build and make an additional 180,000 units of affordable housing available to working families over the next five years. [cleared by Katherine Meredith and Alex Giannino, OMB]

Helping Families Afford to Take Family Leave. The President's budget includes a \$20 million family paid leave [Note: this is an important change.] initiative to fund roughly 15 competitive planning grants for states and other interested entities to explore ways to make parental leave and other forms of family leave more affordable and accessible for American workers. ~~Today, the Family and Medical Leave Act (FMLA) allows covered workers to take up to 12 weeks of job-protected, unpaid leave to care for a newborn or adopted child, attend to their own serious health needs, or care for a seriously ill parent, child, or spouse – making it less likely that employees will have to choose between work and family. However,~~ [Note: There was a decision to distance this from FMLA. Therefore, this sentence should be deleted. In addition, this proposal would cover all workers – not just those covered by the FMLA.] Today, many workers face barriers, such as financial barriers, to taking advantage of unpaid ~~this~~ leave. A 1996 Study by the Commission on Family and Medical Leave found that loss of wages was the most significant barrier to parents taking advantage of unpaid leave following the birth or adoption of a child. The President's budget request will enable states and others to identify in more detail the workers who need financial assistance to take parental leave or other forms of family leave and to evaluate and develop options to aid these workers.

[Note: Suggest adding a separate heading on expanding FMLA.]

Helping Low-Income Working Families Get to Work. Transportation to work is a barrier for many low-income families. Some families need a car to get to work, but owning a car can often be the one item that makes a household ineligible for food stamps. The President's budget will make it easier for working families to own a reliable vehicle and receive food stamps by allowing states to conform their food stamp vehicle policy with a more generous TANF vehicle policy. The Administration will also propose to allow low-income working families to use IDAs to save for a car that will allow them to get or keep a job. In addition, the Administration supports expanding public transit as a reliable form of transportation. The budget proposes to double Access to Jobs transportation funding to \$150 million to expand grants to

Free: paid leave

Conference Call on FMLA/Paid-Leave

Participants

Judy Lichtman and/or Donna Lenhoff, National Partnership
Christine Owens and/or Marcie Nelson, AFL-CIO
Helen Blank, CDF
Matthew Melmed, Zero to Three
Suzanne Mintz, National Caregiver's Association
Maurice Emsellem, National Employment Law Project
Monica Halas, Greater Boston Legal Services
Heidi Hartman, Institute for Women's Policy Research

Talking Points

- Thank you all for joining this call. I wanted to let you all know that the President will be giving his weekly radio address tomorrow on the Family and Medical Leave Act and will be announcing a new \$20 million initiative to help states develop paid leave options.
- It's hard to believe that it has been seven years since the President first signed FMLA, but thanks to the tremendous effort you have all done to make the public aware of FMLA, millions and millions of Americans have been able to take advantage of it.
- Today in his Radio Address, President Clinton will highlight one of the greatest barriers to taking unpaid leave – the tremendous financial strain it places on families.
- Just three months ago, the President and Secretary Herman announced the proposed regulation that would allow states to use their Unemployment Insurance system to provide partial wage replacement for workers when they take leave after the birth or adoption of a child. The comment period on this proposed regulation just closed and the Department of Labor is now sifting through over 3,000 comments, but they hope to be able to finalize the regulation by the end of April.
- Today's announcement is the next step in exploring this problem – the President has put \$20 million in his FY 2001 budget to provide competitive grants to states to allow them to develop creative options to make parental leave and other forms of family leave more affordable and accessible to American workers.
- Thanks to the work of the National Partnership, we know that they are already 12 states have begun to explore options and these planning grants will help to move their work along.
- We have a lot to do this year – the President and the First Lady are more committed than ever to working with Congress to expand FMLA to more workers and expanding it to allow workers to take up to 24 hours for routine family responsibilities.
- And, this initiative to further explore paid leave will not be easy, but, like you, we believe it is the next battle we need to fight if we are committed to ensuring that more and more families can take time off for important family responsibilities, like the birth or adoption of a child.

PRESIDENT CLINTON ANNOUNCES NEW FUNDS ENABLING STATES TO PROVIDE PAID LEAVE TO AMERICA'S WORKING PARENTS

February 12, 2000

Today, in his weekly radio address, President Clinton will announce a new initiative enabling states to offer paid leave options to working parents. The \$20 million proposal will make it more affordable for more parents to take time from work to care for loved ones. President Clinton today will also call on Congress to expand the scope of the Family and Medical Leave Act, and allow an additional 10 million workers to benefit from this law. Today's budget initiative is part of the President's agenda to help America's families balance responsibilities at work and at home, and builds on the Administration's longstanding efforts to make parental leave more widely available.

MAKING PARENTAL LEAVE MORE AFFORDABLE. A 1996 study by the Commission on Family and Medical Leave found that the most significant reason why parents did not take advantage of unpaid leave after the birth or adoption of a child was the expected loss of income. To help address that problem, the President today will announce that his FY 2001 budget includes \$20 million in competitive planning grants for states or regions to make parental and family leave more available and affordable for those who need it. Under the President's proposal, states will be able to 1) identify workers who face the greatest financial barriers to taking family leave, and 2) use Unemployment Insurance, Temporary Disability Insurance, or other mechanisms to offer these workers paid leave. Today's proposal builds on a November announcement by the President and Labor Secretary Herman of a new proposed regulation allowing states to use their Unemployment Insurance systems to provide paid leave for new parents.

WORKING TO EXPAND THE FAMILY AND MEDICAL LEAVE ACT. Since the President signed the Family and Medical Leave Act in 1993, more than 20 million Americans have been able to take up to 12 weeks of job-protected, unpaid leave to care for a newborn or adopted child, attend to their own serious health needs, or care for a seriously ill parent, child, or spouse. Today, the President will also urge Congress to cover an additional 10 million workers by expanding the scope of the FMLA to businesses that employ 25 or more employees. (Currently the law covers only businesses with over 50 employees). The President will also call on Congress again to allow FMLA-eligible workers to take up to 24 hours of additional leave each year to meet certain family obligations – specifically, to 1) participate in school activities, such as parent-teacher conferences; 2) accompany one's child to routine dental or medical appointments; and 3) accompany an elderly relative to routine medical appointments or other professional services.

BUILDING ON A STRONG RECORD OF FAMILY AND MEDICAL LEAVE. In addition to signing the Family and Medical Leave Act and proposing new rules to allow states to offer paid leave options, President Clinton has also worked to ensure that the federal government leads by example. At the President's direction, the federal government now allows employees to use up to 12 weeks of accrued sick leave each year to care for a family member with a serious health condition. Federal employees can also take up to 24 hours of unpaid leave for routine family responsibilities such as parent-teacher conferences and doctor's visits, and can donate annual leave to other employees. The President's FY 2001 budget will help give all Americans more tools to meet their responsibilities at home and at work – by doubling funding for after-school programs, investing an additional \$1 billion in Head Start, providing expanded tax credits and more subsidies for child care, and tripling the proposed tax credit for long-term care costs.

**RADIO ADDRESS ON FMLA AND PAID LEAVE
Q&As**

Q: When do you expect the U.S. Department of Labor come out with their final regulation on allowing states to use their unemployment insurance to provide compensation for new parents after the birth or adoption of their child?

A: Just three months ago, the President and Secretary Herman announced the proposed regulation that would allow states to use their Unemployment Insurance system to provide partial wage replacement for workers when they take leave after the birth or adoption of a child. The comment period on this proposed regulation just closed on February 2nd and the Department of Labor is now sifting through over 3,000 comments, but they hope to be able to finalize the regulation by late Spring.

Q. Won't the payment of Birth and Adoption UI mean that money will not be available for payments during a recession? After all, about 20 years ago most States were borrowing from the Federal government to cover UI payments.

A. We believe States will closely examine the status of their unemployment funds before deciding whether to pay Birth and Adoption UI. They will make responsible decisions about the level of benefit payments and contributions needed to keep their funds in good shape for any future recession.

Q: Given that states have to first pass state legislation before allowing UI to be used for this purpose, how many states do you expect to take advantage of it this year? Which ones?

There are several states that have considered or are considering legislation to use their unemployment insurance system to provide paid leave for new parents, including Massachusetts, Maryland, Indiana, Vermont and Washington. The number of states that will be able to take advantage of the UI regulation will depend on when the regulation is released and the movement of the state legislatures.

Q. Although payment for family leave may be a good idea, is the unemployment system the best way to do it?

A. Our proposed \$20 million paid leave initiative will help states to answer just this question. We believe that the unemployment insurance system is an appropriate vehicle, but states can determine whether it is appropriate for them or whether they wish to use some other mechanism. For example, those States with temporary disability systems may use those systems.

Q: Other than using Unemployment Insurance, what other ways do states have to offer paid parental or family leave?

Currently, there are approximately twelve states that are exploring options for offering paid parental or family leave. Some states would like to use the unemployment insurance system, others are using Temporary Disability Insurance, while others are developing and evaluating new creative options for offering paid leave such as establishing paid leave funds or providing subsidies. For a complete review of these states, please see attached information on State Family Leave Income Initiatives prepared by the National Partnership for Women & Families.

Q: How many states to use hope will take advantage of this \$20 million initiative to explore paid leave options?

A: We are estimating the grants to range from approximately \$250,000 to \$2 million and we hope to be able to support 15 competitive grants. We know that 12 states are already exploring options for paid leave and we expect this funding to help them to move along.

Q: What type of activities do you expect states to do to develop and evaluate paid leave options?

A: We expect states to evaluate how to make family leave more affordable and accessible to more workers by evaluating the workers affected, as well as exploring the policy options for rectifying this problem.

STATE FAMILY LEAVE INCOME INITIATIVES: *Making Family Leave More Affordable*

Around the country, activists for women, children, seniors, and working families are organizing to make family leave more affordable through *family leave income*. Efforts have been undertaken in at least nine states to provide family leave benefits. For example, many states are considering expanding unemployment or disability insurance to provide some pay during periods of unpaid family and medical leave.

- ◆ Most Americans -- fully 82% of women and 75% of men -- support such "family leave insurance" proposals.*

Currently, the federal Family and Medical Leave Act (FMLA) guarantees covered employees 12 weeks of *unpaid* leave each year to care for a newborn or newly adopted child or seriously ill family member (family leave), or to recover from their own serious health condition (medical leave). The FMLA was an essential step toward recognizing Americans' work and family responsibilities. However, because FMLA leave is unpaid, many employees cannot afford to take time off at the very time their families need them most.

- ◆ The bipartisan Family Leave Commission found that nearly two-thirds of employees who needed but did not take family or medical leave cited lost wages as the reason.**

Existing public and private responses are limited. For instance, five states (as well as Puerto Rico) require employers to offer temporary disability insurance (TDI), which provides partial wage replacement to employees who are temporarily disabled for non-work-related reasons, and many employers voluntarily offer TDI as an employee benefit. While TDI covers disabilities arising from pregnancy or childbirth, TDI currently offers no benefits for employees who take leave beyond the period of maternal disability, or take leave for paternity, for adoption, or to care for seriously ill family members. Although the five states with TDI systems employ 22% of working Americans, employees in other states have no such coverage guarantees.

To make family leave more affordable for more Americans, state legislators, activists, and researchers are mobilizing behind a range of innovative proposals. Attached is a sampling of current state efforts compiled by the National Partnership for Women & Families as the leader of the Campaign for Family Leave Income.

* National Partnership for Women & Families, *Family Matters: A National Survey of Women and Men*, 1998.

** Commission on Leave, *A Workable Balance: Report to Congress on Family and Medical Leave Policies*, 1996.

CALIFORNIA

A dynamic coalition of advocates for women, children, and labor advanced a family leave agenda for the 1999 legislative session. In 1999, California enacted a law requiring a study of the cost of extending the state's TDI program to cover family leave, and increasing the weekly TDI benefit cap from \$336 to \$490. Also in 1999, California passed a law requiring employers who offer paid sick leave to let employees use some of their sick leave to care for a sick child, parent, or spouse.

Contact: Lisa Ecks
California Labor Federation
(916) 444-3676

Netsy Firestein
Labor Project for Working Families
(510) 643-6814

Aimee Durfee and Emily Katz Kishawi
Equal Rights Advocates
(415) 621-0672

Patricia Shiu
Employment Law Center
(415) 864-8848

CONNECTICUT

In November 1999, the co-chairs of the Connecticut General Assembly's Labor Committee, Representative Christopher Donovan and Senator Edith Praigue, convened a task force to investigate the problem of unpaid leave and to make recommendations about family leave income legislation to be introduced in the 2000 legislative session.

Contact: State Representative Christopher Donovan
(860) 240-0540

» Leslie Brett
Connecticut Permanent Commission on the Status of Women
(860) 240-8300

INDIANA

In January, 2000, Indiana House legislators introduced and passed a bill that would provide up to 12 weeks of unemployment insurance benefits to parents who take leave to care for a newborn or newly adopted child. The Senate now must consider the legislation and has referred it to the Committee on Pensions and Labor.

Contact: State Senator Anita Bowser
(317) 232-9400

IOWA

A bill introduced during the 1998 legislative session would have established a fund for providing benefits to employees on family leave. It would also have created a work and family task force to examine the impact of this family leave insurance program.

Contact: State Senator Michael Gronstal
(515) 281-3901

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MARYLAND

A bill was introduced in February 2000 to provide up to 12 weeks of unemployment insurance benefits to parents who take leave to care for a newborn or newly adopted child. During the 1999 session, Maryland passed a law requiring employers that grant paid leave to workers following the birth of a child to grant the same leave to employees who adopt a child.

