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ABSTRACT

This report presents testimony concerning the Family and Medical Leave Act of 1989. The bill establishes a basic, minimum labor standard, ensuring job protection to workers who need time off to care for themselves or their family members. The testimony covered the following topics: personal experiences of people whose employment was affected after a leave of absence necessitated by pregnancy or the care of a seriously ill family member; effects of the bill on small businesses and on the employment of women; the need for government to support policies that protect families; the contents of the Family and Medical Leave Act; the importance of the bill for the parent-child relationship; facts related to parental leave; costs of family and medical leave; the need for small business to have the power to provide flexible benefits; the effects of the bill on the nation's economic growth and on public school operation; caregiver profiles; job growth at the state level for states that have implemented family leave policies; and methods of recourse available to employers. (RJC)

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HEARING ON H.R. 770, THE FAMILY AND MEDICAL LEAVE ACT OF 1989

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HEARING

BEFORE THE

SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, FEBRUARY 7, 1989

Serial No. 101-2

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HEARING ON H. R. 770, THE FAMILY AND MEDICAL LEAVE ACT OF 1989

TUESDAY, FEBRUARY 7, 1989

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in Room 2261, Rayburn House Office Building, the Honorable William Clay [chairman] presiding.

Members present: Representatives Kildee, Hayes, Sawyer, Murphy, Miller, Visclosky, Roukema, Arney, Fawell, Ballenger, Petri, and Grandy.

Chairman CLAY. The hearing will come to order. We have a problem with the microphones and we have sent for an electrician, but we will get started.

Today, is the fifteenth day of Family and Medical Leave Act hearings to take place in Congress over the past five years. I am looking forward to the testimony of our distinguished witnesses today who I am sure will add to the impressive record we have accumulated.

But after today's hearing, I hope we can move forward quickly to bring the bill before the full House of Representatives. After five years, the time has come to put the issue before the Congress for a vote.

The case for minimal job protection: at times of great family need gets stronger each year. Last year, approximately four million Americans were denied family or medical leave. Hard working employees are increasingly forced to choose between retaining their jobs and caring for their families; this is a terrible choice for anyone to have to make.

Congress has responded in the past to pressing workplace problems by enacting a minimum wage, a minimal pension plan, social security and other labor standards. Today the time has come to enact a minimum leave standard to address a dramatic new fact about American families, that the vast majority of adult family members today work outside of the home.

The Family and Medical Leave Act was introduced for the third consecutive Congress on February 2. It is the same bipartisan compromise measure that was reported by the Education and Labor Committee last year.

A total of 138 of our colleagues have signed on as cosponsors. I would like to personally commend the ranking member of this sub-

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committee, Marge Roukema, and the others, for making the consideration of this bill a truly bipartisan effort. Today, we have some very distinguished witnesses and we will get to them in a second, but I am sure there are several opening statements.

Mrs. Roukema, do you have an opening statement?

Mrs. ROUKEMA. I hope you can all hear me. I will try to project my voice as well as possible and I will confine my remarks, Mr. Chairman, assuming you will give unanimous consent to have the full context of my remarks in the record.

Chairman CLAY. Without objection, so ordered.

Mrs. ROUKEMA. We have an array of witnesses here today, both for and against, pro and on, on this legislation. I wanted to leave ample time to them.

It is not a new subject to us. We have had extensive hearings in the past and, of course, at both subcommittee and full committee, we have debated this issue. I want to thank you, Mr. Chairman, and I want my colleagues to know, my Republican colleagues on this subcommittee, that Chairman Clay has extended every courtesy to us in terms of arranging for this hearing.

We have been given the opportunity to have all responsible groups who have requested to testify on this bill an opportunity to be heard today and I do want to thank you for that. You have been eminently fair.

I want to say to those in the audience that I have made every effort here to make this a bipartisan bill. As the architect of the compromise, working cooperatively with Mr. Clay, Mrs. Schroeder and others on the subcommittee, I believe that we have fully dealt with the competing needs of both working families and the small business community.

If there is an area that we have neglected, I would trust that that would come out today. But I want to say to you that I have worked extensively with the business community and I understand that some of them have philosophical objections to this bill as a federal mandate or minimum standard, if you will, and I respect those philosophical differences.

I take the practical approach that this is a minimum standard of benefits for America's working families. It is fundamentally a job security issue in respect to the changes in the workforce. In that regard, I believe that it is not radical, nor is it inconsistent with traditional labor standards in this country it is consistent in the same way that, as working conditions have changed, labor law has kept pace with the changing workforce whether it be child labor laws, anti-sweat shop codes, minimum wage laws, and health and safety standards. I believe this is in that tradition.

Finally, Mr. Chairman, I would like to recognize that we have a new member on our committee, and I am happy to note that several other members from last year have continued on with us on the committee—why, I am not sure, because we have not made life pleasant for them—but I appreciate their support on other issues. I do want to welcome Mr. Fred Grandy of Iowa here as a new member of the subcommittee.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Marge Roukema follows:]

STATEMENT OF THE HONORABLE MARGE ROUKEMA
FEBRUARY 7, 1989
HEARING
FAMILY AND MEDICAL LEAVE ACT
SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS

MR. CHAIRMAN, WE HAVE A DISTINGUISHED GROUP OF WITNESSES WITH US TODAY WHO WILL GIVE US THE BENEFIT OF THEIR VIEWS BOTH IN SUPPORT OF AND IN OPPOSITION TO THE FAMILY AND MEDICAL LEAVE ACT.

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO THANK YOU, MR. CHAIRMAN, FOR YOUR COOPERATION AND KINDNESS IN HELPING TO ENSURE THAT THIS HEARING IS A BALANCED REFLECTION OF THE VIEWS OF THOSE MOST CONCERNED WITH FAMILY AND MEDICAL LEAVE.

FAMILY AND MEDICAL LEAVE IS THE SINGLE MOST IMPORTANT JOB SECURITY ISSUE OF OUR DAY. IT IS A MINIMUM FEDERAL LABOR STANDARD IN THE TRADITION OF THE MINIMUM WAGE, CHILD LABOR AND WORKER HEALTH AND SAFETY LAWS, AND THOSE ESTABLISHING THE 40-HOUR WORK WEEK. FAMILY AND MEDICAL LEAVE IS THUS IN NO SENSE A RADICAL "MANDATED BENEFIT." CLEARLY, FROM TIME TO TIME IN THE HISTORY OF OUR COUNTRY, WE HAVE CREATED MINIMUM LABOR STANDARDS IN RESPONSE TO THE LEGITIMATE NEEDS OF THE AMERICAN WORKER.

THE NEED FOR FAMILY AND MEDICAL LEAVE IS VERY APPARENT. THE AMERICAN WORKFORCE HAS CHANGED DRAMATICALLY. TODAY, OVER 50 MILLION WOMEN WORK OUTSIDE THE HOME, COMPRISING OVER 44 PERCENT OF THE NATION'S WORK FORCE. THE VAST MAJORITY OF ALL MOTHERS HOLD DOWN JOBS OUTSIDE THE HOME, AND INCREASINGLY, THEY ARE MOTHERS OF YOUNG CHILDREN. FULLY TWO-THIRDS OF THESE WORKING WOMEN ARE SINGLE PARENTS; ONE THIRD OF WOMEN WITH WORKING SPOUSES ARE MARRIED TO MEN WHO EARN LESS THAN \$15,000 PER YEAR.

SIMPLY PUT, IT NOW TAKES TWO WAGE EARNERS TO SUSTAIN THE SAME STANDARD OF LIVING THAT ONE INCOME COULD PROVIDE JUST 15 YEARS AGO. THESE FAMILIES ARE NOT GETTING RICH. THEY ARE GETTING BY.

IT IS TIME TO STOP PAYING LIP SERVICE TO FAMILY VALUES. IT IS TIME TO PASS THE FAMILY AND MEDICAL LEAVE ACT. OUR HEARING TODAY WILL PROVIDE FURTHER EXPOSITION OF THE PROVISIONS OF THE BILL, AND HOPEFULLY CLARIFY AREAS OF AGREEMENT AND DIFFERENCES BETWEEN SUPPORTERS AND OPPONENTS OF THE LEGISLATION.

Chairman CLAY. Thank you. We welcome you to the committee. I did not see you sitting over there until after she had started speaking. Welcome to the committee.

Are there any other opening statements?

(No response.)

Thank you. Our first witness this morning, who we are privileged to have, is the chief sponsor of this bill, the prime mover and, of course, the national spokesperson for the legislation. We are honored to have The Honorable Pat Schroeder to testify. If you have a prepared statement, it will be inserted; otherwise, you may proceed as you so desire.

STATEMENT OF THE HONORABLE PATRICIA SCHROEDER

Ms. SCHROEDER. Thank you, Mr. Chairman, and thank you, wonderful members of this committee. I feel guilty even showing up here again. You have incredible patience with me and I also feel like you are the choir.

I think it is wonderful that the newest member of your committee is also a new parent, because I am sure that he gets parental leave more than most of us do.

I really feel that an awful lot of what is in my formal testimony has been said so many times. I think that I have said it so many times, especially to you, in the long, intensive hearings that you have had over the years. I want to especially thank Congresswoman Roukema, who has tried so hard to make this bipartisan.

You are absolutely right. This should not be a partisan issue. She has gone out and tried so hard to talk to the business community and has gotten battered. I have been there to see her battered many times over and over.

I really think you have tried to listen and take so many of their concerns into account. I just hope we really deal with the real bill. I hear so many things about this bill that are not in the bill. Let's talk about what is in the bill; let's not talk about what somebody thinks is in the bill, but the real language.

Let me just say a couple of things. I think this is terribly important because it says that the United States is now going to make it okay for you to be a good employee and a good family member. For so long, we have said you could not be both. We have to find a way to be both, because in our economy, almost everybody is in that dual role.

To carry on the myth that you should not have a family unless you can afford it in the old Ozzie and Harriet way of someone staying home and taking care of the children, means we are going to die out. Let's be perfectly honest.

Let's also go head-on on the competitiveness issue. The competitiveness caucus of this Congress is taking on this issue. I know Marge and I are very proud of that. They are taking this issue and they are showing every country that has done way more than we have done on family medical leave, and showing how much more competitive they are.

Now, if we, as Americans, are going to say we are such wimps that we can't do much less than what they are doing and still com-

pete, then I think that is pretty pitiful. Let's take on that competitiveness issue the way the competitive caucus has taken it on.

They have found that when people can put their family life in a secure role and feel there is some support for them, that they are much better and much more competitive employees. I am very proud of that.

Let's also talk about how important this is to child care. I do not care who you are, no one has figured out how to do good infant child care. It takes an awful lot of money to do infant child care and we are still not sure that that is good, because most of the studies show the child is much better off, as a very small infant, with the parent.

The Family and Medical Leave Act is really infant child care in the best form, the highest quality. This is where we should be. So many of the things that are making parents neurotic today, those studies saying, "Oh, child care may not be good", often are directed back to the infant stage where they have not had any choice.

When I go around talking about this issue, I have parent after parent coming up to me telling some horrendous story about their having to go back to work and they will probably never do it again and how badly they feel about it. We should not put people into that "your baby or your job" mindset. That is what this bill assures.

It says you can have a baby and not be fired, that you have got ten weeks to stabilize that situation, and that is very critical. I think, too, we have got to move forward on the other part of child care. We have got to have quality child care.

I am a product of child care, not that my parents wanted to put me in child care, but it was the war. My Dad got called up. My Mom was a teacher, and she got called up, so I got sent to child care. But luckily, my mother had time to stay home and stabilize the situation with me. Maybe that is what is wrong with me, I am not sure. I should not blame my mother, should I?

I think it is a very important thing to point out, that kids can go through child care if it is quality and come out very, very well, for heaven's sake, but still, those very, very important early months just cannot be duplicated no matter what we spend or what we do.

What you are doing here is guaranteeing everybody a good chance and a good foundation. That, I think, is absolutely essential when you look at our economy today. Thank you for taking on the myth that you should not have a family unless you can afford it, in the 1950's sense of an Ozzie and Harriet family.

Thank you for taking on the myth that women can stay home and take care of their children. They want to. They want to desperately, but if they are staying home and taking care of the children in many parts of the country, it will cause the repossession of their house.

Let's be perfectly honest: The cost of the American dream has gone straight up and salaries have not kept pace. That is a sensitive issue here today. I knew I would get the chairman's attention. We are going to need parental leave right here in the Congress, I can tell, very shortly.

I want to thank you again for having the hearing. I am going to turn it over to this panel, who can say much better as to why this

is needed than I can, because you have heard from me much too much. Do you want to introduce the panel? I do not have the names of everyone here. Do you have that, Congressman Clay? I thank you for doing it.

[The prepared statement of Hon. Patricia Schroeder follows:]

STATEMENT OF THE HON. PATRICIA SCHROEDEF (D-CO)
BEFORE THE SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS OF
THE COMMITTEE ON EDUCATION AND LABOR
TUESDAY, FEBRUARY 7, 1989

I am pleased to be here today to testify about the need for federal legislation on family and medical leave. Three years ago, I first introduced a family leave bill in the House, and the conditions that inspired the bill have only intensified. The number of working parents increases every day, but we continue to fail to provide them the essential support they need to be both good workers and good parents.

The Family and Medical Leave Act of 1989 is part of the remedy for this failure. The bill establishes a basic, minimum labor standard, ensuring job protection to workers who need time off to care for themselves or their family members. The bill's message is clear: Our society should place a high value on human resources, and invest in people both at the workplace and in the family. We should trust our citizens to make good choices about their priorities.

You will hear today from business community witnesses, who will try to convince you that federal labor standards are not necessary, and that employers can be trusted to protect the interests of their workers by providing necessary benefits. Well

let me just say that if that were true, there would be no need for this bill. There are many companies that provide good leave policies to their employees, but most don't. Some companies have developed truly model programs, but you could probably count them on two hands. Federal involvement is necessary to ensure that having job protected leave is not random; that it's not simply a function of who you work for. Family and medical leave is a basic right that should be available to all working people.

You will also hear today from these same representatives of employers that the Family and Medical Leave Act poses a hardship for small businesses: They claim it will reduce productivity, raise the cost of doing business, and ultimately reduce competitiveness. But if you read the act you will see that most small businesses are exempted, and that these fears are really unfounded.