Contact: Denise Davis
Maryland Women's Law Center
(410) 321-8761

Debra Gardner
Public Justice Center
(410) 625-9409

MASSACHUSETTS

Spearheaded by the Women's Statewide Legislative Network, a diverse and active Family Leave Coalition is rallying support for a bill to extend unemployment benefits to employees taking family and medical leave. The estimated cost of providing unemployment benefits for family and medical leave is less than \$1.25 per week per employee. Also pending is a bill aiming to create a "family and employment security trust fund." In April 1999, the state legislature's Joint Committee on Commerce and Labor (chaired by Senator Steven Lynch, sponsor of the unemployment insurance bill) held a hearing on the two bills. A broad array of researchers, legislators, advocates, and leave-takers testified in support of the bills, and the hearing was widely and favorably reported by media across the state. The bills are currently pending in the Joint Committee on Commerce and Labor. Further, Massachusetts recently unveiled a \$13 million plan to make the state a more "family friendly" employer, including a proposal to allow state workers to use up to 12 weeks of accumulated sick leave for maternity or adoptive leave without a doctor's note.

Contact: Monica Halas
Greater Boston Legal Services
(617) 371-1270, ext. 621

Linda Johnson
Women's Statewide Legislative Network
(617) 426-1878

MINNESOTA

Since July 1998, a state-funded, at-home infant child care program has allowed working parents who fulfill income eligibility requirements to receive subsidies for caring for infants under the age of one.

Contact: Cherie Kotilineck
Department of Children, Family and Learning
(651) 582-8562

NEW HAMPSHIRE

The New Hampshire House of Representatives is currently considering a bill to establish a committee to study a broad range of options for providing benefits to New Hampshire employees who take family and medical leave.

Contact: Representative Mary Stuart Gile
(603) 224-2278

Jonathan Baird
New Hampshire Legal Assistance
(603) 542-8795

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NEW JERSEY

The New Jersey legislature will consider at least two family leave income initiatives this session. Bill A3027, introduced this February, would extend unemployment insurance benefits to employees who take leave to care for a newborn or newly adopted child and TDI benefits to employees who take leave to care for an ill parent, child, or spouse. Another bill introduced this legislative session – A1577 – would also extend benefits for leave taken to care for newborn or newly adopted children or ill parents, children or spouses, but would do so solely through the statewide TDI system.

Contact: Laurel Brennan
New Jersey AFL-CIO
(609) 989-8730

Meryl Frank
New Jersey Coalition for
Family & Medical Leave
(732) 247-3561

NEW YORK

A dedicated group of labor unions is generating support for family leave insurance in New York. A bill has been introduced to amend New York's TDI law to cover employees taking family leave.

Contact: Assemblywoman Catherine Nolan
Attention: Geri Riley
Counsel for Labor Committee
New York State Assembly
Office of Program and Counsel
(518) 455-4311

Deborah King
New York Union Child Care Coalition
AFL-CIO
(212) 494-0524

VERMONT

A bipartisan bill was introduced in the 2000 legislative session to authorize unemployment benefits for employees who take leave to care for newborn or newly adopted children, and to grant a 4.3% unemployment tax cut to employers. The estimated cost of providing income to workers on parental leave is less than 15 cents per week per employee.

Contact: State Senator Jan Backus
(802) 655-7455

State Senate President Peter Shumlin
(802) 828-2228

State Senator Cheryl Rivers
(802) 828-2228

Michael Sirotkin and Adam Necrason
Vermont AFL-CIO
(802) 223-9988

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WASHINGTON

In February 2000, the Washington State Senate Committee on Labor and Workforce Development passed a bill providing 5 weeks of unemployment benefits for employees taking leave to care for newborn or newly adopted children. Similar legislation is also pending in the Washington House of Representatives. Washington law already allows employees to use accrued sick leave to care for sick children.

Contact: John Burbank
Economic Opportunity Institute
(206) 633-6580

State Senator Lisa Brown
(360) 786-7604

Jeff Johnson
Research Director, Washington State
Labor Council, AFL-CIO
(360) 943-0608

State Representative Mary Lou Dickerson
(360) 786-7860

*For more information about the **Campaign for Family Leave Income**, including a list of Advisory Committee members, a round-up of state proposals, and the latest news and research, please see our web site (www.nationalpartnership.org) or contact the National Partnership for Women & Families at 1875 Connecticut Avenue, NW, Suite 710, Washington, D.C. 20009, (202) 986-2600, info@nationalpartnership.org.*

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PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON FAMILY AND MEDICAL LEAVE
THE WHITE HOUSE
February 11, 2000

Good morning. Today, I would like to speak with you about the important steps we are taking to reach one of our nation's highest goals: helping our people to succeed at work and in the most important work of all – caring for their families.

For seven years now, this Administration has taken action to give families more of the tools they need to balance the difficult demands of work and home. We've helped to make child care better, safer, and more affordable for millions of families. We've greatly expanded pre-school and after-school programs. We've fought to give generous tax credits to help the growing numbers of families who provide care for aging or ailing loved ones at home.

This month, we're celebrating the seventh anniversary of the Family and Medical Leave Act – the very first bill I was privileged to sign as President. That bill was the product of years of hard work by a large coalition of caring leaders, many of whom have joined me here today. They should be very proud of their efforts.

The Family and Medical Leave law has now given more than 20 million Americans the opportunity to take up to 12 weeks of unpaid leave to care for a newborn a sick relative – or attend to their own serious health needs – without fear of losing their jobs. Everywhere I go, people grab my hand, look me in the eye, and tell me how much this law has meant in their lives. I've heard people say that the time they were able to take off to be by their dad's side in the hospital or bond with a new daughter at home was the most important time they've ever spent.

Not only has the law been a godsend for families; it has also been good for business. Nearly 85% of businesses reported that complying with the law required no extra cost. In fact, in many cases it has actually helped save them money – by cutting down on turnover and reducing the expense of training new workers.

But for all the success of this law, we know that we can and should do more. Today, there are still large numbers of families who need to take a leave from work but cannot afford to give up the income. That is why, three months ago, Labor Sec. Alexis Herman and I proposed a new rule to give states flexibility to use their existing unemployment insurance programs to offer paid leave to new parents. Participation is purely voluntary—but we hope states will take advantage of this. Before they do, they must determine how it will affect the soundness of their unemployment system.

Today, I am pleased to announce a new way we can make it easier for states to take up this challenge. I am proposing \$20 million in new competitive grants to help develop and evaluate creative new approaches for providing paid family leave to workers – whether it is through unemployment insurance, temporary disability programs, or any other source. Many states have already recognized the great need for paid leave and have begun drafting proposals to provide it. We believe our grants will help speed the way.

There are two more steps I believe we should take right away. Once again, I call on Congress to expand Family and Medical Leave to give parents time off when they have to go see their children's teachers or take them to the doctor. And I call on Congress to extend the benefits of this law to employees of smaller companies – so that we can reach another 10 million American families. I want to thank Senators Kennedy and Dodd and Reps. Clay and Maloney for their tireless work on behalf of these proposals. With their leadership, I believe we will succeed in expanding Family and Medical Leave this year.

I have often wondered how my own mother, when she was a young widow, would have been able to go away to train as a nurse if my grandparents hadn't been there to take care of me. My mother and I were lucky. But families shouldn't have to rely on luck alone. I believe no Americans should ever have to choose between the job they need and the parent or child they love. If we use this moment wisely, we can help ensure that they never will again. Thanks for listening.

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Employment and Training Administration

20 CFR Part 604

RIN 1205-AB21

Birth and Adoption Unemployment Compensation

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Labor (DOL) is issuing for comment a Notice of Proposed Rulemaking to create, by regulation, an opportunity for State agencies that administer the Unemployment Compensation (UC) program to pay, under a voluntary experimental program, UC to parents who take time off from employment after the birth or placement for adoption of a child. This effort responds to the President's Executive Memorandum issued May 24, 1999, directing the Secretary of Labor to allow States the opportunity to develop innovative ways of using UC to support parents taking leave to be with their newborns or newly-adopted children and to evaluate the effectiveness of using the UC system for these or related purposes. This regulation will permit interested States to experiment with methods for allowing the use of the UC program for this purpose.

DATES: DOL invites written comments on this proposal. Comments are to be submitted by *[insert date 45 days after date of publication in the Federal Register]*.

ADDRESSES: Submit written comments to Grace A. Kilbane, Director, Unemployment Insurance Service, Employment and Training Administration (ETA), U.S. Department of

Labor, 200 Constitution Avenue, N.W., Room S-4231, Washington, DC 20210. Prior to issuance of this Notice of Proposed Rulemaking, the DOL received correspondence on the subject matter of the proposal. This correspondence, along with correspondence received in response to the Notice of Proposed Rulemaking, will be made part of the rulemaking record and will be considered in the development of a final rule.

FOR MORE INFORMATION CONTACT: Gerard Hildebrand, Unemployment Insurance Service, ETA, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-4231, Washington, DC 20210. Telephone: (202) 219-5200 ext. 391 (this is not a toll-free number); facsimile: (202) 219-8506.

SUPPLEMENTARY INFORMATION:

I. Background

A. General Overview

(1) *Need for Birth and Adoption Leave*

On May 23, 1999, the President directed the Secretary of Labor to issue a regulation allowing unemployment fund moneys to be used to provide partial wage replacement to mothers and fathers on leave following the birth or adoption of a child. In discussing the importance of providing partial wage replacement, the President stated: “[T]hose first weeks of life are critical to the bonding of parents and children, and they can have long-term positive developments for the children. No parent should have to

miss them.” The President also noted that, “We can do this in a way that preserves the soundness of the unemployment insurance system and continues to promote economic growth.”

The President elaborated on this Birth and Adoption UC proposal in a May 24, 1999, memorandum to the heads of executive departments:

First, I hereby direct the Secretary of Labor to propose regulations that enable States to develop innovative ways of using the Unemployment Insurance (UI) system to support parents on leave following the birth or adoption of a child. In addition, I direct the Secretary to develop model State legislation that States could use in following these regulations. In this effort, the Department of Labor is to evaluate the effectiveness of using the system for these or related purposes. In a 1996 study conducted by the Commission on Family and Medical Leave, lost pay was the most significant barrier to parents taking advantage of unpaid leave after the birth or adoption of a child. This new step will help to give States the ability to eliminate a significant barrier that parents face in taking leave.

In response to the President’s May 24, 1999, Executive Memorandum, the DOL is exercising its authority to interpret Federal UC statutes, and, in particular the statutes’ longstanding “able and available” requirements, by implementing an experimental program to examine the use of the UC program as a means for providing partial wage replacement to employees who desire to take approved leave or otherwise leave their employment following the birth or placement for adoption of a child.

(2) The Federal-State UC System

The Federal-State UC program is administered as a partnership of the Federal government and the States. States collect State UC taxes used to pay compensation while the Federal government collects taxes, used for grants for State UC administration, under the Federal Unemployment Tax Act (FUTA). (The FUTA is codified at 26 U.S.C. 3301 - 3311.) The DOL has broad oversight responsibility for the Federal-State UC program, including determining whether a State law conforms and its practices substantially comply with the requirements of Federal UC law. If a State's law conforms and its practices substantially comply with the requirements of the FUTA, then the Secretary of Labor issues certifications enabling employers in the State to receive credit against the Federal unemployment tax as provided under section 3302, FUTA. If a State and its law are certified under the FUTA, and the State's law conforms and its practices substantially comply with the requirements of Title III of the Social Security Act (SSA), then the State receives grants for the administration of its UC program. (Title III of the SSA is codified at 42 U.S.C. 501 - 504.) The DOL enforces Federal UC law requirements through the FUTA credit and grant certification processes.

(3) Ability to Work and Availability for Work

The DOL has the authority and responsibility to interpret the provisions of Federal UC law such as the "able and available" requirements. Although no explicit able and available requirements are stated in Federal law, the DOL and its predecessors (the Social Security Board and the Federal Security Agency) interpreted four provisions of

Federal UC law as requiring that claimants be able to and available for work. Two of these provisions at section 3304(a)(4), FUTA, and section 303(a)(5), SSA, limit withdrawals, with specific exceptions, from a State's unemployment fund to the payment of "compensation." Section 3306(h), FUTA, defines "compensation" as "cash benefits payable to individuals with respect to their unemployment." The able and available requirements provide a test of a claimant's "unemployment."

The other two provisions found in section 3304(a)(1), FUTA, and section 303(a)(2), SSA, require that compensation "be paid through public employment offices."

The requirement that UC is to be paid through the public employment system (the purpose of which is to find people jobs) ties the payment of UC to an individual's search for employment and to his or her ability to work and availability for work.

Agencies administering the Federal-State UC program have for over 60 years interpreted these four statutory provisions to require a participating State to have able and available requirements.

In response to practical economic and societal concerns, the DOL has previously, as discussed below, exercised its authority to interpret Federal UC statutes regarding the able and available requirements to address several specific areas: training, illness, jury duty and temporary layoffs. Under its authority to interpret Federal UC law and consistent with its broad oversight responsibility, the DOL interprets the Federal able and

available requirements to include a voluntary experimental program for examining the use of the UC program to provide partial wage replacement to employees who take approved leave or otherwise leave employment to be with their newborns or newly-adopted children. This experiment recognizes the impact of women in the workforce and responds to the dramatic societal and economic changes resulting from the large number of families where both parents work. It should allow parents of newborns and newly-adopted children to strengthen their availability for work by providing them with the time and financial support to address several vital needs that accompany the introduction of a new child into the family. The program would allow such parents to provide the initial care that the child will need, to form a strong emotional bond with the child, and to establish a secure system of child care that, once in place, will promote the parents' long-term attachment to the workforce.

(4) Minimal Tests of the Able and Available Requirements

Consistent with DOL interpretations, some States have imposed minimal tests of the able and available requirements for specific situations, provided the claimant has demonstrated an attachment to the labor force.

Approved Training. Prior to incorporating the training provision into the Federal laws, the DOL encouraged States to treat individuals in training approved by the State agency as meeting the able and available requirements since such training represents the most effective step available to the individual to return to work. The DOL cautioned that

State agencies should only approve short-term training that would make individuals job ready. In 1970, Congress, recognizing the importance of training in remedying unemployment, made this training provision mandatory for all States. (Section 3304 (a)(8), FUTA.) The Federal able and available requirements are preserved because individuals who fail to attend training, except by specific waiver, are held to be unavailable for work and ineligible for UC.

Illness. Eleven States allow an individual who initially meets the able and available requirements, but then becomes ill, to receive UC payments without interruption, provided that no suitable work is offered and refused. The DOL approved such State laws in an effort to deter disqualification for UC where a claimant was not “able and available” for perhaps one day, or even one hour, out of a week. Two States, Alaska and Massachusetts, cap the number of weeks ill claimants can collect UC at six weeks and three weeks, respectively; the other States have no statutory limitations. The Federal able and available requirements are preserved because claimants must initially demonstrate their ability to and availability for work before the illness and must be held ineligible if they refuse an offer of suitable work.

Similarly, under the Federal-State Extended Unemployment Compensation Act of 1970 (EB)(26 U.S.C. 3304, note), an ill individual may receive UC only if no suitable work is rejected. The EB program provides additional weeks of compensation to individuals who have exhausted their rights to regular compensation during times of high

unemployment and contains a specific “work search” requirement. This work search requirement is suspended for EB claimants who are hospitalized for an emergency or life-threatening condition (20 CFR 615.8 (g)(3)(i)(B)). This suspension is permitted only if the State law contains a similar provision to those explained above, which must be consistent with the Federal able and available requirements.

Jury Duty. The DOL accepts that States may pay UC to individuals serving on jury duty consistent with the Federal availability requirement. This is reasonable because individuals are compelled under the threat of contempt of court by the judicial branch of the government to go on jury duty, and attendance at jury duty may be taken as evidence that the employee would otherwise be available for work. It would be inconsistent for the State to compel jury service and at the same time disqualify unemployed persons from UC for complying. Most employment is not considered an excuse for avoiding jury duty, and unemployment would also likely not be an excuse from jury duty. Indeed, EB claimants are exempt from the work search provision while on jury duty (20 CFR 615.8(g)(3)(i)(A)).

Temporary Layoffs. In a temporary layoff, the employer is unable to provide work for a short period of time, but both the employer and the employee have the expectation that the employee will return to work on a specific date. When the employer recalls the employee, the employee must accept or be denied UC. In these cases, the availability requirement is essentially limited to the employer who laid off the employee.

This recognizes that such employees are frequently career employees who would likely quit a new job to return to their former employer when the layoff ends; therefore, other employers would not likely hire such employees.

B. The Birth and Adoption Unemployment Compensation (BAA-UC) Experiment

(1) Able and Available Requirements for BAA-UC

The DOL previously exercised its authority to interpret the able and available requirements in the areas of training, illness, jury duty, and temporary layoffs. Based on this precedent, the DOL's experimental BAA-UC program is designed to test whether expansion of its interpretation of the able and available requirements would promote a continued connection to the workforce in parents who receive such payments.

As the number of mothers in the workforce and families with both parents working rises, the need to test this interpretation increases, and collecting data under the BAA-UC program to test the existence and magnitude of this group's connection to the work force, is increasingly important. Indeed, much in the same way that providing training to laid-off employees enhances their connection to the workforce by making them more marketable, the DOL wants to test whether providing parents with BAA-UC at a point during the first year of a newborn's life, or after placement for adoption, will help employees maintain or even promote their connection to the workforce by allowing them time to bond with their children and to develop stable child care systems while adjusting to the accompanying changes in lifestyle before returning to work.

The initial time period during which a new child is introduced into a home, and how that child's care will be assimilated into the working lives of the parents, is critical. It is during this period that secure emotional bonds are formed between children and their parents. It is also during this period that a system of child care, which will foster the parents' availability for work, can be firmly established. These requirements are universal when any working family has a new child. Addressing these needs is fundamental to helping families flourish and is also connected to sustaining a stable workforce. Where parents continue to work after the arrival of children, they often need the opportunity to bond with their child as well as arrange a system of care that will allow the parents to continue, and indeed strengthen, their attachment to the workforce.

For all the above reasons, the DOL believes that these parents are an appropriate focus of an experimental extension to the able and available requirements. Thus, this expanded interpretation of the Federal able and available requirements applies only to experimental BAA-UC and does not extend to any other facet of the Federal-State UC program. BAA-UC is an experiment being conducted within the regular UC program.

(2) Experimental versus Permanent Program

This proposed rule will give the State agencies that administer the UC program the opportunity to provide UC, under an experimental program, to parents who take approved leave or otherwise leave their employment to be with a newborn or newly-adopted child. The DOL chose to proceed with an experimental rather than a permanent

program in order to compile the necessary information to evaluate the following prior to any implementation of a permanent program: whether individuals compensated for birth and adoption leave are more likely to return to employment, and, therefore, are more available than those who are uncompensated; the effects on employers whose employees take such compensated leave; the effects on employers throughout a State who bear the BAA-UC costs; and the effects on the State's unemployment fund. The DOL anticipates that creating this experimental program, which States can voluntarily choose to put into practice, will give States the necessary latitude to develop innovative programs permitting the DOL to measure employees' connections to the workforce after availing themselves of BAA-UC, as compared to individuals who take unpaid leave or none at all.

(3) Experimental Program Limitations

The purpose of the able and available requirements is to assure sufficient attachment to the workforce. The BAA-UC experimental program is designed to test the proposition that providing UC to the parents of newborns and newly-adopted children who wish to take approved leave or otherwise leave their employment will increase their attachment to the workforce. In order to gain information on the impact of adapting the UC program to address the needs of such employees, the DOL is defining the experimental program to cover the parents of newborns and newly-adopted children. The DOL believes that authorizing States to provide unemployment compensation for parents of newborns and newly-adopted children will produce valuable information for evaluating the program. This information may also serve as a basis for further expanding coverage

to assist a broader group of employees to better balance work and family needs. The class of employees covered by this proposed rule is a small, easily-defined group that can be used to test whether compensating absences from employment will assist individuals to maintain, or even improve upon, their connection to the workforce by enabling them to better meet their parental and family needs.

(4) Experimental Program Time Frame and Evaluation

States may enact legislation and begin operation of a BAA-UC program any time after the effective date of the Final Rule. States wishing to enact legislation prior to completion of the rulemaking process should have a contingency provision in their legislation allowing for State agencies to make changes necessary to comply with Federal regulations prior to the implementation of their programs.

The DOL will begin collecting administrative data immediately upon implementation of a BAA-UC program. As States gain experience with their programs, the DOL will evaluate each State individually. A comprehensive evaluation will be performed when at least four States have implemented legislation and operated a BAA-UC program for a minimum of three years.

The Federal evaluation methodology has not yet been completed. Because States will have broad latitude in developing BAA-UC experimental programs, the DOL may use a case study evaluation design. Some of the issues that may be addressed in the

evaluation include: whether workforce attachment for this population changed; whether employees faced barriers to taking advantage of BAA-UC; and, if so, what can be done to break down these barriers. Though not required by these regulations, it is anticipated that each State will include, as part of its system development, an evaluation component. Once decisions have been made regarding the Federal evaluation process and how the relevant information will be collected, complete information collection instructions will be issued and, if subject to the Paperwork Reduction Act, published for public comment in the Federal Register.

C. Rule Format

In keeping with the Administration's commitment to writing regulations in plain English, the substance and format of this Proposed Rule is presented in a question-and-answer format so that the regulations will be clear and easy to understand. In addition, the DOL has attempted to anticipate and address issues that may arise during this effort.

II. Explanation

DOL is proposing a rule which is not overly prescriptive. This is consistent with the general structure of the UC program under which States have wide latitude in designing their programs.

In accordance with the May 24, 1999, Executive Memorandum, BAA-UC model State legislation has been developed and is appended (Appendix A) for comment. This

model legislation is optional and is provided for the convenience of States that choose to implement a BAA-UC program. A commentary on the model legislation and policy issues to aid States in the development of methods provided for under the proposed rule is also appended (Appendix B) for comment. Both appendices are subject to change based upon comments. They will be issued in final form in the Federal Register as a program letter and will not appear in the Code of Federal Regulations.

Description of the Regulation

The proposed rule adds Part 604 to the Code of Federal Regulations. Subparts are organized by subject matter:

Subpart A discusses the purpose and scope of the regulation and defines critical terms.

Subpart B discusses Federal UC requirements as they relate to this experiment.

Subpart C discusses BAA-UC eligibility requirements.

Following is a brief description of each subpart of the proposed regulation.

Subpart A—General Provisions

Subpart A discusses the purpose and scope of the regulation and defines critical terms. The purpose of the regulation is to establish the opportunity for the State agencies that administer the UC program to provide UC, under an experimental program, to parents who take approved leave or otherwise leave employment to be with a newborn or

newly-adopted child. This proposal will permit interested States to experiment with methods for allowing this use of the UC program.

The scope of the BAA-UC experiment extends to all State UC programs that provide UC to parents who take approved leave or otherwise leave their employment to be with their newborns or newly-adopted children. This group was identified by the President as the focal group for the experiment with possible expansion, if warranted, after the experiment has been evaluated. State participation is completely voluntary.

Definitions of terms specific to BAA-UC are also in Subpart A:

Approved Leave—Because “approved leave” is commonly interpreted as an approved, temporary separation from a specific employer, that definition has been adopted for BAA-UC purposes.

Birth and Adoption unemployment compensation—This is UC paid only to parents on approved leave or who otherwise leave employment to be with their newborns or newly-adopted children.

Newborns—To establish the distinguishing characteristics of the experimental group, it is necessary to define “newborn.” For purposes of the experiment, newborns are defined as children up to one-year old.

Newly-adopted children—Adoptive parents are included in the experiment. Because adopted children may not be newborns, and a comparable measurement period is necessary for all parents included in the BAA-UC experiment, “newly-adopted” refers to

children, regardless of age, who have been placed within the previous 12 calendar months with an adoptive parent(s).

Parents—For BAA-UC experimental purposes, parents are defined as mothers and fathers—biological, legal or having legal custody of a child during the adoption process. The BAA-UC experiment does not include foster parents unless the child has been placed with the foster parents for adoption.

Placement—The adoption process can be lengthy with completion occurring long after a child has been placed with a family. Consequently, for BAA-UC comparability between parents of newborns and parents of newly-adopted children, “placement” for BAA-UC purposes will be the time a parent becomes legally responsible for a child pending adoption.

Subpart B—Federal UC Requirements

Subpart B discusses how the Federal UC requirements apply to BAA-UC. Beyond the proposed interpretation of the able and available requirements, this regulation does not change Federal UC requirements. Under its authority to interpret the statutes it administers, the DOL is interpreting the Federal able and available requirements to include BAA-UC. This interpretation will give States the opportunity to experiment with, and demonstrate methods of, providing BAA-UC to parents of newborns and newly-adopted children. The experiment will provide compensation only during the periods when parents take approved leave or otherwise leave employment following the

birth or placement for adoption of their child. This interpretation of the Federal able and available requirements applies only for purposes of this experiment.

Subpart C–BAA-UC Eligibility

Subpart C discusses the BAA-UC eligibility requirements. Although implementation of BAA-UC is entirely at State discretion and States have wide latitude in BAA-UC program development, certain eligibility parameters apply. For example, only parents of newborns or newly-adopted children are included in the experiment. Also, because all Federal UC law requirements must be met and the insurance nature of the UC program must be maintained, the introduction of eligibility factors that are inconsistent with Federal UC law requirements is not permitted under BAA-UC programs. The introduction of eligibility factors unrelated to the fact or cause of unemployment, such as industry, employer size or whether the spouse of a UC recipient also receives (or has received) UC, is inconsistent with Federal law. Specifically, in a 1964 conformity decision involving the State of South Dakota, the Secretary of Labor held that Federal law prohibits the introduction of any eligibility test unrelated to the fact or cause of the individual's unemployment. (See Secretary of Labor's Decision of September 25, 1964, In the Matter of the Hearing to the South Dakota Department of Employment Security Pursuant to Section 3304(a) of the Internal Revenue Code of 1954, transmitted by Unemployment Insurance Program Letter No. 787, October 2, 1964.) Therefore, all individuals covered under a State's UC law must be covered for BAA-UC.

For BAA-UC purposes, the first compensable week is the week in which birth or placement for adoption takes place. States are free to determine whether to prorate the weekly compensation amount based on the day of the birth or placement for adoption or whether to fully compensate for that week. Weeks preceding the week of the birth or placement and weeks following the end of the one-year period are not compensable.

The purpose of BAA-UC is to provide support to new parents on “leave” from employment to be with their newborns or newly-adopted children. The term “leave” implies that the individual will return to the last employer after a designated period. However, for experimental purposes, the DOL will allow States to pay BAA-UC to parents who otherwise leave employment for this purpose. This will generate data for evaluating how providing compensation affects the connection of these individuals to the workforce. The DOL’s view is that limiting BAA-UC to only those individuals who are assured of job retention could be seen as unfairly excluding parents from BAA-UC who are denied leave by their employers.

Executive Order 12866

This proposed rule is a “significant regulatory action” within the meaning of Executive Order 12866 because it meets the criteria of Section 3(f)(4) of that Order in that it raises novel or legal policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order. Accordingly, the proposed rule has been submitted to, and reviewed by, the Office of Management and Budget.