When I first introduced the bill in 1985, it would have applied to businesses with five or more employees. In my state of Colorado, that would have meant that 58 percent of employers would have been exempt from coverage. Even still, the Chamber of Commerce and other business interest groups thought the bill was too punitive to small businesses. So, we compromised. And we compromised. And we compromised. . . until finally, in the current bill, all businesses with less than 50 employees are exempted for the first three years. After three years, the

exemption drops to 35.

Nationwide, a 50 employee exemption would mean that 98 percent of all businesses employing 60 percent of all employees would not be covered by the bill. In Colorado, 96 percent of all businesses employing 60 percent of all workers would be exempt. Mr. Chairman, in your state of Missouri, the numbers are similar: 95 percent of businesses and 60 percent of the workforce would not be covered. Congresswoman Roukema, in your state of New Jersey, the numbers are identical. So, the claim that this bill hurts small businesses is erroneous.

This may be the first time Congress wrote a labor standards bill that exempted over 90 percent of all businesses!

Finally, critics of FMLA will say that the bill is too expensive. But a recent GAO study indicates conservatively that the bill will cost less than \$188 million per year for all employers for the first three years, and \$212 million per year when the small business exemption drops to 35 employees. Moreover, businesses with model family and medical leave programs find that it saves them money in recruitment and retention costs.

Those of us who conceived this bill continue to be sensitive to the needs of small business in America, for they employ most of our workforce. We've even included a requirement in the bill

that a study be conducted to measure the effect of the legislation on small businesses. But by now, we've compromised as much as is reasonable and still make sure we have a meaningful bill.

Employers have been too slow to respond to real changes going on in the work and family life of a majority of American households. The growth of single parent families, two-earner families, and the aging of the population challenge the old ways of doing things. The assumption of one wage earning male, one homemaking female, and two children of opposite sexes, on which our image and our policy of families has been based for so long, no longer is accurate. Rather than continuing to ask families to adapt to inflexible work structures, it's time to ask the workplace to adapt to the diversity of family structures. Family and medical leave is only one, but a very important, way to begin.

Thank you very much.

Chairman CLAY. I will introduce them and acknowledge them. Beverly Wilkenson of Atlanta, Georgia; Joan Curry of the District of Columbia, and Loretta King, owner, Engineering and Office supply Corporation of Bryan, Texas.

Welcome to the committee. Your prepared statements will be included in the record without objection, and you may proceed as you see fit. Beverly Wilkenson, yes?

STATEMENTS OF LORETTA KING, OWNER, ENGINEERING AND OFFICE SUPPLY CORPORATION, BRYAN, TEXAS; JOAN CURRY, DISTRICT OF COLUMBIA; LINDA DORIAN, ENGINEERING AND OFFICE SUPPLY CORPORATION, BRYAN, TEXAS; AND BEVERLY WILKENSON, ATLANTA, GEORGIA.

Ms. WILKENSON. My son could not be here today, but I did bring a picture. He is real and he is getting bigger.

Chairman CLAY. Without objection, we will include the photograph in the record.

Ms. WILKENSON. I lost my job when I had a baby. I was working for a large Atlanta-based cooperation. This company has branch offices in most major cities of the United States.

I worked in the Finance Division of Rollins Acceptance Corporation, a division of Rollins, Inc. I started out in 1978 as an audit clerk at approximately \$600 a month and worked my way up to a senior secretary by 1983 to a gross salary of approximately \$18,000 a year.

I was 34 years old when I had my child, the only child I will ever have.

I submitted my request for a maternity leave of absence. I asked for and was granted five weeks of maternity leave without pay and two weeks accrued vacation with pay.

On Thursday, February 17, 1983, I went to work—putting in a nine-hour day, not knowing that this would be the last time I would ever walk through the doors of the company that I had thought of for over five years as a second family. I had been fed propaganda by Rollins for years in the statement, "We are a family-oriented company."

I talked with people from my office weekly, sometimes two or three times a week. At no time was there ever a hint that my job would not be waiting for me. On Friday, April the 8th—excuse me. I skipped my son being born.

On February 18, 1983, my son was born. My life could not have been more complete. I had a wonderful husband, a beautiful new son and a great job I was to return to in April.

On Friday, April 8th, I received a phone call from the comptroller of my division at approximately 4:00 p.m. He informed me that my job had been eliminated and there would be no need for me to report to work on Monday morning. I seriously doubted this statement, since secretarial positions, such as the one I held, most certainly had not been eliminated.

He then made a statement to me that I will never forget. "Beverly, the best thing for you to do is stay home and take care of your baby and collect your unemployment."

I was stunned. I felt betrayed. I had invested five years of my life in this company. I had helped it grow from a ten person division to a division of over forty people. I went through a mourning period. The loss of my job could not have hurt me any more than if I had lost a part of my family.

I thought about the matter for several weeks. But the determining factor was the one thing that kept popping up in my mind. What if I had chosen to be a single parent? There I would be with a baby and no way to support myself. I did not want another woman to go through the kind of anguish I had been put through. I was lucky I did not have to make that choice.

I was aware that the Pregnancy Discrimination Act provides that an employer with a disability leave program cannot discriminate against women with a pregnancy-related disability. Since my employer did have a disability leave program, I filed a charge with the EEOC.

After five long frustrating years of waiting, I finally lost my case in court. According to the EEOC in a letter to Senator Fowler, I lost because Rollins offered to let me come back to their office and be retested for other positions, just as if I was someone who had walked in off the street.

According to the evidence, something is not right somewhere, but more to the point, the protection of the PDA is very narrow and applies only in limited circumstances, when an employer happens to provide disability leave. Clearly, PDA does not begin to provide the basic protections provided by the FMLA.

If the Family and Medical Leave Act had been law, I would not have lost my job. Many companies like the one I was employed by do have leave of absence policies that include maternity leave, but if they change the rules in mid-stream, there is nothing and no one to stop them. Our conservative government most certainly does not.

Some of our newly elected officials are saying, "No more legal abortions", and these are the same elected officials that are also saying, "No" to a federal family and medical leave policy. Possibly, it is more advantageous to them to just bulldoze their way through, leaving the American families bruised and bleeding behind.

From this, I am led to believe that our government does not care about the American family. A woman should not have to choose between her job and becoming a mother, and a couple should not be punished for becoming a family.

Looking for employment is never easy, even under the best of circumstances, and child care is expensive. The average child care cost in the country is three thousand dollars a year. That is hard enough to pay when you are working; it is impossible to pay when you are not. You cannot go on a job interview with a baby on your lap.

Our government has lost sight when it comes to the working family. As a working mother, I have very little representation in this matter. As a member of 9 to 5, I have learned that cases such as mine are happening more and more often. Women have been brainwashed by large companies that this is just the way it is, and that we have to accept this part of being a woman.

Well, we do not. We do not have to accept that having a child means having to start over in a new career. Little by little, we are letting the corporate world know that we can and we will fight back. We must bring our public policy in line with the current reality of the 1980s, when a two-income family is the norm, not the exception.

World peace is something everyone wants. Why can't we start with peace of mind for the American family and go forward from there? Our future lies in the hands of the children of today, the policy makers of tomorrow.

Don't vote out our future—the children of today and tomorrow. Thank you.

Chairman CLAY. Thank you.

Ms. Curry.

Ms. CURRY. Good morning everyone. My name is Joan Curry and my mother is 71-years-old and her name is Mrs. Ida Curry. She is a victim of Alzheimer's Disease. I am an only child and I am totally responsible for my mother's care.

Caring for my mother has been difficult, extremely difficult, perhaps even more difficult than necessary. That is why I am here today to tell you of the difficulties that I encountered, so that hopefully, you can forcefully support the Family and Medical Leave Act to ease the burdens of millions of other sons and daughters who, like myself, are struggling to make sure their parents live a quality life to the end.

Alzheimer's Disease currently afflicts 2.5 million Americans over the age of 65 and it is important to realize that the disease also affects the family members of its victims with its serious emotional and medical costs.

Some of my problems as my mother's caregiver are of a personal nature, and that is the sadness in knowing that the shared memories of family triumphs and agonies that bonded us together were slowly fading from my mother's memory, or knowing how to reduce the anxieties that my mother experiences when she cannot accept the fact that she is no longer the trail-blazing career woman she once was. She was quite a dynamic woman at that time.

My mother had been living on her own in New York, but with the Alzheimer's disease, she eventually was unable to take care of herself, so I had to move her from the house to my apartment here in Washington, DC, so that she could be with me. It was a big adjustment for both of us.

I had never cared for an elderly person and, as a result, I learned mostly by trial and error. At the time my mother first came here to Washington, I was working at a major Washington, D.C. university as a nine-to-five clerk.

Mother needed specialized care. I knew very little about Alzheimer's Disease at that time or about taking care of my mother. As a novice care giver, it was difficult to find support help for me and a doctor and day care center to meet my mother's needs.

Imagine how impossible it was for me to make my mother's arrangements and to hold down a job at the same time. Yet, I needed to work for income and for the tie to the real world that it provided. I could have afforded to rearrange my work schedule or to take

a few weeks of unpaid leave if necessary, if I knew that my job would be held open for me.

Phone calls to doctors and to day care centers needed to be made during working hours. I also sought information on the proper home care. Such agencies usually required that the social service workers visit the home during the week, once again from nine to five.

Other time consuming business matters were relegated to the same hours—talking to insurance companies, dealing with my mother's bank and other financial institutions. I was facing a short-term family crisis of locating and arranging safe care for my mother.

In the beginning, when my mother first arrived and before I arranged for appropriate care, my mother was home alone all day. She was experiencing periods of hyperactivity and hallucinations. She would call me at work to say that she was about to leave the apartment to attend a work-related meeting and, worse yet, she never realized that she had retired.

Fearing the worst, I would rush home to make sure that she was not wandering off. Some mornings, I was late to work when my mother insisted on staying home from day care unless she located her purse or because she was convinced that she had a doctor's appointment or a job-related meeting.

Given my competing responsibilities, I had not had the opportunity to learn that there were special medications to control her hallucinations or her hyperactivity or that there were local support groups or in-home day care or in-home care agencies rather than day care.

During the early months as a novice care giver, I had to take long lunches to find permanent day care for my mother or to take her to the doctor. I had explained my situation to my supervisor and I thought we had an understanding.

I was experiencing the nightmare of wanting to do my best. Incidentally, my father had deceased back in 1973, so my mother was a widow. I wanted to provide the best responsible care for my sick mother and I wanted to provide top quality productivity to my employer. Unfortunately, I could not have both. I was told to resign from my job, because my supervisor felt that my morning tardiness and long lunch breaks were negative influences on my coworkers.

The feeling of rejection and failure that stems from being told to leave a job is an incredible strain, but the fact that I was honestly trying to do my best made it even worse. I enjoy working and being productive, but, even more, I could not afford to be out of work.

After losing my employment, I spent several months out of work with no health insurance coverage. In fact, my situation eased up with time as I found the proper medication for my mother and the proper care. Now, my mother is in a residential home for Alzheimer's patients.

The Family and Medical Leave Act would have given me the time and reduced the stress in learning how to properly handle my mother's care. Most times, care giving responsibilities cannot be carried out without the understanding of an employer and time off from work.

This is one of the reasons why I decided not to pursue legal related work after I finished law school, for fear that I would lose my job, especially for the responsibilities that the job would require, plus taking care of my mother.

In closing, I think that the Family and Medical Leave Act can really help many people who are facing the heartbreaking situation of caring for a parent who is slowly deteriorating from a disease like Alzheimer's. Please think of them, the Alzheimer's parents and people, and vote in favor of the bill.

I would also like to submit into the record a statement by the Older Women's League in support of the elder care provision of the bill.

Chairman CLAY. Without objection, it is so ordered.

[The prepared statement of the Older Women's League follows:]

OLDER WOMEN'S LEAGUE

NATIONAL OFFICE

STATEMENT OF LOU GLASSE, PRESIDENT OF THE OLDER WOMEN'S LEAGUE,
IN SUPPORT OF THE FAMILY AND MEDICAL LEAVE ACT, H.R. 770

BEFORE THE LABOR-MANAGEMENT RELATIONS SUBCOMMITTEE
OF THE EDUCATION AND LABOR COMMITTEE
OF THE U.S. HOUSE OF REPRESENTATIVES

ON FEBRUARY 7, 1969

The Family and Medical Leave Act, H.R. 770, is a very important piece of legislation for the Older Women's League (OWL), a national grassroots organization which represents the interests of midlife and older women.

We are the older woman who needs care, the adult daughter who is the caregiver, the mother caring for her sick or disabled child, the wife caring for her sick spouse, and the woman caregiver herself who is more likely to become seriously-ill from neglecting her health to care for others.

Truly intergenerational in its approach, the Family and Medical Leave Act would provide employees, such as Joan Curry who has testified before the Subcommittee, with that much-needed job security in times of serious illness.

National surveys estimate that there may be 2.2 million caregivers of seriously-ill adults in the United States. Three out of every four are women. And estimates vary from one in every three up to one in every two caregivers being employed outside the home.

As a society, we have always depended upon families to provide the bulk of the care given to the elderly. Currently, only one in five of the elderly are living in nursing homes. The remaining 95% continue to live in the community largely due to the unpaid assistance of wives and daughters.

Medicare cost containment policies that require earlier discharge from the hospital and do not underwrite significant nursing home care have shifted a greater caregiving burden onto the family.

And now, we are asking these women to not only care for the elderly, but also support the family financially. Women are working not for 'pin money,' but to provide the income families need for food, shelter, and health care.

Nearly two-thirds (64%) of women aged 45 to 54 years old--those most likely to have parents needing care--were in the labor force in 1984, and this percentage will increase in the future.

750 Eleventh Street, NW ♦ Suite 400 ♦ Washington, DC 20004 ♦ Telephone: 202/462-1100

Given the ever increasing conflict between work and family, either our public policies must change or our family structure will crumble under the stress.

The job protection provided by the Family and Medical Leave Act is particularly important to midlife and older women workers. In general, these women will have a more difficult time re-entering the workforce after losing a job, and they are the ones who can least afford to lose their health insurance coverage or have a break in earning pension or social security credits.