However, the proposed rule is not considered an “economically significant” rule because it will not have an annual effect on the economy of \$100 million or more, will not adversely impact a specific sector of the economy, and will not materially alter the budgeting impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof.

The Department estimates that the possible annual aggregate BAA-UC cost could range from zero to approximately \$68 million. The regulation is permissive, and the DOL does not know how many States will choose to enact experimental BAA-UC programs. The estimate of the annual aggregate BAA-UC cost of \$68 million is based on the expressed interest of a small number of States. The cost depends upon such factors as the extent to which BAA-UC affects parents’ incentives to increase their leave duration and the percentage of leave-takers applying for BAA-UC. The derivation of this estimate begins with 1997-98 Current Population Survey data showing the annual U.S. average number of women in the labor force with a child under one-year old. After this number is disaggregated by State, the likely proportion of leave-takers for newborns and newly-adopted children is determined based on percentages provided in a report by the Commission on Family and Medical Leave, titled *A Workable Balance: Report to Congress on Family and Medical Leave Policies* (April 30, 1996). Other factors used in determining the cost estimate include the percent of leave-takers with employer-paid leave, monetary eligibility rates, and average weekly UC payments.

Further, the DOL has evaluated the proposed rule and found it consistent with the regulatory philosophy and principles set forth in Executive Order 12866, which governs agency rulemaking. Although the proposed rule will impact States and State agencies, it will not adversely affect them in a material way. The proposed rule would permit States to voluntarily establish experimental programs to determine the effectiveness of using the UC program to support parents taking leave from their employment to be with their newborns or adopted children; it would not impose any new requirements on States.

Paperwork Reduction Act

The DOL has determined that this proposed rule contains no information collection requirements.

Executive Order 12612

These proposed regulations have been reviewed in accordance with Executive Order 12612 regarding federalism. The order requires that agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions which would restrict States' policy options, and take such action only when there is clear constitutional authority and the presence of a problem of national scope. Since this proposed rule does not limit State policy options under the current UC program, it complies with the principles of federalism and with Executive Order 12612.

Executive Order 12988

This proposed rule has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The proposal has been written to minimize litigation and provide a clear legal standard for affected conduct, and has been reviewed carefully to eliminate drafting errors and ambiguities.

Unfunded Mandates Reform Act of 1995 and Executive Order 12875

This proposed rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 et seq.) and Executive Order 12875. The DOL has determined that this proposal does not include any Federal mandate that may result in increased expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

The States have full discretion to decide whether or not to enact a BAA-UC program. See the section entitled "Executive Order 12866" for further information on the BAA-UC cost estimate.

Regulatory Flexibility Act

This proposed rule will not have a significant economic impact on a substantial number of small entities. The proposal affects States and State agencies, which are not within the definition of "small entity" under 5 U.S.C. 601(6). Moreover, States have

complete discretion in deciding whether or not they will enact a program permitted under this proposed regulation. Under 5 U.S.C. 605(b), the Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a “major rule” as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. Chapter 8). This proposed rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based entities to compete with foreign-based entities in domestic and export markets.

Effect on Family Life

The DOL certifies that this proposed rule has been assessed in accordance with section 654 of Pub. L. 105-277, 112 Stat. 2681, for its effect on family well-being. The DOL concludes that the proposed rule will not adversely affect the well-being of the nation’s families. Rather, it should have a positive effect on family well-being by permitting States to enable more parents to take leave from their employment to be with their newborns or newly-adopted children.

List of Subjects in 20 CFR Part 604

Employment and Training Administration, Labor, and Unemployment Compensation.

Catalogue of Federal Domestic Assistance Number

This program is listed in the Catalogue of Federal Domestic Assistance at No. 17.225, Unemployment Insurance.

Signed at Washington, D.C. on _____, 1999.

ALEXIS M. HERMAN

Secretary of Labor

Words of Issuance

For the reasons set forth in the preamble, the DOL proposes that Chapter V of Title 20, Code of Federal Regulations, be amended by adding new part 604 to read as follows:

Part 604—REGULATIONS FOR BIRTH AND ADOPTION UNEMPLOYMENT
COMPENSATION

Subpart A—General Provisions

Sec.

§604.1 What is the purpose of this regulation?

§604.2 What is the scope of this regulation?

§604.3 What definitions apply to this regulation?

Subpart B—Federal Unemployment Compensation Program Requirements

§604.10 Beyond the interpretation of the able and available requirements for Birth and Adoption unemployment compensation, does this regulation change the Federal requirements for the unemployment compensation program?

Subpart C—Eligibility

§604.20 Who is covered by Birth and Adoption unemployment compensation?

§604.21 When does eligibility for Birth and Adoption unemployment compensation commence?

§604.22 Are parents who leave employment to be with their newborns or newly-adopted children eligible for Birth and Adoption unemployment compensation, or is it limited only to parents who take approved leave?

Authority: 42 U.S.C. 1302(a); 42 U.S.C. 503(a)(2) and (5); 26 U.S.C. 3304(a)(1) and (4); 26 U.S.C. 3306(h); Secretary's Order No. 4-75 (40 FR 18515); and Secretary's Order No. 14-75 (November 12, 1975).

Subpart A—General Provisions

§604.1 What is the purpose of this regulation?

This regulation allows the States to develop and experiment with innovative methods for paying unemployment compensation to parents on approved leave or who otherwise leave employment to be with their newborns or newly-adopted children. States' experiences with Birth and Adoption unemployment compensation will enable the Department of Labor to test whether its interpretation of the Federal "able and available" requirements promotes a continued connection to the workforce in parents who receive such payments.

§604.2 What is the scope of the regulation?

This regulation applies to and permits all State unemployment compensation programs to provide benefits to parents on approved leave or who otherwise leave employment to be with their newborns or newly-adopted children. A State's participation is voluntary.

§604.3 What definitions apply to the regulation?

The following definitions apply to this regulation:

(a) *Approved Leave* means a specific period of time, agreed to by both the employee and employer, during which an employee is temporarily separated from employment and after which the employee will return to work for that employer.

(b) *Birth and Adoption unemployment compensation* means unemployment compensation paid only to parents on approved leave or who otherwise leave employment to be with their newborns or newly-adopted children.

(c) *DOL* means the United States Department of Labor.

(d) *Newborns* means children up to one-year old.

(e) *Newly-adopted children* means children, regardless of age, who have been placed within the previous 12 calendar months with an adoptive parent(s).

(f) *Parents* means mothers and fathers (biological, legal or who have legal custody of a child during the adoption process).

(g) *Placement* means the time a parent becomes legally responsible for a child pending adoption.

(h) *State(s)* means one of the States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

Subpart B—Federal Unemployment Compensation Program Requirements

§604.10 Beyond the interpretation of the able and available requirement for Birth and Adoption unemployment compensation, does this regulation change the Federal requirements for the unemployment compensation program?

No. This regulation does not change the Federal unemployment compensation requirements. Under its authority to interpret Federal unemployment compensation law, the DOL interprets the Federal able and available requirements to include experimental Birth and Adoption unemployment compensation. The regulation applies only to parents who take approved leave or otherwise leave employment to be with their newborns or newly-adopted children.

Subpart C—Eligibility

§604.20 Who is covered by Birth and Adoption unemployment compensation?

If a State chooses to provide Birth and Adoption unemployment compensation, all individuals covered by the State's unemployment compensation law must also be covered for Birth and Adoption unemployment compensation. Just as with current unemployment compensation programs, individuals may not be denied experimental Birth and Adoption unemployment compensation based on facts or causes unrelated to the claimant's unemployment, such as industry, employer size or the unemployment status of a family member. The introduction of such facts or causes would be inconsistent with Federal unemployment compensation law.

§604.21 When does eligibility for Birth and Adoption unemployment compensation commence?

Parents may be eligible for Birth and Adoption unemployment compensation during the one-year period commencing with the week in which their child is born or placed with them for adoption. Weeks preceding the week of the birth or placement and weeks following the end of the one-year period are not compensable.

§604.22 Are parents who leave employment to be with their newborns or newly-adopted children eligible for Birth and Adoption unemployment compensation, or is it limited only to parents who take approved leave?

States may limit Birth and Adoption unemployment compensation to parents who take approved leave or may extend Birth and Adoption unemployment compensation to parents who otherwise leave employment to be with their newborns or newly-adopted children. However, the intent of Birth and Adoption unemployment compensation is to support all parents who wish to take time from employment to be with their newborns or newly-adopted children.

The following appendix will not appear in the Code of Federal Regulations.

Model State Legislation

Section _____. Birth and Adoption Unemployment Compensation.

(a) An individual who is on a leave of absence from his or her employer or who left employment to be with the individual's child during the first year of life, or during the first year following placement with the individual for adoption, shall not be denied compensation under Section _____ for voluntarily leaving employment, Section _____ relating to availability for work, Section _____ relating to inability to work, or Section _____ for failure to actively seek work.

(b) Section _____, concerning the reduction of the amount of compensation due to receipt of disqualifying income, shall apply to payments under this section. In addition, the following payments shall cause a reduction in the compensation amount:

(1) any payment from the employer resulting from a birth or adoption described in subsection (a); and

(2) any payment resulting from a birth or adoption described in subsection (a) from a disability insurance plan contributed to by an employer, in proportion to the employer's contribution to such plan.

(c) Compensation is payable to an individual under this section for a maximum of 12 weeks with respect to any birth or placement for adoption.

(d) Each employer shall post at each site operated by the employer, in a conspicuous place, accessible to all employees, information relating to the availability of Birth and Adoption unemployment compensation.

(e) Any compensation paid under this section shall not be charged to the account of the individual employer.

(f) Two years following the effective date of this legislation, the commissioner shall issue a report to the governor and the legislature evaluating the effectiveness of the Birth and Adoption unemployment compensation program.

(g) This section shall be applied consistent with regulations issued by the U.S. Department of Labor.

The following appendix will not appear in the Code of Federal Regulations.

**Commentary on Model State Legislation,
Including Policy Issues**

General

Must States implement a Birth and Adoption unemployment compensation (BAA-UC) program?

No. This program is voluntary for the States. However, implementation of BAA-UC will require some legislation on the part of every State seeking to adopt the program. The Model State Legislation is provided for the convenience of States that wish to implement a BAA-UC program.

Does this regulation enable a State to pay UC for other types of family or medical leave?

No. This regulation enables a State to pay UC to parents on approved leave or who otherwise leave employment to be with their newborns or newly-adopted children. Permitting payment of UC for other types of family leave or care would be inconsistent with this experimental program.

Must all employer-paid leave be exhausted before BAA-UC is available?

No. BAA-UC is designed to provide partial wage replacement to parents of newborns or newly-adopted children. The Model State Legislation assumes that any wages paid for the period of employer-provided leave will be deducted. However, States need not deduct these wages from BAA-UC.

Does this regulation impose any solvency requirements upon the States before they enact BAA-UC?

No. The DOL expects that a State will not enact changes without assessing the effect on the solvency of its unemployment fund. Each State has the responsibility to assess the cost to the State's unemployment fund whenever coverage, benefit expansions, or tax changes are considered within the State's UC program. Consequently, DOL expects prudent decision makers in a State to examine the State's solvency position and projected taxes and benefit payments under current law before deciding to enact BAA-UC legislation.

Monetary Qualifications and Benefits

What are the earnings and employment requirements for BAA-UC?

States may establish their own requirements. The Model State Legislation assumes that States will use the same earnings and employment criteria that apply to all other individuals.

What is the weekly benefit amount for individuals eligible for BAA-UC?

States may establish their own weekly benefit amounts. The Model State Legislation assumes that individuals eligible for BAA-UC will receive the same weekly benefit amount as other individuals eligible for UC.

How does the receipt of other income effect payment of BAA-UC ?

States will determine whether BAA-UC will be reduced by other income. Under the Model State Legislation, the amount of BAA-UC will be reduced in the same manner as any other payment of UC as provided under State law. The Model State Legislation also provides for the deduction of any payment from the employer as a result of the birth or placement for adoption, and for the deduction of any disability insurance payment received as a result of the birth or placement for adoption in proportion to the employer's contribution to the disability insurance plan. This provision, which is limited to payments triggered by the same event which triggers BAA-UC, reflects the view that the unemployment fund should not be held responsible when wage replacement is available from other sources, particularly when both payments are financed by the employer. States should examine their laws to determine if all types of appropriate income are, or should be, deductible. For example, some leave payments which are not normally deductible under State law may cover costs of birth and adoption leave.

How does the BAA-UC entitlement relate to regular UC payments?

States are free to determine this. The Model Legislation assumes that BAA-UC counts toward the maximum number of weeks of regular UC.

Period of Eligibility**When may BAA-UC benefits begin?**

Under Section 604.21 of the proposed regulations, parents may receive BAA-UC only during the one-year period commencing with the week in which the child is born or placed for adoption. For example, an individual taking leave in the 51st week following birth or placement for adoption, would be eligible for BAA-UC only for weeks 51 and 52. Periods preceding the week of birth or placement for adoption are not compensable. States are free to reduce the one-year period.

How many weeks of BAA-UC may individuals receive?

States are free to determine this. The Model State Legislation provides a maximum duration of 12 weeks per individual with respect to any one birth or adoption. Since the Family and Medical Leave Act of 1993 (FMLA) allows up to 12 weeks of unpaid leave for such events, States may wish to have an identical amount. States may also relate the duration of leave to the individual's weekly amount of UC. For example, for each birth or adoption, an individual may receive an amount equal to 12 times the individual's weekly UC.

To prevent confusion between FMLA and BAA-UC, States should inform potential BAA-UC beneficiaries of the dissimilarities between the two programs (for example, BAA-UC does not guarantee job retention).