Certainly, spouse caregivers are the ones most in need of the job protection, since with one spouse seriously-ill a steady flow of income and health insurance coverage is essential to the family's well being.

The Older Women's League will work with other aging organizations to amend the bill so that a spouse would no longer be forced to 'choose' between losing her job or caring for her seriously-ill husband.

The bill is straightforward. The issue is simple. No worker should lose their job to care for a seriously-ill child, parent, or spouse. We urge Congress to swiftly pass the Family and Medical Leave Act, as a comprehensive package for all families.

Chairman CLAY. Mrs. King.

Ms. DORIAN. Good morning, Mr. Chairman. My name is Linda Dorian and I am the Executive Director of Business and Professional Women, U.S.A. I will be delivering Mrs. King's testimony; because of weather conditions in Texas, she was unable to be here to deliver it in person.

Chairman CLAY. Thank you.

Ms. DORIAN. Good morning. My name is Loretta King and I am the owner of the Engineering and Office Supply Corporation in College Station, Texas. As a member of the Federation of Business and Professional Women's Clubs (BPW/USA) and the local Chamber of Commerce and as a registered Republican, I would like to thank Representative Clay for the opportunity to present testimony in support of the Family and Medical Leave Act to the House Education and Labor Committee, Subcommittee on Labor-Management Relations.

I purchased and own, with my husband, a business that primarily is involved in the sales of office furniture and supplies. We bought the business in 1971 and now gross between four and five million annually and employ 49 people.

As you have no doubt noticed, our business is located in Texas, which as everyone knows has suffered severe economic difficulties in the past several years. I mention this because the employee benefits I am about to describe have been provided to our employees in good times and bad—and the loyalty they have inspired has given our business a workforce that stuck with us when times were toughest.

As a small business owner, it all comes down to one unalterable fact: I know that I have a major investment in each and every one of my employees. This investment is even more important because my business is a service-oriented business in which people can and do make all the difference.

I take pride—and have found success—in the manner in which both my customers and my employees are treated. Both of these affect my bottom line. So benefits like family and medical leave—which I know from experience make for happy, productive employees and loyal employees—is a business issue. But it is also a quality of life issue.

We offer several benefits, which are outlined in detail in my complete testimony. I will not delineate those benefits in the oral testimony I am delivering.

Equally important, and of particular interest to the committee today, are several unwritten benefit policies we also offer. I say "unwritten" because these benefits are not spelled out in our policies and procedures manual; however, that manual does have one very important clause that says that in catastrophic or special circumstances, management has the discretion to provide additional benefits.

For example, in the case of parental leave, our employees tell us how long they want to work before having their baby, and when they want to come back to work. Their job is left open while they are gone, and they take as much as three months of unpaid parental leave. Once an employee has returned to work, we allow them

to work on a flex time schedule to help them deal with the crazy schedule faced by many working parents.

We also have provided on many occasions unpaid long-term medical leave. Again, this is not a written policy, but we work with every individual employee to work out a system that is best for all.

Let me give you some specific examples of occasions when our medical leave policies have helped us retain some highly valued, long-term employees. Our chief buyer and our head bookkeeper were both off work—not at the same time, thankfully—for back-to-back surgeries.

Both were off for about three months, and we provided paid medical leave for them for the entire three months and kept their jobs open while they were gone. We did it because they were valuable employees. Our buyer, for example, had been with us for twelve years; our chief bookkeeper, likewise, was a long-term employee.

Let me give you another example. A gentleman who handles warehousing and distribution for us was faced several years ago with a family situation that required him to periodically take time off. His mother had suffered a stroke and he had to see her through that medical emergency and then get her settled into an appropriate skilled nursing facility.

Eventually, she passed away. This was a sad and exhausting time for him, and when he needed to be off work, we simply let him take that time. At the time, he had been with our company 22 years, and we could not even contemplate any other course but to try to make this time as painless for him as possible.

Fortunately, we have tried to prepare for circumstances in which an employee would be away from the office for an extended period of time. For every job in our company, at least two people are trained as back-ups. So, if an employee does need to be gone, it is less disruptive for us since we have one or two people ready to step in right away.

Sometimes the people stepping in to cover for absent employees are my husband and myself. Business owners who do not plan ahead to accommodate these kinds of situations with their employees simply are not smart business owners. Any business can absorb this kind of employee leave with little or no disruption of their normal operations if they just plan ahead.

We did not establish any of these benefits by eliminating others. Our total benefit package—both written and unwritten—has allowed us to be very flexible with our employees in meeting their individual, special needs.

In fact, I am convinced that our flexibility has resulted in less employee turnover, which, as you can guess, is usually high in retail businesses. Of my 49 employees, thirty percent have been employed by us for more than twelve years. Another thirty percent have been with us for five to twelve years. So, more than half our employees have been with us a long, long time.

This has been invaluable to our efforts on the sales floor and has enabled me to retain more mature individuals who deal with the public and are often the first impression a customer may have of my business. There is no way to put a dollar figure on what these mature, well-trained employees have meant to our company's bottom line, but I know they must be in the "plus" column.

I know this must sound like the ideal situation, but the business environment in which we have operated for the past several years in Texas has been anything but ideal. It has been tough, and I don't know any fellow business owners who haven't had to drastically reduce their overhead to compensate for the sagging Texas economy and we are no exception.

We simply made a commitment to reducing overhead in ways that would not force us to take it out on our employees. We resolved not to impose salary freezes, not to cut benefits, and not to cut staff. Three years ago, we had eighty employees; we have 49 now as a result of attrition and are finally in a position to consider hiring new people again. But I know that if I had not had long-standing employees who had stuck with me, I wouldn't have made it.

When employees have been treated fairly, they will rally on your behalf when trouble arises. My employees took it upon themselves to try harder when they dealt with customers.

In closing, I would like to address some of the opposition to this bill which have been voiced by those who purport to speak for people like me—the small business owners of this country. First, they claim that family and medical leave legislation would stifle job creation in this country. This is simply not so.

A study by 9-to-5, the National Association of Working Women, on the impact of family and medical leave on small businesses found that "family and medical leave policies are strongly associated with small business job growth at rates that are higher than that of all states."

The study found that parental leave policies had "no negative effect on small business growth in states which enacted such such policies between 1976 and 1986. In fact, parental leave policies were associated with high job growth in the small business sector."

9-to-5 also reported that "there is a positive association between a high rate of women's labor force participation and employment growth in all size firms." This last finding is especially noteworthy to me, a business owner who knows that workforce studies predict that women and minorities will fill most of the new jobs by the year 2000.

Second, they cite case studies of small business owners who stoutly claim that, if family and medical leave legislation were enacted, they would stop hiring anyone under forty years of age, or, to translate, women in the prime parenting years.

In response to this, I would like to first point out that it is illegal to engage in discrimination in hiring based on age or gender. And secondly, if this organization refrains from hiring employees under forty, or women of child-bearing age, who exactly do they propose to hire, when it is exactly these people who will fill most of the jobs in the next decades?

Third, these so-called protectors of the small business owner claim that there are only so many dollars to go around in a small business, including dollars that go to benefits. Well, that is certainly true. There are only so many dollars to go around and, as I explained earlier, I had to trim overhead in the past few years like many other business owners in the struggling Texas economy.

I trimmed that overhead; I made the best use of the few dollars I had and I did it without cutting benefits. I cut my expenses in other ways, including a personal pay cut, and other employees can do likewise. If you are a smart business owner, you can always find other things to cut when the situation calls for a reduction in overhead. Benefits should not be—and need not be—the first to go. My business is living proof of that.

Finally, some small business advocates claim that family and medical leave legislation would result in the “Europeanization” of the American workplace, with an inevitable, subsequent slowing of job growth. Now, I do not know about all this Europeanization business. But I do know that, as Texans, my employees and I work hard, we pull together, and we treat each other like individuals with individual needs that must be addressed. I can’t think of anything more American than that.

It all goes back to how you treat your employees. I have been good to my employees all these years and they stood by me when times were tough. My husband and I did not inherit our business, nor did we inherit the money with which we bought it. We have never forgotten how we liked to be treated when we worked for “the other guy”, and it paid off.

Our business survived, and today our business is strong and growing stronger all the time. Our employees had a lot to do with that. As the Texas economy continues to rebound and my company grows, so will the benefits I give my employees. I give these benefits as a good employer and a smart businesswoman, and I give them with the understanding that this is exactly the way I would expect to be treated if I were an employee.

All of this is more than a source of pride. It is good business. I hope that by passing the Family and Medical Leave Act, Congress will ensure that all business owners will learn the secret to my success. Thank you.

[The prepared statement of Loretta King follows:]

TESTIMONY TO
THE HOUSE EDUCATION AND LABOR COMMITTEE
SUB-COMMITTEE ON LABOR-MANAGEMENT RELATIONS

ON

FAMILY AND MEDICAL LEAVE ACT

PRESENTED BY

LORETTA KING
OWNER, ENGINEERING AND OFFICE SUPPLY CORPORATION
COLLEGE STATION, TEXAS

ON BEHALF OF

THE FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

Good morning. My name is Loretta King, and I am the owner of the Engineering and Office Supply Corporation in College Station, Texas. As a member of the Federation of Business and Professional Women's Clubs (BPW/USA) and the local Chamber of Commerce, and as a registered Republican, I would like to thank Representative Clay for the opportunity to present testimony in support of the Family and Medical Leave Act to the House Education and Labor Committee Subcommittee on Labor-Management Relations.

I purchased and own, with my husband, a business that primarily is involved in the sales of office furniture and supplies. We bought the business in 1971 and now gross between \$4-5 million annually and employ 49 people. As you have no doubt noticed, our business is located in Texas, which as everyone knows has suffered severe economic difficulties in the past several years. I mention this because the employee benefits I am about to describe have been provided to our employees in good times and bad -- and the loyalty they have inspired has given our business a workforce that stuck with us when times were toughest.

As a small business owner, it all comes down to one unalterable fact: I know that I have a major investment in each and everyone of my employees. This investment is even more important because my business is a service-oriented business in which people can

and do make all the difference. I take pride -- and have found success -- in the manner in which both my customers and my employees are treated. Both of these affect my bottom line. So benefits like family and medical leave -- which I know from experience make for happy, productive employees -- is a business issue. But it's also a quality of life issue.

We offer the following benefits -- which are outlined in writing in our policies and procedures manual:

1. Company-paid life insurance and company-funded retirement plan.
3. Company-paid health coverage. We also offer dependent coverage on a payroll-deduction basis to cover the additional costs of family coverage.
3. A 401k savings plan
4. Paid vacation time of one, two or three weeks per year, depending on how long an employee has been with us.
5. One week of paid sick/personal leave per year. We were careful to use the words 'sick/personal,' so an employee could take a day off for personal matters, whether he or she was sick or not.
6. Paid bereavement leave and paid time off for jury duty.
7. Seven paid holidays each year
8. Discounts on purchases of company merchandise
9. I also sponsor three all-company parties each year.

These benefits are important to our employees and have been specifically designed to make them aware of the value we place on their role in our business. Equally important, and of particular interest to the committee today, are several unwritten benefit policies we also offer. I say "unwritten," because these benefits are not spelled out in our policies and procedures manual; however, that manual does have one very important clause that says that in catastrophic or special circumstances, management has the discretion to provide additional benefits.

For example, in the case of parental leave, our employees tell us how long they want to work before having their baby, and when they want to come back to work. Their job is left open while they are gone, and they can take as much as three months of unpaid parental leave. In fact, some employees want to come back to work right away, and I try to encourage them to take a little extra time to rest, heal and get to know their baby; I want them to understand that they don't need to rush back to work too early for fear that their job will be gone if they don't. In addition, once an employee has returned to work, we allow them to work on a flex time schedule to help them deal with the crazy schedule faced by many working parents.

We also have provided on many occasions unpaid, long-term medical leave. Again, this is not a written policy, but we work with individual employees to work out a system that is best for all.

Let me give you some specific examples of occasions when our medical leave policy has helped us retain some highly valued, long-term employees. Our chief buyer and our head bookkeeper were both off work -- not at the same time, thankfully -- for back-to-back surgeries. Both were off for about three months, and we provided paid medical leave for them for the entire three months and kept their jobs open while they were gone. And we did it because they were such valuable employees. Our buyer, for example, at the time had been with us for 12 years. Our chief bookkeeper, likewise, was a long-term employee.

Let me give you another example. A gentleman who handles warehousing and distribution for us was faced several years ago with a family situation that required him to periodically take time off. His mother had suffered a stroke, and he had to see her through that medical emergency and then get her settled into an appropriate skilled nursing home facility. Eventually, she passed away. This was a sad and exhausting time for him, and when he needed to be off work, we simply let him take that time. At the time, he had been with our company 22 years, and we couldn't even contemplate any other course but to try to make this time as painless for him as possible.

Fortunately, we have tried to prepare for circumstances in which an employee would be away from the office for an extended period of time. For every job in our company, at least two people are trained as back-ups. So, if an employee does need to be gone, it

is less disruptive for us since we have one or two people ready to step in right away. Sometimes the people stepping in to cover for absent employees are my husband and I. For example, when the chief buyer was out, we were in a bind. Even though we had a back-up ready, buying is such a complex job that the substitute was a little overwhelmed. So, my husband stepped in. When the head bookkeeper was ill, her three-person department carried on the business of the office, while I went in personally to supervise. When our warehouse man was out, everybody just pitched in to help. That's just the way our business operates. And business owners who don't plan ahead to accommodate these kinds of situations with their employees simply are not smart business owners. Any business can absorb this kind of employee leave with little or no disruption of their normal operations if they just plan ahead.

we did not establish any of these benefits by eliminating others. Our total benefit package -- both written and unwritten -- has allowed us to be very flexible with our employees in meeting their individual, special needs. In fact, I am convinced that our flexibility has resulted in less employee turnover, which, as you can guess, is usually high in retail businesses. Of my 49 employees, 30 percent have been employed by us for more than 12 years. Another 30 percent have been with us for five to 12 years. So, more than half our employees have been with us a long, long time. This has been invaluable to our efforts on the sales floor and has enabled me to retain more mature individuals

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I know this must sound like the ideal situation. But the business environment in which we have operated for the past several years in Texas has been anything but ideal. It's been tough, and I don't know any fellow business owners who haven't had to drastically reduce their overhead to compensate for the sagging Texas economy. And we were no exception. We simply made a commitment to reducing overhead in ways that would not force us to take it out on our employees. We resolved not to impose a salary freeze, not to cut benefits and not to cut staff. Three years ago, we had 80 employees; we have 49 now as a result of attrition and are finally in a position to consider hiring new people again. But I know that if I hadn't had long-standing employees who had stuck with me, I wouldn't have made it. When employees have been treated fairly, they will rally on your behalf when trouble arises. My employees took it upon themselves to "try harder" when they dealt with customers. My employees put themselves on a cost-conscious budget. They put in a supply cabinet stocked with leftovers from everyone's desk drawers and used the pens and other supplies there before they pulled new supplies off the shelf. My warehouse staff coordinated their delivery routes to cut vehicle expenses. And.

as the owner, I took a substantial pay cut. As employees left the company and were not replaced, those who remained took on additional responsibilities. The examples of how we all pulled together goes on and on.

In closing, I would like address some of the opposition to this bill which has been voiced by those who purport to speak for people like me -- the small business owners of this country. First, they claim that family and medical leave legislation would stifle job creation in this country. This is simply not so. A study by 9-to-5, the National Association of Working Women, on the impact of family and medical leave on small businesses found that "family and medical leave policies are strongly associated with small business job growth at rates that are higher than that of all states." The study found that parental leave policies had "no negative effect on small business growth in states which enacted such policies between 1976 and 1986. In fact, parental leave policies were associated with high job growth in the small business sector." 9-to-5 also reported that "there is a positive association between a high rate of women's labor force participation and employment growth in all size firms." This last finding is especially noteworthy to me, a business owner who knows that workforce studies predict that women and minorities will fill most of the new jobs created by the year 2000.

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And finally, some small business "advocates" claim that family and medical leave legislation would result in the "Europeanization" of the American workplace, with an inevitable.

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NEW EVIDENCE SHOWS FAMILY LEAVE POLICIES HELP SMALL BUSINESS GROWTH

While some have speculated that parental leave policies might hurt job creation in small businesses, a new study has proven the opposite that family leave policies actually benefit small businesses.

FINDINGS :

Comparing states with family leave policies already in place to states without such policies, the report concludes:

- * Total employment in parental leave states grew by 46 percent compared to 38 percent in non-parental leave states.
- * Employment in firms with fewer than 20 employees grew by 32 percent in parental leave states compared to 22 percent in states without parental leave
- * Employment in firms with fewer than 50 employees grew by 36 percent in parental leave states compared to 27 percent in non-parental leave states.
- * There is a positive association between a high rate of women's labor force participation and employment growth in firms of all sizes. For every 1 percent increase in the average labor force participation rate of women, there is a 3 percent increase in employment growth

BACKGROUND ON THE STUDY:

*The states without family leave policies were chosen for the study because they received a high ranking by Grant Thornton, Inc., the international accounting and management consultant firm, as states with the best general climate for business growth because of their anti-regulation stance. They are Indiana, Tennessee, North Carolina, South Dakota, Florida, Missouri and Nebraska. The states with family leave policies were chosen because their policies had been in place since 1984. They are California, Colorado, Connecticut, Kansas, Massachusetts, Montana and Washington.

*"New Workforce Policies and the Small Business Sector: Is Family Leave Good For Business?" was released this month by 9 to 5, the National Association of Working Women, in conjunction with the National Federation of Business and Professional Women's Clubs, Inc., BPW/USA, 9 to 5 and BPW/USA, support the Parental and Medical Leave Act, S 2488

*The study was conducted by Roberta M. Spalter-Roth of the Institute for Women's Policy Research and John Willoughby of the Economic Department at American University. Copies can be obtained from 9 to 5, 614 Superior Avenue, NW, Cleveland, OH 44113 (216) 556-9308.

Chairman CLAY. Thank you. I think the statement very well sums up what the residual benefits can be for companies given the parental leave legislation that we are proposing.

Mrs. WILKENSON, we often hear the criticism that this bill will only benefit those in the upper middle income bracket, because they are the only ones who can afford to take advantage of it. Has that been your experience and is that your understanding?

Mrs. WILKENSON. My understanding and my own experience is that this bill will benefit everyone, not just the middle or the upper income, but everyone.

Chairman CLAY. Are you in the upper income bracket?

Mrs. WILKENSON. I guess I am in the middle income.

Chairman CLAY. Middle income. They are saying that unless you are in the upper or middle income, even if you wanted to take advantage of it, you would not be able to afford it. However, you wanted to take advantage of it.

Mrs. WILKENSON. I wanted to take advantage of it. We are a two-income family, my husband and I, and we can get by on one, and that is getting by.

Chairman CLAY. Just getting by?

Mrs. WILKENSON. Just getting by. You want the little extras for your child. I do not think that a woman should put off having a child or even be denied having a child or deny herself the right to have a child because they cannot afford to do without her salary for six weeks or eight weeks and then she has no way of knowing that she has a job.

If you know ahead of time that you are going to be out of work for six to eight weeks, you can plan ahead. There are little things that you can do, and knowing that job is there to count on. You should not be punished for wanting to have a child.

Chairman CLAY. Thank you. Mrs. Roukema.

Mrs. ROUKEMA. I seem to have missed the size of the business, Ms. Dorian.

Ms. DORIAN. Forty-nine employees.

Mrs. ROUKEMA. Forty-nine?

Ms. DORIAN. And it grosses four to five million a year.

Mrs. ROUKEMA. I think the statements here speak for themselves. I would just like to make a couple of comments. Mrs. Schroeder alluded to the price of the American dream. I think all three of you, by virtue of your presence, the types of jobs and businesses that you run, have indicated that this is not simply an issue for high-priced employees. Indeed, high-priced employees work for companies that have personnel policies far in excess of this minimum benefit that we are talking about.

I would like to add to what Mrs. Schroeder has said with a couple of statistics, and I think this goes to the other side of the coin. I would caution the business community that they not dwell on the question of whether or not only high-priced employees can benefit, because then the conclusion one must come to is that we have to provide paid leave and we do not want to get into that right now.

But for those of us in this room, I want you to know that we are not talking, in this bill, about people who are on necessarily terrific career paths. The facts, the data, and this is Department of Labor

data and other responsible data, demonstrate clearly that we are talking about two-thirds of the women in the workforce who are there not because they are getting rich but because they are getting by, and they are relying on that income so that the family can function.

They are either there because they are single women, as the sole source of family income, or they are married to husbands who earn \$15,000 or less. If you talk about owning a home or saving for a child's education, these two-worker families clearly need both incomes.

Therefore, the answer to the question "Should the consequence of a pregnancy or a family medical crisis be the loss of one's job when, clearly, both jobs are needed to make that family function?" The answer, in my opinion, is no. I think the data supports our position.

Certainly, the experiences of the three people here today demonstrate and totally support the data that I have just quoted. Thank you.

Chairman CLAY. Thank you. Mr. Hayes?

Mr. HAYES. Thank you, Mr. Chairman. We have heard excellent testimony here this morning. I do not know if you have had anything to do with the timing of this hearing, but today is a day when we have a lot of bleeding hearts on Capitol Hill and I just wish we could push this legislation forward before hypocrisy begins to reassert itself.

When we come to this kind of legislation, I just want you to know I support it fully and am going to do all I can to make people put their money where their mouths are.

Chairman CLAY. Mr. Armev?

Mr. ARMEY. Thank you, Mr. Chairman. Let me begin by apologizing for my tardiness this morning.

Chairman CLAY. Don't do it again.

[Laughter]

Mr. ARMEY. I thought you were one of the bleeding hearts. I wonder if I could have the Chairman's leave to put my opening remarks in the record.

[The prepared statement of Hon. Richard K. Armev follows:]

STATEMENT BY REPRESENTATIVE DICK ARMEY
HEARING ON H.R. 770
FAMILY AND MEDICAL LEAVE ACT OF 1989
February 7, 1989

MR. CHAIRMAN,

I AM PLEASED THAT WE ARE HOLDING THESE HEARINGS TODAY. WHILE THIS LEGISLATION HAS RECEIVED SOME CONSIDERATION IN PAST CONGRESSES, IT HAS THE POTENTIAL TO AFFECT PERHAPS HUNDREDS OF THOUSANDS OF WORKERS AND EMPLOYERS ACROSS THE COUNTRY--EACH IN UNIQUE CIRCUMSTANCES--AND IT CERTAINLY DEMANDS CLOSE SCRUTINY.

I WOULD NOT WANT ANYONE TO GET THE IMPRESSION THAT MY MIND IS MADE UP ON THE ISSUE, BUT I DO HAVE A NUMBER OF CONCERNS THAT I HOPE WILL BE ADDRESSED BY THE WITNESSES TODAY.

FIRST, I FEAR THAT IF THE GOVERNMENT REQUIRES BUSINESSES TO OFFER THEIR EMPLOYEES A PARENTAL LEAVE POLICY, THOSE BUSINESSES MAY BE FORCED TO REDUCE OTHER BENEFITS THAT THEIR EMPLOYEES MAY PREFER. OFFERING PARENTAL LEAVE, OF

COURSE, HAS COSTS--PARTICULARLY IN LOST PRODUCTIVITY. SINCE BUSINESSES CAN GENERALLY AFFORD TO SPEND ONLY A FIXED AMOUNT ON EMPLOYEE WAGES AND BENEFITS OF ALL KINDS, IT WOULD SEEM TO FOLLOW THAT A PARENTAL LEAVE MANDATE WOULD REQUIRE THEM TO EITHER LOWER WAGES OR REDUCE OTHER BENEFITS SUCH AS HEALTH INSURANCE.

SECOND, I AM CONCERNED THAT A FEDERAL PARENTAL LEAVE MANDATE MAY LEAD TO DISCRIMINATION AGAINST WORKING WOMEN. AS A PRACTICAL MATTER, WOMEN WILL TAKE ADVANTAGE OF THIS BENEFIT MORE THAN MEN. BUSINESSES MAY THEN TRY TO AVOID DISRUPTIONS OF THEIR OPERATIONS BY DECLINING TO PLACE WOMEN IN KEY POSITIONS.

THIRD, I AM CONCERNED THAT IT IS INHERENTLY DISCRIMINATORY AGAINST LOWER INCOME WORKERS. OBVIOUSLY, A PERSON MUST BE RELATIVELY WELL OFF TO AFFORD TO TAKE TEN WEEKS OF UNPAID LEAVE. WHEN A PERSON DOES SO, OTHER WORKERS IN THEIR BUSINESS--OFTEN THOSE UNABLE TO AFFORD LEAVE THEMSELVES--WILL BE FORCED TO ASSUME THEIR WORKLOAD. THUS, THIS LEGISLATION MAY LEAD TO LOWER INCOME EMPLOYEES WORKING HARDER IN ORDER TO PROVIDE A BENEFIT TO THEIR WEALTHIER COLLEAGUES.

FINALLY, I AM WORRIED ABOUT THE PRECEDENT THIS LEGISLATION WILL SET. MOST EMPLOYEE BENEFITS TODAY ARE NOT MANDATED BY THE GOVERNMENT. THERE IS NO FEDERAL LAW REQUIRING AN EMPLOYER TO OFFER HEALTH INSURANCE, LIFE INSURANCE, RETIREMENT PENSIONS, OR EVEN SICK TIME AND VACATION LEAVE--ALTHOUGH A HUGE NUMBER OF THEM DO SO. BUT IF WE MANDATE THIS BENEFIT, WE MAY FIND OURSELVES UNDER PRESSURE TO MANDATE A HOST OF OTHER BENEFITS AS WELL. BY PASSING THIS BILL, WE MAY BE EMBARKING INTO A NEW AREA OF MASSIVE FEDERAL REGULATION WHICH WILL HAVE AN EXTREMELY DETRIMENTAL AFFECT ON OUR ECONOMY AND OUR ABILITY TO COMPETE IN THE WORLD MARKETPLACE.

I THANK THE CHAIRMAN FOR HOLDING THESE HEARINGS, AND I AM ANXIOUS TO HEAR THE WITNESSES ADDRESS THESE AND OTHER CONCERNS.

Chairman CLAY. Mr. Visclosky.

Mr. VISCLOSKY. Mr. Chairman, I would just follow up on the wealth of these comments by just pointing out that the women we are talking with today are dependent upon their jobs for the quality of their life.

But the other side of that equation is also wanting to have the same opportunity as men for a full life and staying the workforce, as far as their self-fulfillment and the contributions they can make to society. I think that ought to be an important direction of this legislation, as well.

Chairman CLAY. Thank you. Mr. Fawell.

Mr. FAWELL. I, too, apologize for being late. I have a question for Mrs. King, the only testimony I did hear.

I think you would have my nomination for the employer of the year award. Obviously, you do an excellent job in empathizing with others who are employees. I guess I can almost say—and I guess you would agree with me—you do not need this kind of Act.

Ms. DORIAN. Do I, as an employer, need this kind of Act? No, because I have elected these policies, but I think employees need this kind of Act.

Mr. FAWELL. You are not Mrs. King?

Ms. DORIAN. I am not. I am Linda Dorian. I am delivering her testimony.

Mr. FAWELL. All right. My other question is what other employee benefits, besides those described in your statement, does this employer offer, and also, are they deemed to be legally enforceable?

Ms. DORIAN. Yes, sir. I would happen to know that. That is in the testimony. The additional benefits that are provided by Mrs. King in her testimony are in the policy and procedures manual and, as you know, these are often held to be binding documents.

There is company-paid life insurance and company-funded retirement plan; company-paid health coverage and also dependent coverage on a payroll deduction basis to cover the additional cost of family coverage; a 401(k) savings plan; paid vacation time of one, two or three weeks per year, depending on the tenure of the employee; one week of paid sick or personal leave per year.

We are careful to use the word "sick" or "personal" so that an employee can take a day off for personal matters, whether or not he or she is sick. Paid bereavement leave and paid time off for jury duty; seven paid holidays each year; and, discounts on purchases of company merchandize; and, the company also sponsors three all company parties each year.

Mr. FAWELL. I see that I am quite correct that she is a super, super employer.

Ms. DORIAN. If women owned more companies, we would have better policies like that.