If a child is born in the middle of the week or the placement occurs in the middle of the week, is BAA-UC payable for this week?

Under the Model State Legislation, BAA-UC would be payable for this week, assuming all applicable eligibility conditions, such as the deductible income provisions, are met. States may provide the full weekly compensation amount for this week or prorate the weekly amount to reflect only periods following birth or adoption. If the amount is prorated, the State may pay the remaining balance for the last partial week if the individual is still on leave.

Must the individual serve a waiting period?

No. Nothing in Federal law requires States to have a waiting week for regular UC or BAA-UC. However, not having a waiting week for BAA-UC would eliminate the 50 percent Federal share for the first week of *all* Extended Benefits claims. Under 20 CFR 615.14(c)(3), a State is not entitled to a Federal share for the first week of Extended Benefits if the State's law provides "at any time or under any circumstances" for the payment of UC for the first week of unemployment.

When is a child considered “placed” for adoption?

Under 604.3(g) of the proposed rule, placement occurs at the time a parent becomes legally responsible for a child pending adoption. State UC agencies should consult the adoption laws of their States to determine precisely when placement occurs.

Other Eligibility Issues

May both parents receive BAA-UC? If so, may they both receive such compensation at the same time?

The answer to both questions is “yes.” States implementing BAA-UC must allow both parents, if otherwise eligible, to receive BAA-UC concurrently or consecutively. A State may not prohibit payment of BAA-UC simply because the other parent is taking leave for the same purpose. A State law which does so is inconsistent with Federal law because the eligibility of one parent will be determined based on whether the other parent is receiving UC. Specifically, in a 1964 conformity decision involving the State of South Dakota, the Secretary of Labor held that Federal law prohibits the introduction of any eligibility test unrelated to the fact or cause of the individual’s unemployment. (See Secretary of Labor’s Decision of September 25, 1964, In the Matter of the Hearing to the South Dakota Department of Employment Security Pursuant to Section 3304(a) of the Internal Revenue Code of 1954, transmitted by Unemployment Insurance Program Letter No. 787, October 2, 1964.) The recipient status of the other parent is unrelated to the fact

or cause of an individual's unemployment. Thus, both parents may receive BAA-UC, whether concurrently or consecutively. Similarly, States may not limit use of BAA-UC to the "primary" parent.

Must BAA-UC apply to individuals employed by all employers subject to State UI law?

Yes. As explained in the previous answer, States may not impose eligibility conditions not related to the fact or cause of the individual's unemployment. Assuming the services are taxable for UC, States may not, for example, limit BAA-UC based on employer size.

May States provide BAA-UC to individuals who otherwise leave employment (not on approved leave) to be with their newborns or newly-adopted children?

Yes. While States are free to determine their own requirements, there are compelling reasons for providing BAA-UC to individuals who otherwise leave employment.

Although many employers may grant leave, others may not. The DOL believes that all parents should be treated identically for UC purposes when they take time away from employment to be with their newborn or newly-adopted child. As such, their eligibility for BAA-UC should not be based on whether an employer is required to grant the leave, but on the parent's reason for wanting to take the leave.

May eligibility be conditioned on whether the individual gave notice to the employer?

Yes. Although the Model State Legislation does not provide for such a condition because it may result in denials due to the technicality of when the individual requested leave, States may impose it. The basis of such a requirement is that employers should be given sufficient time to accommodate the leaving/absence of the individual. If such a provision is included, the DOL recommends that the notice be required to be given no more than 30 days prior to birth or placement, but only where practicable. The FMLA contains a 30-day requirement or shorter notice period where giving 30-day notice is not practicable; it does not require notice when the necessity to take leave is unforeseeable. (Section 102(e), Family and Medical Leave Act, Pub. L. 103-3 (February 5, 1993).)

May eligibility be conditioned on whether the individual chooses not to return to work?

Yes. However, based upon Jenkins v. Bowling, 691 F.2d 1225 (7th Cir. 1982), States may not delay payment until after the individual returns to work. Section 303(a)(1), SSA, requires the full payment of benefits when due, precluding States from delaying payment while awaiting the individual's return to work. A State may, however, declare an overpayment of benefits after the individual fails to return to work.

May an individual be paid BAA-UC under the Federal-State extended benefit program or any of the federally funded unemployment programs?

It depends on the program. Benefits under the UC for Federal Employees (UCFE) and UC for Ex-Servicemembers (UCX) programs are, by Federal law, required to be paid on the same terms and subject to the same conditions as State benefits (with exceptions not relevant here). Therefore, BAA-UC will be paid to individuals under these programs to the same extent as under State law.

Individuals may only receive Disaster Unemployment Assistance (DUA) when their unemployment is caused by a disaster as provided in 20 CFR Part 625. However, if they meet their State's Birth and Adoption UC provisions, then they will satisfy the availability requirement at §625.4(g), and so may qualify for DUA. For example, an individual who is unemployed due to a major disaster may later give birth. If this individual satisfies the BAA-UC requirements in the State's law, she may receive DUA.

Extended Benefit claimants may not receive Birth and Adoption UC since they cannot meet the systematic and sustained work search requirements in 20 CFR 615.8(g).

Individuals claiming trade readjustment allowances (cash benefits) under the Trade Adjustment Assistance and the North American Free Trade Act Transitional Adjustment

Assistance programs will be ineligible since such individuals are required to either be in full-time training or conduct the systematic and sustained work search required for the Extended Benefit program.

Financing costs of BAA-UC

May BAA-UC costs be socialized among employers?

Yes. States are free to socialize or not socialize costs of BAA-UC. The Model State Legislation socializes costs—also called “noncharging.” An employer may be reluctant to bear all the costs of BAA-UC caused by an employee taking leave since the employer will not have caused the individual’s unemployment. Since noncharging is permitted when the unemployment is caused by the employee, it is permitted in this situation. This position applies to both contributory and reimbursable employers.

May BAA-UC costs be paid from a State fund other than the State’s unemployment fund, for example, a State’s temporary disability (TDI) fund?

Yes. Nothing in Federal UC law governs the treatment of moneys in these funds because they are financed by a separate tax and held separately from the State’s unemployment fund. For example, a State with a TDI program may enact a special disability insurance tax on employers and deposit the proceeds in a disability fund. If the State chooses to use one of these funds (or create such a fund) to pay birth and adoption leave benefits, the requirements of DOL’s BAA-UC regulation will not apply.

Administrative Costs

May States use administrative grants received from the Federal government to pay for the administration of a BAA-UC program?

Provided that all the requirements of the BAA-UC regulation are met, the use of administrative grants is permissible, including for purposes of studying and evaluating the BAA-UC program. However, if the regulation's requirements are not met, the expenditures of grant funds are not for the proper and efficient administration of the State's law as required by section 303(a)(8) of the Social Security Act.

Reporting

Will States need to amend their laws to address any Federal reporting requirements concerning BAA-UC?

Although this is a matter for States to determine, the DOL anticipates that few, if any, States will need to amend their laws since most State laws already contain language concerning reporting. Many of these laws are based on the language on page 95 of The Manual of Employment Security Legislation, as revised September 1950, which requires that the agency "make such reports, in such form and containing such information as the Secretary of Labor may from time to time require, and shall comply with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports."

What are the reporting requirements?

The DOL has not yet finalized a methodology for evaluating State BAA-UC programs.

When that methodology is completed, State reporting requirements will be issued in a separate information collection request and, if subject to the Paperwork Reduction Act, published for public comment in the Federal Register.

BIRTH AND ADOPTION UNEMPLOYMENT COMPENSATION (UC)
QUESTIONS AND ANSWERS
Revised 10/29/99

1. What is the Birth and Adoption UC initiative?

This effort responds to the President's Executive Memorandum issued May 24, 1999, directing the Secretary of Labor to allow States the opportunity to develop innovative ways of using UC to provide partial wage replacement to parents on leave following the birth or adoption of a child and to evaluate the effectiveness of using the UC system for these or related purposes. This regulation will permit interested States to experiment with methods for allowing the use of the UC program for this purpose.

2. Will States be required to develop UC programs for parents of newborns and newly-adopted children?

No. State participation is wholly voluntary.

3. Who will be eligible to receive UC for the birth or adoption of a child?

This experiment extends only to parents on approved leave or who otherwise leave their employment to be with newborns or newly-adopted children. Time taken for personal illness or to care for other family members is not compensable under this proposed program.

4. When will parents be able to collect UC after the birth or adoption of a child?

It is difficult to predict when individuals will be able to collect UC to be with their newborns or newly-adopted children. The Department of Labor (Department) anticipates publication of a final regulation in early 2000. States may enact legislation authorizing a Birth and Adoption program based on this regulation. Each State's legislation would set the dates to begin operation of the program in its State.

5. How will the regulation deal with such things as benefit amounts and employer costs?

The guiding principle of this regulation is to allow for maximum State flexibility within

the experiment's parameters, as States currently have in determining UC policies. Consequently, each State will establish its own eligibility requirements and benefit amounts. Although the model State legislation accompanying the proposed regulation socializes costs, each State will decide whether to spread costs broadly throughout the system or limit costs to the particular employers whose employees use this benefit.

6. Why use the UC program for this type of paid leave? Don't States have other resources available to them?

While States may have other options available to them, legislation was introduced in several States during 1999 and prior years to make individuals on various types of family and medical leave eligible for UC. The President's directive to the Department essentially requires that States be provided the flexibility -- on a voluntary basis -- to pay UC to parents who take approved leave or otherwise leave employment after the birth or adoption of a child.

The proposed regulations for this experiment, within certain parameters, leave the specifics of each State plan to its legislature, which will need to pass specific amendments to the State UC laws to authorize such payments.

7. Under what authority is the Department issuing these regulations to permit this use of UC funds? And why is the Department issuing regulations and not seeking legislation as some members of Congress have suggested?

The Department has the authority and responsibility to interpret Federal UC statutes and has done so in the past with respect to its interpretation of the UC program's requirements that beneficiaries be able to work and available for work in such areas as jury duty, temporary layoffs, illness, and training.

Therefore, in response to the President's Executive Memorandum, the Department is proposing to exercise this authority to implement an experimental program to examine the use of the UC system to provide benefits for workers who take approved leave or otherwise leave employment after the birth or adoption of a child.

8. Why is this initiative limited to parents of newborns and newly-adopted children?

In following the President's directive, the Department is seeking to assist States that may want to use their UC systems to enable more parents to be with their newborns or newly-adopted children as part of an overall interest in supporting policies which help Americans balance the responsibilities of family and work.

Data from these State experiments will help to evaluate the proposition that providing UC

to the parents of newborns and newly-adopted children who take approved leave or who otherwise leave their employment will increase their attachment to the labor force. In order to gain information on the impact of adapting the UC program to address the needs of such employees, the Department is defining the experimental program to cover the parents of newborns and newly-adopted children. This class of employees is a small, easily-defined group that can be used to test whether compensating absences from employment will assist individuals in maintaining, or even improving upon, their connection to the workforce by enabling them to better meet their parental and family needs.

The Department believes the needs of parents in balancing work and family are an important area for experimentation. States will remain free to use other mechanisms, such as separate funds or a Temporary Disability program, to reach other populations.

9. Some critics of the President's directive cite the Department's own concerns about State unemployment fund solvency as a reason not to allow States the flexibility to offer these benefits. Will these regulations undermine fund solvency?

No. The Department expects that a State will not enact changes without assessing the effect on the solvency of its unemployment fund. Each State has the responsibility to assess the cost to its unemployment fund whenever coverage, benefit expansions, or tax changes are considered within its UC program. Consequently, the Department expects prudent State decision makers to examine the State's solvency and projected taxes and benefit payments under current law before deciding to enact Birth and Adoption UC legislation.

Birth and Adoption Unemployment Compensation (NPRM) SUMMARY

Overview of Regulation: The regulation creates an opportunity for State agencies that administer the Unemployment Compensation (UC) programs to pay, under a voluntary experimental program, UC to parents who take time off from employment after the birth or placement for adoption of a child. State participation is wholly voluntary and will require States to enact enabling legislation to participate. This effort responds to the President's Executive Memorandum issued May 24, 1999, directing the Secretary of Labor to allow States the opportunity to develop innovative ways of using UC to support parents taking leave to be with their newborns or newly-adopted children and to evaluate the effectiveness of using the UC system for these or related purposes.

Congressional Interest: There is a great deal of congressional interest in this issue. Senators Kennedy and Dodd are strong advocates for compensating individuals who leave work to meet family obligations. They believe that DOL should reinterpret Federal law to allow States to compensate leave through the UC program, but are likely to find this NPRM too narrow in scope in that it provides compensation only for those leaving employment to be with newborns and newly-adopted children. They support programs which are broader, essentially providing compensation to those eligible under the Family and Medical Leave Act. In this regard, Senator Dodd introduced S. 1355 (with co-sponsors Kennedy, Leahy, Murray) which would establish demonstration projects to provide income to respond to significant family transitions. On the other hand, Representatives Archer, Ballenger, Goodling, and Johnson have written the President indicating their strong opposition; they raise such issues as implementing the program through regulations rather than legislation and using UC funds for family leave benefits, thereby pitting jobless workers against those taking voluntary leave from employment.

Summary of the Regulation

The Federal-State UC System: States collect State UC taxes used to pay compensation. The Federal government collects taxes, used for grants for State UC administration, under the Federal Unemployment Tax Act (FUTA).

Able and Available: DOL has long interpreted Federal UC law to require that claimants be able to and available for work. DOL previously exercised its authority to interpret the able and available requirements in the areas of training, illness, jury duty, and temporary layoffs. Based on this precedent, DOL interprets "able and available" to allow the an experimental the UC program where workers taking leave during the first year following birth or placement for adoption of a child are provided UC.