Mr. FAWELL. My wife would agree, I am sure. I assume that she would want all those would be enforceable, too. I take it Mrs. King would be in favor of an act that would say that all of those things which she does for her employees ought to be done by all employers, and that we ought to expand this bill and include all of the benefits she offers?

Ms. DORIAN. No, sir. I do not believe that Mrs. King would say that. I think that every company tailors its benefit plan to their

own needs, and the amount of vacation plan and savings plans and so on are often, as you know, negotiated matters with the employees. But these are the benefits that Mrs. King's company does provide.

Mr. FAWELL. I think that I would agree with you and with Mrs. King, that you do at least tailor to the type of employees, and the type of business. There are all kinds of things in the collective bargaining agreement; many, many factors that come into play in the determination that an employer must make as to the type and kinds of benefits she or he would want for his or her employees.

Ms. DORIAN. Yes, that is true.

Chairman CLAY. The time of the gentleman has expired.

Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman. Only one question for Ms. Dorian. Do you know what the experience of the King operation would be, what the percentage of employees would number at any one time? Did Mrs. King tell you those stats? I take it would be objectionable if she had more than one or two employees out at the same time you would have a problem operating the business.

Ms. DORIAN. I cannot tell you precisely the number of employees that were out at any given time. It is a small workforce.

Mr. MURPHY. It is a typical, small business workforce.

Ms. DORIAN. Yes, it is. What Mrs. King and her husband have done is to have trained her workforce so that at least two employees can cover in a job.

Mr. MURPHY. Good practice.

Ms. DORIAN. Yes, it is. Frankly, that is a good business practice and we feel that that is typical of small businesses because, frankly, each employee is a key employee but people are going to be ill and unavailable from time to time. Mrs. King and her husband pitch in when they have to and they know how to cover each and every one of the jobs.

Mr. MURPHY. That's interesting. In my office, we try to do the same things.

Ms. DORIAN. It is a very good business policy.

Mr. MURPHY. Thank you.

Chairman CLAY. Mr. Ballenger.

Mr. BALLENGER. Thank you. I wish Mrs. King were here to respond to my questions. If Mrs. King reduced her workforce from eighty to 49 employees in the period of two or three years, and H.R. 770 had been in effect, and the employees had a sick parent or a new child, would she have been restricted by this bill if it did so apply when the employed were laid off. Without her being here, obviously, you cannot answer that.

Ms. DORIAN. Well, I think I can, because the testimony does speak to that, Mr. Ballenger.

Mr. BALLENGER. She said attrition.

Ms. DORIAN. By attrition.

Mr. BALLENGER. Attrition could be caring for a baby, a mother being sick, staying home to take care of her. In other words, attrition could very well have been prevented had this bill been in effect.

Ms. DORIAN. It is my understanding that it was entirely a voluntary matter.

Chairman CLAY. Please, if the gentleman will yield, the sponsor of this bill, Mrs. Schroeder, said that she had hoped we would talk about what is in this bill and not what is out of it. There is no protection in this bill against a lay-off for 31 people, so we do not need to deal with what might be; we need to deal with what is in this bill.

Mr. BALLENGER. Okay, then I will shift to Ms. Wilkenson. According to your testimony, your job was eliminated.

Ms. WILKENSON. Yes.

Mr. BALLENGER. Do you know whether that was true or not?

Ms. WILKENSON. I knew the desk was moved out of that room.

Mr. BALLENGER. Using our Chairman's chosen words, had you not left to have the baby and had been eliminated on a lay-off or, if your job had disappeared because of the business situation, the person in that job would not have had the abilities that you had.

Ms. WILKENSON. If there had been a lay-off, I would have been entitled to transfer to another department, as were several other people in this department.

Mr. BALLENGER. Were you offered some other job?

Ms. WILKENSON. No, they never offered me any type of re-employment, none whatsoever. The only thing they offered was to let me come down to their office and be retested like I was someone off the street. All my previous records—

Mr. BALLENGER. Isn't that a job offer in itself?

Ms. WILKENSON. No. I could have gone to anyplace like that. I would have had to start all over. They said I did not have to take the lie detector test again.

Mr. BALLENGER. Ms. Curry, could I ask one more question? You mentioned that you might have used paid vacation if you thought you could have kept your job. In other words, you did have paid vacation that you could have used in this situation, but you did not use?

Ms. CURRY. (Nods in negative.)

Mr. BALLENGER. Any reason why?

Ms. CURRY. Because of the stress and strain in being my mother's caretaker, I did not want to use that. In other words—

Mr. BALLENGER. The fringe benefit was there to protect you and you did not use the fringe benefit that you had?

Ms. CURRY. Because I did not have that much to begin with.

Mr. BALLENGER. Oh, I didn't know that.

Ms. CURRY. Right.

Chairman CLAY. Mr. Payne.

Mr. PAYNE. I have no questions. I find it very interesting sitting in on my first subcommittee where I am not a subcommittee member.

Chairman CLAY. Thank you. Mr. Grandy.

Mr. GRANDY. Thank you, Mr. Chairman. Ms. Dorian, I was struck by something that you included in your testimony, particularly the 9-to-5 report about the positive association between the high rate of women's labor force participation and employment rights and the prediction, which I am sure everyone on this subcommittee concurs with, that women and minorities will dominate the workforce in the year 2000. That is something that roughly jives with the Bureau of Labor Statistics

I guess, knowing that the way we do, knowing that women and minorities will, I guess you could say, have a competitive advantage in the labor force 2000 and beyond, why mandate this legislation if there will be a certain market force that will strongly encourage employers to provide these kinds of flexible benefits, to provide the options for maternity care, for taking care of elderly and sick relatives?

Why write that in the statute, enforcing a mandate, when there are employers such as Mrs. King who already have the foresight to see that this is coming? I notice that because when you talk about Texas, a lot of what you say applies to my State of Iowa. We have been through some difficult economic times.

Although I do not know how large College Station, Texas, is, my colleague, Mr. Armev, advises me that it is not in an urban area. My area is predominantly rural. It is going through the throes of economic recovery and is looking for flexible options.

When I poll employers about this particular piece of legislation, they offer those options, anyway, not as they are set forth in this particular bill, but a variety of options, whether it is paid leave, whether it is a combination of leave and flex-time.

Are you under the impression that we need a government statute to force the flexibility? Is that what you are arguing here?

Ms. DORIAN. Mr. Grandy, I would not put it in those terms, that you need a government statute to force flexibility. I think that you do need a uniform level of protection for the floor below which the American family will not fall.

I think this is increasingly true with a dramatic increase of women into the labor force. By the year 2000, three-quarters of women age sixty and over will be working. That is a very dramatic statistic.

But you raise another point and that is, the mere fact that women are in the labor force, doesn't that give them a bargaining power that will, de facto, as a labor force, require employers to establish these benefits? I do not think that is necessarily true.

The fact that women and minorities are going to be in the workforce does not necessarily mean that they are going to be in the decision-making positions which are now still very heavily dominated by white males.

Mr. GRANDY. It follows that if there are more women and minorities in the workforce, they will also be employees, as well.

Ms. DORIAN. This is true.

Mr. GRANDY. They will probably be more enlightened as to the needs for these employee concerns.

Ms. DORIAN. Certainly, there is a dramatic growth in small business ownership by women, and we see that with our own membership at Business and Professional, where one-third of our members are owners and operators of small businesses and many of the others would like to be, and are working to become so.

Mr. GRANDY. Let me just ask you one thing about the benefits that you have cited in your testimony here that Mrs. King provides. Are you required to take all of these benefits when you go to work? Is this a package? Can you substitute? Can you mix and match?

Ms. DORIAN. I do not know the answer to that. I would be happy to submit that for the record.

Mr. GRANDY. One of the arguments that has been raised about this legislation is that in a given cafeteria plan, as I understand the bill as it was put forward last year, it would have to be one of them.

In other words, if you are working for a company and you have no children and you have no elderly relatives that require your care or supervision, you still have to have that benefit, as I understand this legislation. This is one of my misgivings with it, that it is the lack of maneuverability within the cafeteria structure.

You do not happen to know whether Mrs. King—

Ms. DORIAN. I do not know, of all the benefits she has, if the employees can pick and choose. These are standard benefits that she makes available, so it is my understanding that all of them are available to the employees.

I suppose if an employee wanted to refuse to take advantage of one, they could do so.

Mr. GRANDY. But they couldn't if this was law.

Ms. DORIAN. We are not talking about mandating these. We are talking about the full range of benefits that she offers.

Mr. GRANDY. We are now talking about a piece of legislation that would mandate a benefit—cafeteria plan notwithstanding. Do you see what I am saying?

Ms. DORIAN. Yes, I do.

Mr. GRANDY. That is my concern. Thank you for your testimony.

Ms. DORIAN. Mr. Grandy, I would just like to say that you mention a situation which is atypical for most American working people and that is somebody who has no aging relatives and no children. Not everybody is a widow and an orphan in the workplace.

Most of us do have young children to care for and many of our members in this organization of 125,000 working women are sandwich generation women, where we have children at home to take care of and aging relatives to take care of at the same time.

We are merely trying to accommodate the changing workforce in America where you see women in the workforce, being productive, and also bearing the primary burden for family life. Thank you.

Chairman CLAY. I thank each of you for your testimony.

Ms. DORIAN. Thank you.

Chairman CLAY. We certainly appreciate it.

The next witnesses will consist of a panel of Dr. Berry Brazelton, Gerald McEntee, William J. Gainer. Mr. McEntee, I understand you have to leave, so we will call on you first.

Without objection, each of your prepared statements will be included in the record. At this point, you may proceed as you see fit.

STATEMENTS OF GERALD McENTEE, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME); T. BERRY BRAZELTON, M.D., CLINICAL PROFESSOR OF PEDIATRICS, HARVARD MEDICAL SCHOOL; AND WILLIAM J. GAINER, DIRECTOR, EDUCATION AND EMPLOYMENT PROGRAMS, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE.

Mr. McENTEE. Thank you very much. Good morning to the subcommittee. My name is Gerald W. McEntee. I am the President of the American Federation of State, County and Municipal Employees, AFSCME, which has more than one million members across the United States.

I am also here today representing the National AFL/CIO which has some sixteen or seventeen million members across the United States. I am more than pleased to be here today to testify before the subcommittee in support of the Family and Medical Leave Act of 1989.

I want to thank Representatives Clay, Schroeder and Roukema, for sponsoring this important legislation and for their leadership on this vital family issue. I would ask that my written statement be included in the record.

We recently were given two letters by affected employees and, rather than read them, I would also wish that they would be included in the record, Mr. Chairman.

Chairman CLAY. Without objection, so ordered.

Mr. McENTEE. We firmly believe this legislation is long overdue and represents a modest step towards squaring our public policy with the realities of work and family life in late twentieth century America. It provides an opportunity to move beyond rhetoric to concrete action in support of the family.

Mr. Chairman, I am pleased to report that the overwhelming majority of American workers strongly support this legislation. We commissioned a nationwide survey on parental leave and child care issues, which was conducted by the Boston polling firm of Marttila and Kiley.

When specifically asked whether they favored or opposed requiring employers to permit fathers, as well as mothers, to take up to eighteen weeks of optional unpaid leave following the birth or adoption of a child, almost two-thirds of those polled expressed their support.

Parental leave is an issue with overwhelming support among lower and middle income workers. Fully 67 percent of respondents with household incomes under twenty thousand dollars and 72 percent with incomes between twenty and thirty thousand dollars indicated their support for the legislation.

Clearly, the poll conclusively demonstrates that parental leave is not a so-called "Yuppie" issue supported only by upper income professionals. Rather, it has broad-based support across the entire income spectrum with the strongest among lower and middle income working people.

Since we have heard so much from the business community about the allegedly dire consequences of the Family and Medical

Leave Act, I would like to share with the members of the subcommittee our—AFSCME's—experience in this area.

According to a study prepared by our research department which surveyed our major collective bargaining agreements on parental leave provisions, a vast number of employees in the state and local government sectors already have the right to take unpaid parental or maternity leave for periods in excess of 18 weeks.

The study examined 85 agreements covering 755,000 employees of state and local governments across the nation, a sample of over sixty percent of the workers represented by our union. Ninety percent of the employees covered in the sample, or 650,000, already have a right to leave of four months or more. Clearly, parental leave is a fact of life in the public sector.

Based on our own experience, the Family and Medical Leave Act will not levy significant additional costs on state and local governments and if government at all levels can adopt unpaid parental leave policies, then so can private industry.

During the 1988 campaign, we heard much about the need to address work and family issues. To us, support for family issues must include enactment of federal legislation which meets the needs of working families. Today, American families are likely to have two working parents or a single parent who must work.

American women have joined the workforce in increasing numbers out of economic necessity. Moreover, several million workers are providing unpaid care for ailing, elderly relatives and the caregiver is likely to be a middle-aged daughter, herself often poor and sometimes in ill health.

An essential part of a pro family public policy is to ease the tension and conflict created when trying to balance work and family responsibilities. Organized labor and employers have an important role to play.

For our part, we will continue to negotiate with our employers for adequate wages and reasonable parenting leave and fringe benefits, including child care, to protect and assist our union families.

But government too has an important role in ensuring that there are minimum standards of parental leave and job security to which all workers must be entitled so no one need to be forced to choose between job and family. The Family and Medical Leave Act would establish such standards.

Once again, I thank the Chairman, Congresswoman Roukema, Representatives and subcommittee, for holding this hearing. We urge you to act expeditiously and favorably on this extremely important legislation. Thank you, very much.

[The prepared statement of Gerald W. McEntee follows:]



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Harrisburg, Pa.

STATEMENT OF

GERALD W. MCENTEE, PRESIDENT
AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES

BEFORE THE

COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS

ON

THE FAMILY AND MEDICAL LEAVE ACT OF 1989

FEBRUARY 7, 1989

in the public service

My name is Gerald W. McEntee. I am President of the American Federation of State, County and Municipal Employees (AFSCME) which has more than one million members across the nation. I am pleased to be here today to testify before the Subcommittee in support of the Family and Medical Leave Act of 1989.

Before I begin my formal statement, I want to thank Representatives Clay, Schroeder and Roukema for sponsoring this important legislation and for their leadership on this issue vital family issue.

We firmly believe this legislation is long overdue and represents a modest step toward squaring our public policy with the realities of work and family life in late twentieth century America. It provides an opportunity to move beyond rhetoric to concrete action in support of the family.

During the 1988 Presidential Campaign, President Bush and his opponent, Michael Dukakis, discussed the importance of work and family issues such as child care and Family and Medical Leave. With the Family and Medical Leave Act, Congress is giving President Bush an opportunity to translate campaign rhetoric into a meaningful law for working families.

Last year, Marttila and Kiley, a prominent polling firm, conducted a nationwide voter survey for AFSCME which indicated that parental leave is an issue with overwhelming support among low income and middle-class families. Fully 67 percent of respondents with household incomes under \$20,000 and 72 percent with incomes between \$20,000 and \$30,000 supported the

legislation. The only income group that was not strongly in support of family and medical leave were the households over \$40,000 -- with 48 percent of those respondents in favor.

Our poll results conclusively show that parental leave is not a so-called "Yuppie" issue, supported only by upper income professionals. Rather, it has broadbased support among lower and middle income working people.

This bill should not be controversial. It merely provides that if an employee needs to be off the job for a reasonable-- and in our opinion minimal -- time to care for a new child or because a child or elderly parent is ill or because the employee is ill, the employee's job or a comparable position will be waiting when he or she returns. Progressive employers who care about their employees should be providing such leave without having to be ordered to do so by law. Unfortunately, like equal pay and the eight-hour work day, family leave will not be universally guaranteed without congressional action. While "voluntarism" and "flexibility" are attractive buzz words for American industry, the voluntary, flexible approach for many employers translates into no leave or very limited leave with no job guaranteed upon return.

Surveys of very large firms confirm that the vast majority provide some paid pregnancy leave with the right to return to the job, but just slightly more than half offer unpaid, job-guaranteed parental leave. There are serious gaps in leave entitlements even among the so-called blue chip companies.

Most of the labor force, however, does not work for large corporations. Only one worker in six in the private sector is employed by a corporation with over 1,000 employees. A survey conducted by the National Council of Jewish Women, which covered a broad spectrum of industries and included both large and small employers, showed that only a small minority of employers with twenty or more employees provide each of the components of the Family and Medical Leave Act. For example, only 12 percent provide 18 weeks of job protected, unpaid parental leave and only 26 percent provide 26 weeks of unpaid medical leave. Only one percent of these employers provide the entire Family and Medical Leave Act package! Clearly, if workers are going to be able to take needed time away from work without jeopardizing their jobs, legislation is absolutely essential.

Why do employers have such a poor track record, and why are they fighting this bill so fervently? Their primary excuse is cost. Cost seems to be the business community's "knee jerk" reaction to any measure benefiting workers. Wage and hour laws, OSHA, ERISA and the Equal Pay Act are all now accepted standards to which employers have adjusted. Yet when each of these laws was being debated, many in the business community predicted that, if enacted, they would send employers to the bankruptcy courts in droves. Obviously, that has not happened. History teaches us to view the cost arguments of employer organizations with considerable skepticism.

We believe that cost is a particularly weak argument to be

advanced against the Family and Medical Leave Act. Unlike measures such as minimum wage and equal pay, there are no direct costs associated with this legislation, except for the cost of continuing the employer's contribution to health care -- whatever the level of contribution may be -- during the leave period. While we recognize that there may be some costs for some employers occasioned by hiring and training temporary workers or by paying additional overtime, this bill is hardly a big ticket item.

Realizing this employer groups do not claim that this legislation will bring down Exxon and General Motors. Rather, they argue that it will be small employers operating at the margin who will be most severely affected.

We respond to this concern in the following way. In the first place, most small employers are exempted from this legislation since the bill covers only employers with more than 50 employees for the first three years and exempts employers with more than 35 employees thereafter. State data from the U.S. Census Bureau reveals that employers with less than 20 employees comprise between 85 and 91 percent of total employers, and employers with less than 10 employees comprise 75 percent or more of all employers, except in Maryland and the District of Columbia. Needless to say, the majority of employers would be exempted from coverage under this measure. We believe this compromise, reached in the 100th Congress, provides small employers with more than adequate protection.

Since we have heard so much from the opposition about the dire consequences of the Family and Medical Leave Act, I would like to share AFSCME's experience with you. We represent 1.1 million public employees in 46 states and the District of Columbia. These employees work for large state, city and county employers with tens of thousands of employees, for medium-sized cities and counties with a few hundred to a few thousand employees, and for small towns and townships with less than 100 employees. AFSCME members work in all types of occupations -- clerical workers, hospital employees, child care providers, food service workers and professional series.

Contrary to popular belief, public employers -- like private employers -- must operate within financial limits. Indeed, many public employers with whom we negotiate are facing eroding tax bases and cutbacks in federal aid. No less than small businesses operating at the margin, both large and small public employers must be extremely cost conscious.

Yet AFSCME locals have negotiated parenting leave throughout the public sector. Once negotiated, this leave policy has presented no special problems for employers. While we must often fight hard for a wage increase and must resist employer demands to cut back important contract protections, parenting leave simply does not show up on employer giveback lists, as we would expect, if it were a major expense or if it were causing disruptions in operations.

Furthermore, our bargaining experience, like the results of

our nationwide survey, belies the contention that unpaid parenting leave is an upper income "Yuppie" issue. For the most part, our members earn very modest salaries. While there are considerable variations, many earn less than \$15,000, and the overwhelming majority less than \$30,000. Anyone who has ever negotiated a labor agreement knows that only the issues deemed most important remain on the table throughout negotiations and end up incorporated in the collective bargaining agreement. We have successfully negotiated parenting leave because our non-Yuppie members have made it a priority issue.

To determine the extent of our bargaining success in the public sector, we have surveyed our major contracts and the results are presented in a report which has been made available to the Committee. I would like to share some of the highlights of the AFSCME study.

We examined 85 agreements covering 755,000 employees of state and local governments across the nation, a sample of over 70 percent of the workers represented by AFSCME. Twenty-one were state agreements, 23 were county agreements; and 41 were city agreements.

Of the 85 agreements, 72 included maternity or parental leave with an employment guarantee and 63 identified specific overall time periods. Forty-nine of these provide the right to leave for periods of four months or more, and 46 of them provide leave of six months or more. Eighty-six percent of the employees covered in the sample, or 646,000 workers, have a right to leave

of four months or more. Agreements providing six months or more leave cover 635,000 workers, or 84 percent of the sample.

From this sample of large AFSCME contracts, which is by no means an exhaustive one, it becomes apparent that a large number of employees in the public sector already have the right to take unpaid leave for periods exceeding 18 weeks. Parental leave is clearly a fact of life in the public sector. It will not levy significant additional costs on state and local governments. I would suggest that this is one of the major reasons why the National Conference of State Legislatures, which represents state legislators in all 50 states, has endorsed this legislation.

Clearly, the evidence shows that the Family and Medical Leave Act will work and that employer arguments of excessive cost are not credible. If governments at all levels can live with unpaid parenting leave, then so can private industry.

We think the difficulties experienced by a worker with an infirm, dependent parent are no less compelling than those of a mother or father with a sick child. Some 2.2 million workers are providing unpaid care for ailing, elderly relatives. The caregiver is likely to be a middle-aged daughter, herself often poor or in ill health. The inclusion of elder care under the family leave provision is a vital part of this legislation.

There is a pervasive myth concerning the structure of the American family which has contributed to the opposition to this legislation. This Subcommittee has heard from the experts. It knows that 54 percent of mothers with children under six and

nearly half of mothers with infants are in the paid labor force; that over half of the 46 million children in two-parent families have both parents in the work force; that 20 percent of children live in single parent households headed by women; and that the so-called "typical" American family with a husband who has a paying job and a wife who is a full-time homemaker now represents only one-fifth of all families.

I would suggest that it is the last finding which is especially important. Despite all evidence to the contrary, there are those who refuse to believe that the so-called "typical" American family is no longer typical. Furthermore, some seem to want to penalize families other than those in this mold. According to this view, we should be trying to turn back the clock 30 years by refusing to pursue policies designed to help working parents cope with the demands of family responsibilities and the demands of a full time job. Abetting this philosophy are traditional employer attitudes that work and family must be kept separate and that the latter is the sole responsibility of the employee -- that the employer need not consider the demands on the employee outside the shop or the office. These attitudes, while seldom publicly stated, go a long way toward explaining why the United States lags far behind every other industrialized country and many third world countries in family policy.

Today, organizations and public officials of all political persuasions are claiming to be pro-family. We believe that real

family issues have nothing to do with censoring textbooks or blocking federal programs to combat domestic violence. To us, to be pro-family is to first accept the fact that modern families are likely to have two working parents or only one parent who must work and to also accept the fact that women are in the work force to stay -- because they cannot afford not to be and because our economy cannot do without them. We are no longer in 1950 when only 12 percent of women with small children were in the work force. Once we accept this new reality, the next step is to fashion public policy to help today's families thrive.

An essential part of a pro-family public policy is the tension and conflict created by trying to balance work and family responsibilities. Organized labor and employers have an important role to play. We will continue to negotiate with our employers for adequate wages and reasonable leave and fringe benefits, including child care, to protect and assist our union families. But government too has an important role in ensuring that there are minimum standards of leave and job security to which all workers must be entitled so no one need be forced to choose between job and family.

Once again, I thank the Chairman and the Subcommittee for holding this hearing. We urge you to act favorably and expeditiously on this extremely important legislation. We would be pleased to answer any questions you may have.

Summary of the Family and Medical Leave Act

Sponsors: William Clay (D-MO), Patricia Schroeder (D-CO), and Marge Roukema (R-NJ)

- The bill would establish the right to two kinds of leave:
 - Family Leave - would entitle an employee to take up to 10 weeks of unpaid leave over a 24 month period upon
 - o the birth of a child
 - o the adoption of a child
 - o the serious illness of the employee, their child or elderly parent
 - Medical Leave - would entitle an employee to take up to 15 weeks unpaid leave over a one year period upon the employee's own serious illness
- All employees who have completed one year of service and who work at least part-time are covered.
- The House bill exempts small employers with fewer than 50 employees for the first three years and exempts employers with fewer than 35 employees thereafter.
- Employees have the right to the same or equivalent position and the continuation of pre-existing health benefits during

leave.

- Employees must provide reasonable notice of leave and when possible schedule leave to accommodate the employer.
- A study is authorized to examine the effects of family and medical leave on employers.

1214 West Granville St.
Chicago, Illinois 60660

Women's Legal Defense Fund
2000 P Street, N.W.
Washington, D.C. 20036

February 1, 1989

To Whom It May Concern,

My name is Carmen Maya. I write to you today to express my strong support for your efforts to pass a federal law that would guarantee employees their jobs when they return from family and medical leaves. I believe that my situation starkly demonstrates the need for this law. Please pass this letter on to others to convince them of this need.

I am a single mother of three who worked as a pharmacy technician for nineteen years at St. Joseph's Hospital in Chicago, Illinois. In May of 1988, when I was pregnant with my third child, I began to have severe problems with edema, a condition that caused fluid to gather in my legs, which was complicated by my pregnancy. By the end of May, my legs had swelled up so badly that my feet no longer fit in my shoes and I had difficulty walking. At my doctor's insistence, I requested a temporary leave from work. On June 3, 1988, my employer granted me disability leave that I had accrued under the hospital's plan, it was agreed that I would return on July 18, 1988.

My baby was born on June 17, 1988. However, my edema failed to subside immediately after the birth and I was still unable to walk comfortably. Because of my medical condition, and because I needed to make arrangements for my new baby, who was born with Down's syndrome, I requested additional leave time. My supervisor agreed that my leave would be extended to August 31, and that I should return to work on September 1. In preparation for my return to work, I enrolled my child in a program to take care of her special needs and arranged to have a certified babysitter take care of her on those days that she did not attend the program.

On August 26, 1988, however, as I was preparing to return to my job, my supervisor called to ask me to meet with her. At the meeting she told my job was no longer being held open for me. I was so stunned I didn't know what to say. According to my supervisor, however, the decision was final. I was therefore left without my job because I had needed twelve weeks of family and medical leave while employees with far less seniority now fill the pharmacy technician positions at the hospital.

The loss of my job has changed my life and the lives of my

children dramatically. My three children and myself had no other source of income beside the \$9.15 per hour that I made at the hospital. Now our only income comes from the \$198 weekly check that I receive from unemployment. Even with this check, it is a losing struggle simply to put food on the table for my children. Baby formula is now forty dollars a case, and I simply do not have the money to buy it any longer. As a matter of last resort I have finally had to seek food from government programs. I now spend time waiting in line at the Women, Infant, and Children supplemental food program (WIC), which provides formula, cereal, and juice for my baby. WIC does not provide baby food, however; I have therefore also had to apply for baby food at Baby Care, another government-funded program. I do not know what I will do when my unemployment insurance expires at the end of this month. I pray that by that time I will have found a job. Yet since losing my job I have searched and searched to find other employment and have not had any success.

At times I feel that this is a nightmare and that soon I will wake up and things will be the way they were before I lost my job. I used to consider myself middle class, now I see myself standing in government lines asking for food and I shake my head because it does not seem real. I still cannot believe that, after all those years as a responsible employee, one period of absence from work because of serious medical and family needs could cause me to lose my job. I retain faith and hope that I will get back on my feet eventually, but no one should have to go through what I have gone through. It is when people have recovered from their illnesses or have just had a baby that they most need their income. Allowing them to be fired because they needed a brief period of leave is unfair, unjust, and, in my view, unforgivable. Because of the nightmare that the loss of my job has caused me and my family, I strongly support the proposed family and medical leave bill.

Sincerely,

Maxine Eichner for Carmen Maya
Maxine Eichner for Carmen Maya

1416 T St., S.E.
Washington, D.C. 20020

Women's Legal Defense Fund
2000 P Street, N.W.
Washington, D.C. 20036

February 1, 1989

To Whom It May Concern,

My name is Florence McKeever. I am writing to you in support of the family and medical leave bill that you are trying to pass. Please feel free to use my story to help in your efforts to pass the bill.