Experimental Program: DOL chose to proceed with an experimental rather than a permanent program in order to test the proposition that providing UC to the parents of newborns and newly-adopted children who wish to take approved leave or otherwise leave their employment will increase their attachment to the workforce. The DOL will begin collecting administrative data immediately upon implementation of the program. DOL will evaluate each State individually,

but a comprehensive evaluation will not be completed until four States have implemented legislation and operated a BAA-UC program for a minimum of three years. The Federal evaluation methodology has not yet been completed

Implementation at the State Level: States may enact legislation and begin operation of a BAA-UC program any time after the effective date of the Final Rule. States can enact legislation prior to completion of the rulemaking process, but would need a contingency provision in their legislation allowing for any necessary changes to comply with Federal regulations prior to implementation of their program. Model legislation is provided, but is optional and is for the convenience of States that choose to implement a BAA-UC program.

Legislation has been introduced in five States – Maryland, Massachusetts, New York, Vermont, and Washington – during this and prior years to provide UC to workers on some form of leave to meet family obligations. In Massachusetts and New York the bills remain in committee, while the legislatures adjourned without action in the other States. Note that legislators in New York are also considering using the Temporary Disability Insurance Program (TDI) instead of UC. Worker advocates in these States and others strongly support permitting States to use the UC program for such purposes.

Parameters in the Rule: States have wide latitude in implementing the program, but certain parameters apply:

- Eligibility. Only parents of newborns or newly-adopted children are included in the experiment. Also, states are prohibited from introducing eligibility factors unrelated to the fact or cause of unemployment, such as industry, employer size or whether the spouse of a UC recipient also receives (or has received) UC. Finally, all individuals covered by the State's UC law must also be covered for Birth and Adoption unemployment compensation.

- Timing. The first compensable week is the week in which birth or placement for adoption takes place. Weeks preceding the week of the birth or placement and weeks following the end of the one-year period are not compensable.

- Definition of "Newborns" and Newly Adopted Children: *Newborns* means children up to one-year old, and *Newly-adopted children* means children, regardless of age, who have been placed within the previous 12 calendar months with an adoptive parent(s). Placement occurs at the time a parent becomes legally responsible for a child pending adoption

Suggested Parameters in the Model Legislation and Q's and A's: DOL provides non-binding guidance on how states can set up there programs.

Model Legislation:

- Timing. UC can only be provided for a maximum of 12 weeks. (Model Leg.)
- Deductions in UC. UC paid to the parent is deducted by payments from the employer resulting from a birth or adoption described and payments from a disability insurance plan contributed to by an employer, in proportion to the employer's contribution to such plan.

- Non-charging. Compensation paid under this section shall not be charged to the account of the individual employer.
- State self evaluation. State agency shall issue a report to the governor and the legislature evaluating the effectiveness of the program.

Q's and A's:

- Payment for other Types of Leave. Payment of UC for other types of family leave is inconsistent with the program.
- Exhausting other Paid Leave. All employer-paid leave need not be exhausted before US is available.
- Solvency. While solvency not required, decision makers should examine the State's solvency position and projected taxes and benefit payments under current law before deciding to enact BAA-UC legislation.
- Both Parents. Both parent may receive UC and they may receive it at the same time. A State may not prohibit payment of BAA-UC simply because the other parent is taking leave for the same purpose.
- Eligibility. Eligibility under this program should not be based on whether an employer is required to grant the leave, but on the parent's reason for wanting to take the leave. Also, eligibility may be conditioned on whether the individual gave notice to the employer and on whether the individual chooses not to return to work.

► **Daniel I. Werfel**
10/20/99 03:21:22 PM
.....

Record Type: Record

To: Nicole R. Rabner/WHO/EOP@EOP
cc: Carole Kitti/OMB/EOP@EOP, Debra J. Bond/OMB/EOP@EOP, Stuart Shapiro/OMB/EOP@EOP, Larry R.
 Matlack/OMB/EOP@EOP
Subject: BAA-UC

FYI, to give you a sense of the timing of publishing in the Fed Reg.

The Federal Register will most likely need 4 working days from the time they get the final document. Thus, if we get it to them tomorrow AM, then the earliest publication date would be Tuesday, Oct. 26.

06/22/89 12:19 FAX 202 225 8480

WAYS AND MEANS

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COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
 WASHINGTON, DC 20515-6348

June 21, 1999

A.L. SINGLETON, CHIEF OF STAFF

JANICE MATS, MINORITY CHIEF COUNSEL

The Honorable William Clinton
 President of the United States
 The White House
 Washington, D.C. 20500

Dear Mr. President:

For six decades, American workers have had the security of knowing that if they lost their job, they could receive unemployment benefits to feed their families and pay their bills. The unemployment trust fund has proved to be an invaluable safety net for millions of workers since 1935.

For this reason, we are writing to express our strong opposition to your effort to raid this fund for purposes other than helping jobless families. Your decision allowing states to use unemployment compensation funds to provide paid family leave benefits pits out-of-work Americans against their neighbors who have jobs. This is simply wrong. It also is a direct violation of a longstanding and successful policy enacted during the administration of Franklin D. Roosevelt.

As the Committee on Economic Security said in its 1935 recommendations to Congress, the Unemployment Compensation program is intended to provide "compensation in cash for limited periods when (workers) lose their jobs." The report stated clearly that funds are "payable only for involuntary unemployment."

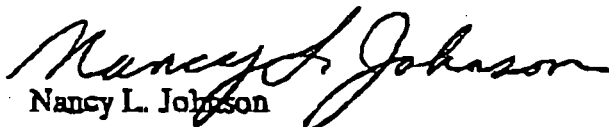
Your new policy jeopardizes this 64-year-old program by allowing its funds to be drained for other purposes. Instead of circumventing public comment through executive fiat, you should bring legislation before Congress for open and honest discussion.

06/22/99 12:19 FAX 202 225 9480

- 2 -

We hope you will reconsider a policy that clearly endangers the economic security of struggling American families.

Sincerely,



Nancy L. Johnson
Chairman, Subcommittee
on Human Resources



Bill Archer
Chairman

cc: The Honorable J. Dennis Hastert, Speaker of the House
The Honorable Alexis M. Herman, Secretary of Labor

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

May 24, 1999

May 24, 1999

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: New Tools to Help Parents Balance Work and Family

Since I became President, my Administration has worked hard to make sure that parents have the tools they need to meet their obligations at home and at work. I am proud that the very first bill I signed into law was the Family and Medical Leave Act (FMLA). Since 1993, the FMLA has allowed millions of Americans to take up to 12 weeks of unpaid leave -- without fear of losing their jobs -- to care for a newborn or adopted child, to attend to their own serious health needs, or to care for a seriously ill parent, son, daughter, or spouse. Too many American workers, however, have been unable to take the leave they need because they simply cannot afford to go without a paycheck.

Therefore, I am taking new steps toward enabling workers to take the leave they need.

First, I hereby direct the Secretary of Labor to propose regulations that enable States to develop innovative ways of using the Unemployment Insurance (UI) system to support parents on leave following the birth or adoption of a child. In addition, I direct the Secretary to develop model State legislation that States could use in following these regulations. In this effort, the Department of Labor is to evaluate the effectiveness of using the UI system for these or related purposes. In a 1996 study conducted by the Commission on Family and Medical Leave, lost pay was the most significant barrier to parents taking advantage of unpaid leave after the birth or adoption of a child. This new step will help to give States the ability to eliminate a significant barrier that parents face in taking leave.

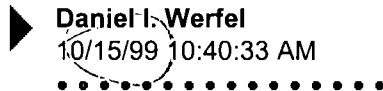
Second, I direct the Director of the Office of Personnel Management to propose government-wide regulations to allow Federal employees to use up to 12 weeks of accrued sick leave each year to care for a spouse, son, daughter, or parent with a "serious health condition," as that term is defined for the purpose of applying the FMLA. Currently, the amount of sick leave that can be used to care for a family member who is ill

is limited to 13 days each year for most Federal employees. By enabling Federal workers to use the sick leave they have earned, we will eliminate a significant barrier to caring for a family member with a serious health condition. The use of paid sick leave under this policy will be subject to the same conditions as the use of unpaid leave for these purposes under the FMLA. In particular, the same notification and certification requirements that govern the use of unpaid leave to care for a spouse, son, daughter, or parent under the FMLA will apply to Federal employees who use paid sick leave for this purpose. I believe the Federal Government has an important role to play in setting an example for the Nation.

Finally, I direct the Director of the Office of Personnel Management to establish an Interagency Family Friendly Workplace Working Group within 90 days to promote, evaluate, and exchange information on Federal family-friendly workplace initiatives. I also direct the head of each executive department and agency to appoint a family-friendly work/life coordinator to serve as a member of this Working Group. Working Group representatives will be responsible for making sure that Federal employees are aware of the full range of options available to them to meet their personal and family responsibilities (such as alternative work schedules, telecommuting, part-time employment, and job sharing). The coordinators also will provide employees with information about child and elder care resources currently available in their communities, and establish and promote parent support groups, elder care support groups, and on-site nursing mothers' programs.

WILLIAM J. CLINTON

#



Record Type: Record

To: Debra J. Bond/OMB/EOP@EOP, Carole Kitt/OMB/EOP@EOP, Nicole R. Rabner/WHO/EOP@EOP
cc: Larry R. Matlack/OMB/EOP@EOP, John F. Morrall III/OMB/EOP@EOP, Stuart Shapiro/OMB/EOP@EOP
Subject: more on progress on BAA-UC regs

I agree with Nicole that to the extent we can use the momentum gained to resolve all issues, we should. Below are DOL's latest proposals on the 2 policy issues.

----- Forwarded by Daniel I. Werfel/OMB/EOP on 10/15/99 10:39 AM -----



Bergman Terry <bergman-terry@dol.gov>
10/15/99 10:26:34 AM

Record Type: Record

To: Daniel I. Werfel/OMB/EOP
cc: Carole Kitt/OMB/EOP
Subject: more on progress on BAA-UC regs

As I indicated in my conversation this morning, we have our UI staff working on a document which reflects both our September 17 response and subsequent conversations about language. We believe this should facilitate the finalizing of language for the NPRM and will get you something as early today as possible.

On the two policy questions still on the table, we have looked at the legislative schedule of the States, and assuming that the interested legislatures will work off the NPRM, we believe that a 45-day comment period is possible. We suggest the use of 45 days with some language that the shorter comment period is to facilitate the consideration of State laws in legislatures in their next sessions. The interaction of the 60 day period and the holiday season would not provide states with any certainty on the final rule and would pose a problem.

On the other issue we have discussed, we continue to have problems with any model legislation provision which includes a solvency trigger and firmly believe that states should -- and will -- look at solvency before adopting this program. We cannot see how adding an additional state to the cost estimate has any relevance to this argument (in fact, it seems to run counter to the position that states with questionable solvency will adopt the program) and the UI staff believes that the current cost estimate is our best assessment of expected behavior of the States. In fact, if we go to 60

days, we may argue that WA and MD should be dropped from the calculations, since they will not reasonably have the benefit of a final rule prior to adjournment.

However, we do believe that additional language on solvency is prudent and I have made some changes to the Commentary Q and A which we suggested in our Sept 17 response.

Q. Will these regulations undermine fund solvency?

A. No. Experience shows that The Department expects that States will not enact changes without assessing the effect on its unemployment fund's solvency. Each State has the responsibility to assess the cost to the State's unemployment fund whenever coverage, benefit expansions, or tax changes are considered within the State's Unemployment Compensation program.

Alternatively, we could use language suggested by OMB in recent conversations --

Q. Does this regulation impose any solvency requirements upon the States before they enact BAA-UC?

A. No. The DOL has no authority to impose a solvency standard on the States. However, the DOL believes prudent decision makers in State will examine the State's solvency position and projected taxes and benefit payments under current programs prior to a decision to adopt BAA-UC legislation. Adoption of BAA-UC should not jeopardize the ability of a State to pay benefits to those eligible under current law.

Neither of these have legal force, but neither does a provision in model legislation. Either, or some combination of the two, would reflect our belief -- and state practice -- in assessing solvency prior to adopting new provisions. If you want to try some combination of these, I will run any language by our UI folks and I'm sure we can agree on something.

As I mentioned, Grace, Jerry and I are on the Hill this morning, but we have staff working on the document...we may need to discuss some type of concurrent review by our attorneys and OMB if we are to have a chance of finalizing today.

► **Daniel I. Werfel**
10/14/99 05:50:41 PM
.....

Record Type: Record

To: John Spotila/OMB/EOP@EOP, Barbara Chow/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: Need for Policy Level Meeting on Birth and Adoption Unemployment Compensation

Following discussions between OIRA, EIML, WH staff and DOL on the draft proposed rule on Birth and Adoption Unemployment Compensation (BAA-UC), we have two remaining issues that may need to be settled at the policy level:

- Period for Public Comment. DOL has requested 30 days; OMB staff has proposed 60 days.
- Language on Solvency. OMB staff has proposed a specific solvency provision in the model legislation, which DOL strongly objects to. DOL has agreed to add a discussion of solvency to the Q's and A's in the Commentary on Model State Legislation.

Analysis on each of these issues is provided below. Please let us know if you want to pursue these issues and we will set up a policy level meeting next week to resolve. The meeting would include Geri Palast (Assistant Secretary for the Office of Congressional and Intergovernmental Affairs) and Grace Kilbane (Director of the Unemployment Insurance Service) from DOL.

Public Comment

Consistent with Executive Order 12866, most NPRMs allow for a 60 day public comment period. We have asked DOL to provide compelling evidence for cutting the 60 days to 30 days. None has been provided to date.