I am a fifty-six year old mother of six and grandmother of twelve. For fourteen years, beginning May 5, 1974, I worked as a full-time housekeeper for the Foreign Affairs Recreation Association, a private company of approximately one hundred employees that maintained apartments for State Department visitors. During that time, I consistently received positive evaluations and praise for my job performance.

On March 20, 1988, I broke a bone in my foot in an accident at home. I therefore had to take a temporary leave of absence from work. My physician told me that I could not return to work until June 13, 1988, approximately twelve weeks after my accident. My employer gave me the eight weeks of sick leave to which I was entitled under his policy. However, I had no annual leave accrued and he refused to allow me an advance on my annual leave. When I began recuperating, I did not know whether I would have a job to return to or not. The lack of job security during my recuperation caused me great stress.

On May 23, 1988, I received a letter from my employer stating that I could not return to my full-time job. Instead, my employer offered me a job as a part-time maid without the benefits I had previously received. The part-time position, I found out from my employer, would not give me steady hours, and would require that I work on weekends.

I was shocked by my employer's actions. I had been a loyal, hardworking employee for fourteen years and had never expected that one accident, which kept me out of work for under three months, could serve as the basis for my discharge. I was also concerned for the welfare of my family. My husband and I needed the \$309 I earned in take-home pay every two weeks. My husband's job as an employee at a drug store could not support us and the five-year old granddaughter we have been raising. The part-time job I was offered did not pay enough to make ends meet. Also, I could not work the weekend hours that the part-time job required because our granddaughter does not attend school during the

weekends and because I sing in my church choir each Sunday.

Because I could not afford the cut in pay and could not work the hours demanded of the part-time job, I was forced to seek another job. However, jobs for a fifty-six year old woman who has never finished high school are hard to find. After weeks of failing to find work, I was forced, for the first time in my life, to apply for unemployment benefits. Since then, I have continued my efforts to find a new job, but have not succeeded. In the meantime I am taking adult education classes to earn my Graduate Equivalence Degree in the hopes of obtaining another job. I hope eventually to become a floor designer.

Because of one brief period of disability, I lost my job, my job satisfaction, and severely injured my self esteem in addition to losing my job benefits and my family's financial security. Although I consulted several legal aid attorneys they all told me the same thing. As the long stands now, my employer's actions were completely legal.

I cannot express strongly enough my feeling that any law that allows this is very, very wrong. My husband and I scripp-ed and saved to move out of the projects in which we were forced to raise our children. No employer should have the right to put us back there because of a temporary period of disability.

Sincerely,

Florence M. Keever

Florence M. Keever

Chairman CLAY. Thank you. Do you have time for a couple of questions?

Mr. MCENTEE. As a matter of fact, I will wait for the panel.

Chairman CLAY. Okay. Fine.

The next witness is Dr. Berry Brazelton.

Dr. BRAZELTON. Thank you, Mr. Clay and Ms. Roukema, for asking me to testify. My credentials are that I am a pediatrician. I have probably taken care of 25,000 children over the past thirty years and have known their family intimately in Cambridge, many of whom are here in Washington now.

I guess what I am here for is that I am scared. I am really frightened of what has happened to the family in the USA today. I think we are in deep, deep trouble. Every sign we have that our family structure is breaking down and that the future of our children is endangered is right there for us to look at.

The increasing divorce rate is frightening every young family as they get a new baby. Every mother worries, "Will I be a single parent before I am out of this? Should I keep on with my job because I might become a single parent, supporting one, two, three children?" So, they are not going back to work just to get another Dusenbergs or whatever we blame them for. I think they are going back for security.

The other things that I think are really frightening, and I do not think we are facing them in any way that makes sense, are the acting out of our teenagers and this disillusionment that our teenagers are showing us. Drugs, you know, "say no to drugs", what does that mean?

Children need something way back in their early childhood to give them a reason for saying no to drugs. Mr. Grandy, you had better think about this right now. The kind of child abuse, the kind of neglect that we are seeing around the country, is real testimony to the fact that we have not paid attention to families.

I think one of the reasons—and I keep wondering about this, because I just came to looking at this myself about five years ago. I had three militant daughters who said to me, "Dad, you really aren't with this century. You had better get with it." This started me thinking.

I think there are several biases that are dominating our behavior in this country because we really are the last civilized industrialized country in the world to pay attention to what is happening to families and to back them up. South Africa still hasn't, either, so we have good company.

The other thing that I think is rather frightening is that we have two biases that we live by. One is that families ought to be self sufficient and, if they are not, they ought to be punished for it. Everything that we do for families at a national level or a state level follows that kind of negative deficit model.

We give them a hand-out if they prove they are poor, inadequate, unwed. We never back them up for something positive, for their strengths, for feeling good about themselves. This bill would be the first step in the national legislation to say: We believe in you because you want to become a family. It is a real signal to the rest of the country.

The other bias that I think is really frightening to me is that we basically all believe—and I believe every one of us in this country believes it—is that mothers ought to be home and, if they are not, their kids are going to suffer and if they are not, they are going to suffer. They are absolutely right.

When mothers are not home, they are suffering. They are grieving. They are defending themselves. Their minds are not on what they are doing and they need time to get to know themselves as parents and to get to know their babies as individuals.

If we don't begin to pay attention to the fact that seventy percent of women with children under the age of three are in the full-time workforce and that two incomes are necessary to most people in this country today, we are neglecting not only the children, but we are neglecting adult development.

I think we have been through a "me" generation that scared the hell out of all of us, and if it didn't, maybe we weren't listening. Here is a chance to really back up young adults to develop, to develop themselves as nurturers. So, I would like to fight for that for this bill.

I have come on something in my own work, in my work in Cambridge, Massachusetts. I see people prenatally when they are about to have their babies, at seven months. These young women now and these young men who come to me won't dare expose themselves to the same kinds of questions that I think all young parents go through when they are about to become a parent: Will I ever get to be a parent? What kind of parent will I be? Will I have to be like my parents? I sure don't want to be like that.

The next question, which I expect—What if I have an impaired baby? How would I ever make it to that impaired baby? They never ask that question today. When I begin to probe, they say, "Well, I don't dare think about it because I have to go back to work too early." "Too early? What's that?" "Well, I have to go back to work at six weeks or four weeks or whatever is mandated in Massachusetts right now."

I think "too early" is keeping them from daring to become passionate about that fetus, daring to become passionate about the new baby. I just want to point out to you from some of our research what the baby is contributing to this, and if the mother is letting herself ignore these behavioral pleas for attachment, what is she going to do to herself in her own adult development?

We have been looking at fetuses with ultrasound and playing with them in the uterus at seven months. We use a buzzer and we hold the buzzer about 18 inches out from the mother's abdomen and then watch the fetus on ultrasound. Well, the first buzzer, the fetus jumps like this (indicating); the second buzzer, less jump; the third buzzer, practically no jump; the fourth buzzer, she put her thumb in her mouth, closed her eyes and turned away from the buzzer.

Then we took a little rattle, a rattle right next to the abdomen. I thought the uterus was so noisy, you know (indicating), but instead, when we rattle the rattle next to the uterus, the fetus took her thumb out of her mouth, opened her eyes and looked right at the rattle.

Then we did it with a bright operating room light and we flashed it through the fetus' line of vision. She startled, second time, less startle; third time, no startle; fourth time, turned away from the light.

Then we did it with a pinpoint light. This time, she took her thumb out of her mouth and looked right into the light on the mother's belly. At this point, out of eight mothers, six of them have said, "My God, she's the smartest baby I've got."

I think those mothers were talking about having a chance to pay attention to that fetus' behavior made them already feel passionate about that fetus.

The next thing we have a chance at is the newborn. I just want to show you a two-day old baby and some of the behaviors that this baby can display. As you watch this baby, I want you to let yourself feel when you see this baby calm herself down and put her own thumb in her mouth.

I want you to see how you feel when she begins to follow my face and my voice and to see how you feel when you put a baby up on your shoulder and have that baby look around the room and then nestle her soft little scalp right in the corner of your neck. This will be a two-day old. I want you to see the baby's behavior to see what it does to adults.

[Film shown.]

She is two days old. She is a typical baby, a normal healthy baby. If these parents have the time and the capacity to think of themselves as parenting this baby, why, they will do some predictable things. When I make this baby walk for a parent, she nearly faints with pleasure. She says, "Oh, my God, she can already walk." A father will say, "Oh, I've got to start playing with her."

Now, watch this. Watch her put her own fingers in her mouth, take over and begin to be competent on her own. Any parent watching those says, "My God, isn't she competent?" Now, we've got pay dirt. There she starts following the rattle and all parents are dreaming about this perfect baby that will look and listen.

Watch her face right in here as she follows an object, because I want you to see the difference as she follows the human face and voice. Look at the complexity of that facial behavior right in there and how different that is from following an object.

Now, if a parent is sensitive and is sensitized, look at that face now, completely flat following an object. Any parent looking for it will see that facial behavior and say, "Oh, my gosh, she knows me as a person."

This is what I want to fight for. I want to fight for these personal feelings and what we can do at a national level to back up parents to believe in themselves.

Watch this. I have had nursing mothers in the audience let down milk when they saw this, so I hope none of you are nursing. Can't you feel that scalp on your own neck? This baby will, within seven days, choose its mother's smell from another woman's smell. In seven days, it will choose its mother's voice from another woman's voice. By fourteen days, it will choose its mother's silent face from another woman's silent face. In fourteen days, this baby will choose its father's voice and face if that father is involved.

By four to six weeks of age, I want to show you some behavior in just a minute, that if we look at on the film, we can watch a finger or a toe or the mouth or the eyes and tell you within two minutes whether this baby is interacting with its mother or a father or a stranger by the way the finger and toe behave or by the way the facial behavior behaves.

This, to me, is the pay dirt. When a mother looks at that two-month old baby and the baby looks back at her and they both get into this look of come-on, and they both know they are doing it for each other, I think we are triggering off some feelings of security in people that go beyond just whether a baby is secure and a baby believes in himself when he gets to adolescence and has to make decisions.

I think we are talking about young adults who have the determination to stand up for those kids and fight when they get into drug situations. I think we are talking about two layers of development in this country, not just one, so that the symbolic aspect of this bill goes way beyond the little bit of hand-out that we are doing at a national level. I think it has got to be done at a national level, because parents are so hungry.

Let me show you a two-month old baby just to top this off, because I think this baby and the mother will show you how locked they are with each other.

[Film shown.]

This is two months old and everything the baby does—you watch—the mother will imitate almost precisely. Look at the imitation. Who is imitating who? Here, he turns off, she turns off, and they come back together and get locked in that set of rhythmic back and forth.

Now, we ask her to leave and come back with a perfectly still face and violate this. Look what it means to him. Now, look at the still face and she violates it. It takes him twelve seconds to realize she is not in touch with him and he can't believe it. He literally can't believe it.

He begins to fight for her. He has fifteen different programs that he fights to try to get her back into interaction with him at two months. Suppose she is a mother who is too tired at the end of the day or too depressed about leaving her baby with somebody else and she comes home at eight weeks, and he has to learn to expect this flat face.

Now, he looks at her and he says, "Where the hell have you been?" and then he turns her off in a minute and punishes her a little bit, and then he looks back at her and says, "Oh, it's okay. That's okay." You can turn it off.

This is what I think we are fighting for. If we give parents a chance to develop this kind of expectancy, this kind of hope, that if I have this much time and it is protected, it is not only protected but it is sanctioned. It is sanctioned by our national, our state, our local governments, we are important. I am important. Then that sense of importance, I think, a mother will bring home to her child.

Unless we do this, I think we are asking for more and more trouble in the future. It really frightens me to see us go along on the kind of track we are on, to be the least child and the least family-oriented society in the world. We had better change.

[The prepared statement of Dr. T. Berry Brazelton follows:]

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FACT SHEET TO ACCOMPANY

ORAL TESTIMONY OF DR. T. BERRY BRAZELTON

Professor of Pediatrics, Harvard Medical School

before the

Subcommittee on Labor-Management Relations
 of the House Committee on Education and Labor

February 7, 1989

733 Fifteenth Street, NW, Suite 912, Washington, DC 20005 2112 (202) 347-0308

Why is parental leave necessary?

- o In 1981, more than half the mothers in the United States were employed outside the home. By 1990, it is predicted that 70% of children will have two working parents.

- o The luxury of delaying return to work is often no longer an option for many families. Almost half of working women with children under three are their family's sole provider. 25% of all working women have husbands who earn less than \$10,000 per year.

- o The birth or adoption of an infant is an extremely sensitive time in a family's life cycle. Infants need special care appropriate to their stage of life. Family members need time to adapt to their new roles.

- o The loss of the extended family has left the nuclear family frequently unsupported.

- o Pregnancy and delivery can be an emotionally as well as physically draining experience for mothers. These factors are increased in the event of birth by caesarian section. Parental leave can increase the opportunities for physical recovery.

- o Cycles of sleep, wakefulness and night feedings during the infant's early life can exhaust parents. Recovery from post-partum depression for the mother may also take time.

How widespread is the need for parental leave?

- o More than 85% of all working women will become pregnant during their working years. Less than 40% of the female labor force has access to any maternity benefits.

How common is parental leave in other countries?

- o The United States is the only industrialized nation without a statutory maternity leave policy. Many nations also provide leaves for fathers.

- o The average length of paid leave offered in 75 other countries is between four and five months. Benefits average between 60 and 90% of a women's wage.

What are the elements of a rational parental leave policy?

Parental leave should be viewed as one important element in a coherent system of family support. It should include the following elements:

- o Guaranteed right to leave work to care for a newborn or adoptive child.

- o Income support during the parental leave period.

o Guaranteed right to return to work at the end of the parental leave.

Which families benefit from parental leave?

o All families benefit from job-protected leave without financial loss.

o Special benefits are experienced by families including infants born prematurely, infants born with disabilities, and infants in particular need of caregiver sensitivity.