When we first raised this issue, DOL stated that a 30 day time frame was needed if we were going to get the rule out before the end of the calendar year. At that time, DOL could not provide a compelling rationale for publishing within this time-frame (i.e. there is no statutory deadline). Now, even if we agreed to a 30 day comment period, it is likely we would not get the rule published by 12/31/99.

In light of the importance of this issue, and the attention it has received on the Hill (see letter to POTUS from Goodling and Ballenger), we believe it critical to allow for the full 60 day comment period. If any compromise is offered we would recommend 45 days.

Solvency

EIML has been emphasizing the need for a solvency provision in the NPRM. While DOL does not have the authority to put such a requirement in the regulation, they can exhort the States to take solvency into account in their decision whether or not to adopt this program.

We proposed to DOL an explicit solvency provision in the model State legislation. The provision we added would suspend any BAA-UC program adopted by a State when that State's Average High Cost Multiple (AHCM, a DOL measure of ability to pay recession-level benefits) is greater than 0.9. This level would exclude New York, which DOL has wanted to exclude from the cost estimates because they believe New York wants to do this through its temporary disability program, not UI.

As expected, DOL opposes such an explicit provision. They presented several objections:

- DOL does not want to encourage States to exclude UI claimants when States are facing solvency problems. This could send a signal to the States about their core UI programs. DOL would much prefer that States revisit their tax structures, instead of restricting benefits as States have done in the past when there were solvency concerns.
- Use of an AHCM of 0.9 would look like a new standard for solvency. This would undercut the Administration's efforts (e.g., the UI solvency incentive proposed in the Budgets for FYs 1999 and 2000) to press States toward an AHCM of 1.0. However, use of a 1.0 level in the EIML solvency provision would eliminate Maryland and possibly Massachusetts, which DOL does not want to do.
- The AHCM is a lagging indicator and may not capture steps that States are taking to improve their solvency.

Based on other discussions with DOL staff, they clearly support improved solvency. However, in terms of the NPRM, they would hope that a State's solvency debate takes place before a BAA-UC program is designed and adopted, not to use solvency to suspend the program after it is adopted. Furthermore, the provision under question is only in the model legislation; DOL has no authority to impose solvency requirements in the regulation.

Message Copied To:

Amy Squires/OMB/EOP@EOP
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Debra J. Bond/OMB/EOP@EOP
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John F. Morrall III/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Nicole R. Rabner/WHO/EOP@EOP

National Partnership
for Women & Families

July 8, 1999

Dear Friend of Family and Medical Leave:

We are writing to invite you to participate in the National Partnership's Campaign for Family leave Income, our exciting new initiative to make family and medical leave more affordable and accessible for America's working families. As you know, during the six and a half years since the Family and Medical Leave Act was enacted, job-protected family and medical leave has helped millions of Americans fulfill their work and family responsibilities. Yet too many families still cannot take advantage of family and medical leave because they cannot afford to take unpaid leave. In fact, as you may be aware, the bipartisan Family Leave Commission found that nearly two-thirds of employees who needed but did not take leave in 1994-95 cited lost wages as the reason why they did not. When employees did take FMLA leave, the lack of wage replacement often resulted in significant financial hardship, forcing nine percent of all leave-takers, and 12 percent of women leave-takers, onto public assistance.

To address this serious problem, the National Partnership for Women & Families recently launched the **Campaign for Family Leave Income** -- the first-ever national campaign to provide income during family and medical leave. This Campaign will build upon creative solutions to the problem of unpaid leave that have already begun to emerge in many states across the nation, including California, Iowa, Maryland, Massachusetts, Minnesota, New Jersey, New York, Vermont, and Washington. For instance, advocates and policymakers in several of these states have proposed *family leave insurance* -- expanding unemployment compensation or disability insurance to provide partial wages during periods of family and medical leave. This approach has the support of an overwhelming majority of American women and men. Other innovative approaches might include covering family leave under private disability insurance programs, creating subsidies for new parents who take time off, or offering tax credits to make family leave more affordable.

The goal of our Campaign is to facilitate and catalyze family leave income efforts both in the states and at the federal level. We laid the foundation for the Campaign when we convened an invitational meeting of state legislators, advocates, and researchers last December to brainstorm about strategies for promoting family leave insurance during the 1999 state legislative sessions. Building on the success of that meeting, our Campaign is designed to:

- link state and national networks of advocates, policymakers, and researchers;
- coordinate multidisciplinary research on how to provide income during family leave and the social and economic impacts of doing so;
- disseminate information about the need for family-leave income and possible solutions to that need; and
- advocate for supportive policies at all levels of government.

URGENT CALL TO ACTION

On May 23, 1999, President Clinton announced that he was directing the U.S. Labor Department to issue regulations clarifying that states could offer unemployment benefits to employees taking leave to care for newborn or newly adopted children. The President's directive has revitalized existing family leave income efforts and is generating new interest in family leave income legislation. At the same time, however, opponents have been very vocal in criticizing this use of unemployment insurance. **Now it's up to us to make our voices heard in support of the President's directive.**

Here's what you can do to make the Administration aware of your support: Write letters of support to President Clinton and Labor Department Secretary Alexis Herman, and urge your members, supporters, friends, and family to send letters of support as well. Please feel free to use the sample letters we've included with our "Call to Action," or refer to our web site at **www.nationalpartnership.org** and click on "Support the President's call for family leave to be more affordable."

Your support is essential in encouraging the Administration to continue helping states to provide family leave income.

For more information, please contact the National Partnership for Women & Families, 1875 Connecticut Avenue, NW, Suite 710, Washington, DC 20009, (202) 986-2600, or refer to the National Partnership's web site at www.nationalpartnership.org.

Show your support for the President's recent directive to the Secretary of Labor on family leave by sending the following two letters to the President and Secretary Herman:

1. Thank You Letter to President Clinton
e-mail address: president@whitehouse.gov

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Clinton:

I write to praise your recent directive to the Secretary of Labor to issue a rule to enable states to offer unemployment insurance to employees who are taking family leave. This is a forward-thinking initiative that supports innovative approaches to the problem of people being unable to afford to take family leave even when their families need them most.

A large majority of Americans --79% --support this approach. And, several states are already considering using unemployment insurance to cover family leave.

Providing family leave income through state unemployment insurance systems makes good common sense. By spreading the risk across the entire workforce, employers would pay only a fraction of the cost of paid leave: in Massachusetts, a mere \$1.25 per employee per week. In fact, most states have surpluses in their unemployment funds; in Massachusetts, for example, the surplus is anticipated to be enough to cover the entire cost of adding family and medical leave, with no additional cost to employers at all. And because state unemployment systems are already in place, administrative costs would be negligible. Businesses already comply with both unemployment laws and the Family and Medical Leave Act (FMLA), and research shows that meeting FMLA requirements has cost little or nothing for the overwhelming majority of employers.

Too many Americans simply cannot afford to take time off when their families need them most. According to the bipartisan Family Leave Commission, nearly one in ten employees who takes family or medical leave is forced onto public assistance while on leave. As a society, we must find ways to help people care for their families and keep their jobs. Compared to higher welfare, health care, and nursing home costs, not to mention lower productivity and higher turnover for employers, it is a small price to pay.

Thank you for showing your commitment to women and families through this important initiative.

Sincerely,

[YOUR NAME] [CITY, STATE]

CAMPAIGN FOR FAMILY LEAVE INCOME

The National Partnership for Women & Families' **Campaign for Family Leave Income** is the first national campaign to help more working people afford time off when their families need them most. After leading and winning the fight for the Family and Medical Leave Act (FMLA), the National Partnership is now committed to building a new social movement to solve the problem of unpaid leave.

Drafted by the National Partnership in 1984 and enacted in 1993, the FMLA is the first national policy designed to help working people fulfill both their work and family responsibilities. It has been a great success, allowing millions of families to care for their loved ones without putting their jobs at risk. *But because the FMLA guarantees only unpaid leave when a new baby arrives or a medical crisis strikes, too many women and men are still unable to take essential time off.*

Research shows that lost wages are the primary reason why people do not take needed family or medical leave. Not surprisingly, lower-income families have the least access to any compensation during leave, such as paid sick days or vacation time, with devastating implications for the poorest families. According to the latest data available, nearly one in ten of all FMLA users is forced onto public assistance while on leave. The problem is so serious that in 1996, the bipartisan Family Leave Commission called for consideration of a "uniform system of wage replacement during periods of family and medical leave" that would be affordable for employers and employees alike.

Across the nation, concerned advocates, policymakers, and researchers have started taking a closer look at ways to provide family leave income. Promising proposals in several states would allow people on unpaid leave to qualify for unemployment insurance or state disability insurance. Other innovative approaches include covering family leave under private disability insurance policies, creating subsidies for new parents who take time off, or offering tax credits to make family leave more affordable. A 1998 survey found that an overwhelming majority of Americans support "family leave insurance" programs.

The National Partnership's **Campaign for Family Leave Income** unites these emerging efforts for the first time, bringing together a wide range of experts and state and national organizations representing women, children, families, senior citizens, caregivers, people with disabilities, business, and labor. Launched in June 1999, this multi-year campaign has six components:

- ◆ **Research:** coordinating a cross-disciplinary, multi-year research agenda to create and test new models for providing family leave income.
- ◆ **Clearinghouse:** maintaining a comprehensive inventory of information on family leave income proposals, activities, and related research.
- ◆ **Advocacy:** developing and supporting a range of state, national and private-sector policies that increase access to family leave income.
- ◆ **Public Education:** creating materials and opportunities for the public, press, and policy-makers to learn about family leave income efforts around the country.
- ◆ **Family Leave Income Network:** supporting a rapidly expanding network of state and national advocates, policymakers, and researchers sharing information, strategies, and resources.
- ◆ **Advisory Committee:** enlisting distinguished experts and leaders from across the nation to provide ongoing input to the Campaign.

For more information about the **Campaign for Family Leave Income**, including a list of Advisory Committee members, a round-up of state proposals, and the latest news and research, please see our web site (www.nationalpartnership.org) or contact us at 202/986-2600 or info@nationalpartnership.org.

AMERICANS SUPPORT FAMILY LEAVE INSURANCE

findings from *Family Matters: A National Survey of Women and Men**

A large majority of Americans think it's important to make family leave more affordable. They support the creation of state family leave insurance programs that would help working people make ends meet while on leave to care for new babies or sick family members. This support crosses lines of sex, age, family structure, income, race, and political affiliation, with especially strong support among women and among people under age 45.

We asked: "Some states are considering proposals that would establish Family Leave Insurance. They could do this by expanding unemployment or disability insurance to provide partial wages when people need to take time from work to care for a newborn or a newly adopted child; to care for a seriously ill parent, child, or spouse; or to recover from their own serious illness. Would you *strongly* favor, *somewhat* favor, *somewhat* oppose, or *strongly* oppose that proposal?"

Findings: Large and consistent majorities FAVOR family leave insurance, including:

All Americans	79%	Women	82%
		Men	75%
Americans under age 45	84%		
Americans age 45 and over	74%		
Democrats	85%	Women only	86%
Republicans	71%	Women only	75%
Independents	79%	Women only	83%
Dem. Women under age 45	89%		
Rep. Women under age 45	91%		
Ind. Women under age 45	91%		
People with Children at Home	82%	Women only	86%
People w/out Children at Home	77%	Women only	80%
Parents Working for Pay	83%	Women only	89%
Parents not Working for Pay	80%	Women only	81%
Working People w/out Children	81%	Women only	85%

* a nationally representative survey of 740 women and 375 men conducted for the National Partnership for Women & Families by Lake Sosin Snell Perry & Associates, February 1998.



National Partnership for Women & Families

FAMILY LEAVE INCOME CAMPAIGN ADVISORY COMMITTEE (in formation)

Affiliations listed for purposes of identification only.

Hon. Jan Backus

Vermont Senate

Helen Blank

Children's Defense Fund

Ann Bookman, Ph.D.

College of the Holy Cross

Ellen Bravo

*9 to 5, National Association of
Working Women*

Betty Carlson

*Family Resource Coalition of
America*

Kathleen Casavant

Massachusetts AFL-CIO

Hon. William L. Clay

U.S. House of Representatives

Justin Dart, Jr.

Justice For All

Hon. Rosa DeLauro

U.S. House of Representatives

Hon. Christopher Dodd

U.S. Senate

Donna Dolan

*Communications Workers of
America, AFL-CIO*

Maurice Emsellem

National Employment Law Project

Jeff Faux, Ph.D.

Economic Policy Institute

Netsy Firestein

Labor Project for Working Families

Ellen Galinsky

Families and Work Institute

William A. Galston

*School of Public Affairs, University
of Maryland*

Mary Ellen Gornick

The CPA Group

Stanley Greenspan, M.D.

*George Washington University
Medical School*

Monica Halas

Greater Boston Legal Services

Hon. Harriet Harman

Member of Parliament, U.K.

Heidi Hartmann, Ph.D.

*Institute for Women's Policy
Research*

Dorothy Height, Ph.D.

National Council of Negro Women

Wade Henderson, Esq.

*Leadership Conference on Civil
Rights*

Sylvia Ann Hewlett, Ph.D.

National Parenting Association

Betty Holcomb

Working Mother Magazine

Gail Hunt

National Alliance for Caregiving

Hon. Patricia Jehlen

*Massachusetts State
Representative*

Linda Johnson

*Massachusetts Women's Statewide
Legislative Network*

Sheila B. Kamerman, Ph.D.

*Columbia University School of
Social Work*

Hon. Edward M. Kennedy

U.S. Senate

Deborah King

*New York Union Child Care
Coalition, AFL-CIO*

Carol Levine

*Families and Health Care Project,
United Hospital Fund*

Joan Lombardi, Ph.D.

*Bush Center in Child Development
and Social Policy, Yale University*

Hon. Carolyn Maloney

U.S. House of Representatives

Joel Marks

American Small Business Alliance

Jay Mazur

UNITE, AFL-CIO

Suzanne Mintz

*National Family Caregivers
Association*

Ann Mosle

Center for Policy Alternatives

Hon. Patty Murray

U.S. Senate

Hon. Eleanor Holmes Norton

U.S. House of Representatives

Karen Nussbaum

*AFL-CIO Working Women's
Department*

Paul Osterman, Ph.D.

*The Sloan School of Management,
MIT*

Deborah Phillips, Ph.D.

*National Research Council/Institute
of Medicine, The National Academies*

Paula Rayman, Ph.D.

Radcliffe Public Policy Institute

Robert B. Reich

Brandeis University

Judith Riggs

Alzheimer's Association

Sheli Z. Rosenberg

Equity Group Investments, Inc.

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AARP

Gail S. Shaffer

*Business and Professional
Women/USA*

Jan Schneiderman

National Council of Jewish Women

Patricia A. Shiu

*Employment Law Center, A Project of
the Legal Aid Society of San
Francisco*

Michael Sirotkin

Sirotkin and Necrason

John Sweeney

AFL-CIO

Faith Wohl

Child Care Action Campaign

Hon. Lynn Woolsey

U.S. House of Representatives

Edward Zigler, Ph.D.

*Department of Psychology,
Yale University*

Nancy Zirkin

*American Association of University
Women*



National Partnership *for Women & Families*

Kathleen Duffus
Boston, MA

FAMILY LEAVE
-- FATHER WITH A SERIOUS HEALTH CONDITION

According to Kathleen Duffus:

Kathleen Duffus worked at a Boston financial services company for eight years, starting at an entry level position and advancing to controller of the brokerage division. She resigned in December of 1998 to take her current position at the Alzheimer's Association of Eastern Massachusetts.

In 1991, at age 56, Ms. Duffus' father, Donald A. Duffus Sr., was diagnosed with Alzheimer's disease. Alzheimer's is a progressive, degenerative disease that attacks the brain and results in impaired memory, thinking, and behavior. For the next eight years, Ms. Duffus was one of her father's primary caregivers. This role was both emotionally painful and time-consuming, as her father lived an hour and a half away. Some of her responsibilities involved choosing an appropriate adult day health program and later a nursing home for him; meeting with nursing home staff; attending to his finances; taking him to doctor's appointments; going to court to be appointed his co-guardian; and providing regular one-on-one care. Balancing her work with caring for her father proved difficult. There were many times when Ms. Duffus needed to take leave from her job at the financial services company to care for her father.

Ms. Duffus was aware of the unpaid leave guaranteed her by the Family and Medical Leave Act (FMLA), although it was not widely discussed at her workplace. However, as a single woman living alone, she depended on her salary and could not afford to take the unpaid leave the FMLA offered. From the time of her father's diagnosis in 1991 until his death in March 1998, Ms. Duffus was forced to limit her leave to her vacation time, approximately three weeks every year, to care for her father.

Although Ms. Duffus is grateful that her vacation time allowed her to care for her father, and also that her company gave her some flexibility, she feels that if paid family and medical leave had been available to her, it would have allowed her to take better care of both herself and her father.

"During the time when my dad was sick, which was over a period of eight years, I had a lot of responsibilities and demands put upon me from both family and work. A lot of this time I felt like I was in crisis mode, working in overdrive, and struggling with being so far away from my dad. It definitely took a toll on me. Paid family and medical leave would have allowed me to plan a little better for things, and it also would have given me more time with my dad," said Ms. Duffus. "Paid family and medical leave is a win-win situation. It helps out the caregiver, which in turn helps out the businesses, as the person can be more productive when he or she is at work."

Ms. Duffus can be reached through the Alzheimer's Association of Eastern Massachusetts at (617) 868-6718.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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001a. paper	re: personal story of Helen (1 page)	n.d.	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
QA/Box Number: 19580

FOLDER TITLE:

NPRM [Notice of Proposed Rulemaking] Re: UI [Unemployment Insurance] - Leave [2]

2013-0436-S

rc1308

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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001b. paper	re: personal story of Deborah (1 page)	n.d.	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 19580

FOLDER TITLE:

NPRM [Notice of Proposed Rulemaking] Re: UI [Unemployment Insurance] - Leave [2]

2013-0436-S

rc1308

RESTRICTION CODES

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STATE FAMILY LEAVE INCOME INITIATIVES: *Making Family Leave More Affordable*

Around the country, activists for women, children, seniors, and working families are organizing to make family leave more affordable through *family leave income*. Efforts have been undertaken in at least nine states to provide family leave benefits. For example, many states are considering expanding unemployment or disability insurance to provide some pay during periods of unpaid family and medical leave.

- ◆ Most Americans – fully 82% of women and 75% of men – support such “family leave insurance” proposals.*

Currently, the federal Family and Medical Leave Act (FMLA) guarantees covered employees 12 weeks of *unpaid* leave each year to care for a newborn or newly adopted child or seriously ill family member (family leave), or to recover from their own serious health condition (medical leave). The FMLA was an essential step toward recognizing Americans' work and family responsibilities. However, because FMLA leave is unpaid, many employees cannot afford to take time off at the very time their families need them most.

- ◆ The bipartisan Family Leave Commission found that nearly two-thirds of employees who needed but did not take family or medical leave cited lost wages as the reason.**

Existing public and private responses are limited. For instance, five states (as well as Puerto Rico) require employers to offer temporary disability insurance (TDI), which provides partial wage replacement to employees who are temporarily disabled for non-work-related reasons, and many employers voluntarily offer TDI as an employee benefit. While TDI covers disabilities arising from pregnancy or childbirth, TDI currently offers no benefits for employees who take leave beyond the period of maternal disability, or take leave for paternity, for adoption, or to care for seriously ill family members. Although the five states with TDI systems employ 22% of working Americans, employees in other states have no such coverage guarantees.

To make family leave more affordable for more Americans, state legislators, activists, and researchers are mobilizing behind a range of innovative proposals. Attached is a sampling of current state efforts.

* National Partnership for Women & Families, *Family Matters: A National Survey of Women and Men*, 1998.

** Commission on Leave, *A Workable Balance: Report to Congress on Family and Medical Leave Policies*, 1996.

MINNESOTA

Since July 1998, a state-funded, at-home infant child care program has allowed working parents who fulfill income eligibility requirements to receive subsidies for caring for infants under the age of one.

Contact: Cherie Kotilineck
Department of Children, Family and Learning
(651) 582-8562

NEW JERSEY

A bipartisan bill introduced in the 1998 legislative session proposed to extend New Jersey's statewide TDI system to cover family leave. The bill would also have established a task force to study the impact of family leave benefits on workers, their families, employers, and the general public.

Contact: Laurel Brennan
New Jersey AFL-CIO
(609) 989-8730

Meryl Frank
New Jersey Coalition for
Family & Medical Leave
(732) 247-3561

NEW YORK

A dedicated group of labor unions is generating support for family leave insurance in New York. A bill has been introduced to amend New York's TDI law to cover employees taking family leave.

Contact: Assemblywoman Catherine Nolan
Attention: Geri Riley
Counsel for Labor Committee
New York State Assembly
Office of Program and Counsel
(518) 455-4311

Deborah King
New York Union Child Care Coalition,
AFL-CIO
(212) 494-0524

VERMONT

A bill was introduced in the 1999 legislative session to authorize unemployment benefits for employees who take family or medical leave.

Contact: State Senator Jan Backus
(802) 655-7455

Michael Sirotkin
Vermont AFL-CIO
(802) 658-6951

- more -

CAMPAIGN FOR FAMILY LEAVE INCOME

National Partnership for Women & Families

1875 Connecticut Avenue, NW, Suite 710

Washington, DC 20009

202/986-2600 (phone)

202/986-2539 (fax)

I am interested in supporting the Campaign for Family Leave Income.

Please check all that apply:

- Please add me to your mailing list for updates on the Campaign. I understand that I will generally receive updates by e-mail if I list my e-mail address below.
- I would like you to put me in contact with other people in my state who are working on family leave income initiatives.
- I would like to start a family leave income initiative in my state.
- I have needed paid leave, or know someone who did or does, and would like someone from the National Partnership to contact me.

Organization: _____

Name: _____

Address: _____

Phone: _____

E-mail: _____

Fax: _____



Carole Kitt

11/12/99 10:11:00 AM

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Subject: DOL Developing Plan to Allow States to Use Unemployment Funds to Back Family Leave

----- Forwarded by Carole Kitt/OMB/EOP on 11/12/99 10:11 AM -----

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Regulation, Law & Economics

Employment

DOL Developing Plan to Allow States to Use Unemployment Funds to Back Family Leave

The Labor Department is poised to propose regulations aimed at encouraging states to develop ways of using their unemployment insurance systems to support parents taking leave to care for newborns or newly adopted children.

The proposed regulations, which will be published in the "near future," would permit states to adopt legislation establishing a "demonstration-kind" of program to determine if providing unemployment insurance to otherwise eligible individuals who have given birth to or adopted a child "strengthens their connection to the workforce," Henry L. Solano, solicitor of labor, told BNA Nov. 10. The unemployment insurance program has been deemed by President Clinton as an "appropriate vehicle within which to test" this currently "unresolved matter," Solano explained.

President Clinton first outlined the plan for making family and medical leave more affordable for employees in a May 23 commencement speech at Grambling State University in Grambling, La., issuing an executive memorandum a day later directing Labor Secretary Alexis M. Herman to issue a rule to allow states to use their unemployment insurance systems to offer paid leave to new mothers and fathers. Clinton also directed the Labor Department to develop model state legislation that states can follow.

Business Opposition

The plan immediately was greeted by opposition from the business community, which maintains that allowing workers who are on family or medical leave to collect unemployment insurance would undermine the federal/state unemployment program. House Republicans joined in criticizing the plan, with both Reps. William Goodling (R-Pa.), chairman of the Education and the Workforce Committee, and Bill Archer (R-Texas), chairman of the Ways and Means Committee, complaining that the proposal would pit the unemployed against those workers that have jobs.

The business community "will litigate any proposal by the Department of Labor to change the fundamental

purpose" of the unemployment insurance system by allowing those who are not able and willing to work to collect benefits, Eric J. Oxfeld, president of UWC-Strategic Services on Unemployment & Workers' Compensation, a business advocacy group, told BNA Nov. 10. Describing the pending proposal as both contrary to the Federal Unemployment Tax Act and the Family and Medical Leave Act, Oxfeld argued that "allowing the misuse" of unemployment compensation benefits for family and medical leave will "shred the safety net" the UI system is intended to provide.

"Grafting onto the unemployment insurance system the wholly alien responsibility to finance and deliver paid family and medical leave to workers who by definition have jobs and are not available for employment will financially and administratively burden the UI system and those whom it sustains," Oxfeld maintained during an oversight hearing on the FMLA last July. Similar concerns have been raised by the nonpartisan Congressional Research Service, which last June questioned whether the Labor Department has the authority to allow states to offer unemployment compensation to applicants who fail to meet the requirement that UI recipients be "able and available for work."

The authority of the secretary of labor "to allow the use of UI for FMLA workers will likely depend on whether courts will look solely" to the relevant statutory language or whether the UI program's "legislative history and historical interpretation will be considered," the June 15 CRS memorandum said. The memorandum pointed out that the language of the unemployment compensation statutes--the Social Security Act and the Federal Unemployment Tax Act--does "not appear to answer the question of inclusion of FMLA coverage in state programs."

Past DOL Interpretation at Odds

If, however, "the legislative history is considered, and the historical interpretation of the UI program by the Department of Labor followed, it may be difficult to show that a worker on FMLA leave meets the requirements of being involuntarily unemployed and willing and able to work," according to CRS. In such a case, CRS said, Clinton's proposal "could arguably be seen as violative of the scope and purpose of the UI program, particularly the FUTA provision that the UI fund be used solely for unemployment compensation."

The Labor Department has published numerous interpretations directing state unemployment agencies to deny unemployment compensation to workers who are voluntarily unemployed or who are unwilling and unavailable for work, according to CRS, and most state laws provide unemployment compensation to those workers who involuntarily lose their employment for reasons other than misconduct and who are willing and available to work. "The objection to allowing UI for workers on FMLA leave is that they are voluntarily, not involuntarily unemployed, and not willing and available to work when they are on FMLA leave," according to the CRS memorandum.

Solano, however, argued that there is "no connection" between the upcoming UI proposal and the FMLA, a 1993 law that requires employers of 50 or more employees to provide up to 12 weeks of unpaid leave a year for the care of seriously ill family members, the birth or adoption of a child, or an employee's own serious health problem. The Labor Department proposal, the solicitor explained, would allow states the flexibility to determine that employees who are not available and able to work due to the birth or adoption of a child are eligible for UI benefits.

State Legislation Necessary

This flexibility could only be offered "pursuant to substantive legislation adopted at the state level," Solano emphasized. Consistent with the general structure of the federal-state UI program, the proposal leaves it up to individual states to determine if they want to participate in the demonstration project, Solano said. This is "not a mandate," he said. Massachusetts, Vermont, Maryland, and Washington have explored legislative proposals similar to the one coming from DOL.

Solano likened the upcoming proposal to a situation in the mid-1960s when the Labor Department allowed states to adopt programs permitting individuals participating in "state sanctioned training" programs to receive unemployment insurance benefits. The latest proposal "can be a very parallel program," he said, observing that Congress ultimately codified changes allowing a link between participation in training and receipt of UI benefits. ❖

By Deborah Billings

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