How does parental leave benefit the infant and family?

o Parental leave provides an opportunity to lessen high levels of stress which may negatively affect the parents' ability to provide their infant with sensitive, responsive caretaking.

o Parental leave provides an opportunity to lessen high levels of stress which may negatively affect the parents' ability to provide the infant's siblings with sensitive, responsive caretaking.

o Breast-feeding and caring for the young infant in the home environment offer protection from infection before the baby's immune system matures. These opportunities are maximized when parents can stay home with their infant.

o Many vulnerable infants can fare better at home than in an institutional environment.

o Play serves an essential role in both infant development and in strengthening the parent-infant relationship. These opportunities are increased if parental leave is available.

o Parental leave provides parents with an opportunity to learn how to appropriately care for their infant as they make the transition to parenthood.

o Parental leave provides fathers with an opportunity to increase their sense of paternity and enhance their role as a nurturing person.

o Parental leave provides an opportunity for both parents to maintain and build their marital intimacy through companionate activities.

o Parental leave avoids the negative consequences of denial (by the parent that her/his leaving has any consequences for the child or for her/himself), projection (on the substitute caregiver of responsibility for all important caregiving issues), and detachment (by the parent as she/he distances her/himself from a feeling of responsibility and of intense attachment).

Are these benefits supported by medical and social science research?

o Research has demonstrated the importance of early and intensive interaction between parent and child. Infant responsiveness to these interactions begins nearly at birth. Research has also demonstrated the importance of parental responsiveness to such factors as the infant's cycle of attention-inattention.

o The interactive patterns established in the first half-year of life foreshadow the quality of the infant's later socio-emotional development. The availability and predictability of appropriate responsiveness by the parent teaches the infant that care is forthcoming and predictable and that the world can be trusted.

o The more hours parents spend at work, the fewer hours they spend with their babies in play, as opposed to other caregiving tasks.

What special factors are present with regard to high risk and hypersensitive infants?

o Hypersensitive infants and infants at high risk of developmental difficulties are particularly in need of caregiver sensitivity and a predictable environment.

o Permanent developmental complications can be kept to a minimum for preterm infants if they are exposed to sufficient sensory and social stimulation while still in the incubator. Infants who are frequently held, fondled, and talked to more often gain weight faster and suffer less often from apnea. They are also more advanced in mental and neurological development and in sensorimotor and motor skills.

o Parents of high risk and hypersensitive infants need special assistance in learning how to care for these fragile and initially difficult babies. Because of the high stresses associated with caring for these infants, parents need to be insulated from such other sources of stress as financial and work-related stresses.

o Parents of infants born with handicapping conditions are also in need of special attention. Parents of these children must often work harder interacting and caring and yet often receive less responsiveness in return. These parents also must often work harder observing their infant's behavioral cues in order to enhance the infant's functioning.

o Special assistance may also be necessary to address the needs of the infant's siblings. Stress factors in the family environment may place the siblings at increased risk for developing psychosocial difficulties.

Who does parental leave benefit?

- o Parental leave benefits the infant through improved caregiving and parental interaction.
- o Parental leave benefits the parents through reduced stress and increased satisfaction with their parenting.
- o Parental leave benefits the employers through reduced employee stress and improved morale.
- o Parental leave benefits society through healthier children, more satisfied parents, and more productive employees.

Chairman CLAY. Well, Doctor, I can see why you made this week's cover of Newsweek.

The next witness is Mr. William Gainer, Director of Education and Employment Programs, Human Resources Division, U.S. General Accounting Office.

Mr. GAINER. That's a hard act to follow. I am going from the sublime to the mundane, to talk to you not as an advocate of this legislation but as someone here to give you some information on the likely cost of the legislation and address a couple of other issues which I have been asked to talk on today.

We are using roughly the same methodology that we have used quite frequently on this legislation in the past for this committee and Subcommittee, so I am not going to talk about the methodology that we used to estimate the cost in any detail. But I have to say that the process of estimating the cost of this legislation is somewhat uncertain.

What we have done is the best job we could at finding data on health conditions, data on the frequency of women in the workplace to have babies, as indicated here, so we can give as much of a factual base as is possible.

In brief, we estimate that the primary cost of this proposal is going to be the extension of health care or health benefits on the same basis as while the employee is working. That is, the employer would continue the same health care benefits as when the employee was working.

The costs associated with the requirements of this bill as we see it, as currently drafted, are \$188 million, more or less. Forty-three percent of the workforce would be included under the bill once the three years passes and it goes to 35 employees. Currently, we estimate that about thirty-nine percent of the employees would be subject to this legislation and about five percent of the firms.

The actual costs could be somewhat less because of the fact that some firms already offer such benefits and many states already have legislation that is similar to that here. We were just unable to get hard data to make those kind of adjustments.

We also conclude that there will be little, if any, measurable net cost to employers associated with the firm's method of adjusting to the absence of workers on leave. Finally, based on our discussions with employers and unions and I'd say logic, to some extent, mandated leave benefits are not expected to disrupt the normal bargaining process between labor and management in negotiating wages and benefits.

Because you are familiar with the proposal, I am not going to go through the provisions again except to mention that the only employer cost that we can see that would be substantial in this bill would be the continuance of medical benefits. We figure that the average cost is about twenty-five dollars per week per employee, so that the continuation of medical benefits is the key provision that makes this bill have some cost.

It would apply to employees who work twenty or more hours per week and have one year's tenure. The tenure I mention because adding that one year tenure substantially reduced the cost of the bill from the earlier proposals. With the exclusions that are now in

the bill, as I said, it would apply to 39 percent of employees and five percent of firms.

The major provision of the bill and the most costly is leave to care for new children. We expect this would cost about ninety million dollars annually and that most women who are eligible for the benefit, about 840,000, would take advantage of it.

Studies from firms in the U.S. and other countries where these benefits are available show that even with much more generous benefits—that is, paid leave—few men use this benefit. The 840,000 estimate for those people that would use it is based on the 2.2 million women in the workforce who had new children in the home in 1986, and reducing that by the firm size gives us the estimate.

We assumed all women would take the full ten weeks of leave allowed by the legislation; however, there is an offsetting savings, because forty percent of women work for firms that offer disability leave, which is often up to 26 weeks, their leave would not be a cost to the employer in addition to what they are paying now.

Some women also have sick and other vacation leave, which practice shows they generally take before using unpaid leave, because they need the money.

When you look at the next provision of the bill, leave to care for seriously ill children, we estimate that about sixty thousand workers per year would be eligible and conceivably would use this benefit.

Expected usage in these cases is assumed to be the maximum 10 weeks of leave allowed by the legislation. Since a good data source to estimate the usage rate was not available, we believe these estimates are somewhat high.

We have had to develop a definition of serious illness, and here we have used the definition of 31 days of bed rest in a given year. The estimate is sensitive to that assumption. We assume that one parent would take the leave, so that the cost of this provision, as you can see on the first chart, is only about ten million dollars, the way we estimate it, per year.

In terms of leave to care for a seriously ill parent, we used a survey of care givers of people who are eligible for Medicare. That estimated that 165,000 workers per year care for a disabled parent or a disabled person. This estimate includes relatives other than sons and daughters, so the 165,000 is likely a high estimate, but we had no way of factoring out sons-in-laws, daughter-in-laws and other relatives that might provide such care and who would not be covered by the legislation.

Expected leave usage, here again, we had to assume the maximum because we had no good statistics on what the usage might be and the expected cost is about \$35 million annually.

In terms of temporary medical leave, we estimate that the annual cost for this provision would be about \$53 million annually. Again, we used seriously ill to mean 31 days of bed rest, for the employee in this case. We estimate that there are 610,000 workers who find themselves in that situation each year, and that the duration of illness averaged about 8.9 weeks.

Forty percent of those employees are covered by long-term disability leave, so employers are already paying their health insur-

ance. Therefore, we have the expected cost that you see here (\$53 million).

The Family and Medical Leave benefits are likely, we think, to have little effect on labor-management bargaining or on the final outcome of those negotiations. I think you can reach that conclusion in a logical way without looking at any data and that is because, in any benefit negotiation, significant benefits are valued in terms of the dollars that it is worth to an employee.

Here, on an economy-wide basis, for the employees that are eligible for any of these benefits, we estimate that providing this benefit will cost about four and a half dollars per year. Most of the benefits that you will see estimated in a labor negotiation are going to be substantially higher than that.

For those workers that use the benefit, which would be a minority of the workforce in any given year, you are talking about a cost of about \$110. We think it is logical that, although any cost to the employer could come into these kind of negotiations, it is difficult to see how this benefit would account for much.

We went beyond that and we talked to a number of firms that have been involved as consultants in a large number of labor negotiations, some large firms who had similar policies, actually more lucrative policies than that envisioned in the law, and to a number of labor unions.

This is not an issue that has been valued in those negotiations in terms of dollars or that has been a bone of contention in these negotiations. Although we cannot say for sure what might happen if this benefit were legislated, we do not believe that it has been a major issue in the past or that it has significantly affected the outcome of those negotiations.

For the employer, it is a benefit envisioned as relatively inexpensive, one that might be valued by the employee much more than the cost to the employer.

I think those are the key points that I wanted to make. I have a longer statement that you can read into the record and I and Sigurd Nilsen who is here on my right, and who is the economist who leads all of our work in the labor area and who was involved heavily in these estimates, are willing to answer any of your questions.

[The prepared statement of William J. Gainer follows.]

United States General Accounting Office

GAO

Testimony

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GAO's Cost Estimate of the
Family and Medical Leave
Act of 1989 (H.R. 770)

Statement of
William J. Gainer, Director
Education and Employment
Human Resources Division

Before the
Subcommittee on Labor-Management Relations,
Committee on Education and Labor
House of Representatives



GAO/T-HRD-89-4

SUMMARY OF GAO TESTIMONY BY WILLIAM J. GAINER ON
GAO'S COST ESTIMATE OF H.R. 770
THE FAMILY AND MEDICAL LEAVE ACT OF 1989

The family and medical leave legislation would provide job protection to employees of firms with 50 or more employees while permitting them 10 weeks of unpaid leave to care for a new or seriously ill child or parent and 15 weeks of unpaid leave due to their own illness in the first 3 years after enactment. Thereafter, firms employing 35 or more people are subject to the legislation. The legislation requires that employers continue health benefits for workers while on unpaid leave on the same basis as if the employee were still working.

GAO estimates that the annual employer cost of this legislation to employers having 50 or more workers will be, at most, \$188 million, which is the cost of continuing health insurance for employees on unpaid leave. With firms employing between 35 and 49 people included, we estimate the annual cost to be about \$212 million. To the extent that some firms already provide workers family and extended disability benefits or have either disability or family leave benefits under existing state law, this proposal's cost to employers will be less than GAO's estimate.

GAO believes that there will be little, if any, measurable net employer cost caused by firms' adjustment to the temporary absences of workers under this proposal. In addition, GAO concludes that legislating family and medical leave benefits will have little, if any, impact on either the labor-management bargaining process or the final outcome of such negotiations.

Leave to Care for New Children -- GAO estimates that the cost to employers associated with this provision will be approximately \$90 million annually for the continuation of health benefits. GAO estimates that 840,000 women are likely to use such leave.

Leave to Care for Seriously Ill Children -- GAO estimates that this provision's annual employer health insurance cost is about \$10 million. Using national health statistics, defining serious illnesses as 31 or more days of bed rest, and assuming that one parent takes unpaid leave to care for each child, about 60,000 workers would likely take an average of 7.8 weeks of leave.

Leave to Care for Seriously Ill Parents -- GAO estimates that this provision's employer health insurance cost is about \$35 million annually. Using national health statistics, we estimate that about 165,000 workers would be eligible for unpaid leave to care for parents with serious disabilities.

Temporary Medical Leave -- GAO estimates that this provision's employer health insurance cost is about \$53 million annually. Again using national health data, about 610,000 workers would likely take an average 8.9 weeks of unpaid leave under this provision.

Mr. Chairman and Members of the Subcommittee:

I am pleased to provide an update of GAO's estimate of the costs of H.R. 770, the "Family and Medical Leave Act of 1989". My purpose today is to provide an estimate of the cost and comment on the potential effects of such legislation on labor-management wage and benefit bargaining.

We have used the same basic methodology utilized in developing earlier cost estimates for this Committee. To facilitate comparison between the different proposals, we did not modify certain cost related factors that have changed since our original estimate, notably employer health insurance costs, the number of births occurring and the size of the workforce. To get a sense of how family and medical leave legislation could constrain wage bargaining, we contacted several public and private employers and labor representatives that have negotiated for such benefits.

While the process of estimating the costs associated with this legislation is difficult and subject to uncertainty, we have made every effort to obtain data which provide a concrete basis upon which to make the necessary underlying assumptions.

- o In brief, we estimate that the primary cost to employers associated with this proposal will be, at most, \$188 million annually. This cost is associated with the requirement that employers continue the health insurance coverage for employees on unpaid leave. With firms employing between 35 and 49 people included, we estimate the annual cost would be about \$212 million.
- o The actual cost to employers for providing continued health insurance coverage for workers on unpaid leave is likely to be less than our estimate, in that some firms already offer unpaid leave similar to this proposal and a number of states have comparable leave laws.
- o We conclude that there will be little, if any, measurable net cost to employers associated with a firm's method of adjusting to workers taking leave under this legislation.
- o The proposed family and medical leave benefits is not expected to adversely constrain the process of negotiating wage and benefit packages between workers and their employers.

GAO Summary of Costs of Family and Medical Leave

| Provision | Likely Beneficiaries | Cost (millions) |
|-------------------------------|----------------------|-----------------|
| Care for New Children | 840,000 | \$90 |
| Care for Seriously Ill Child | 60,000 | 10 |
| Care for Seriously Ill Parent | 165,000 | 35 |
| Temporary Medical Leave | 610,000 | 53 |
| Total | 1,675,000 | \$188 |

KEY PROVISIONS

Before elaborating, I would like to briefly summarize the key provisions of the proposed legislation.

In the first 3 years after enactment, the bill would require federal, state, and local governments and any company with 50 or more employees to grant a worker:

- up to 10 weeks of unpaid leave over a 24-month period upon the birth or adoption of a child, or serious health condition of a child or parent, and
- up to 15 weeks of unpaid leave over a 24-month period, for a serious health condition.

The employer would be required to continue health benefits for a worker on unpaid leave on the same basis as if the employee were working. Other benefits, such as life insurance and retirement, need not be continued. Upon returning to work, an employee would resume the same, or an equivalent job. Consequently, this legislation can be viewed principally as a job protection measure

to employees who work 20 or more hours per week and have one year's tenure. Further, the highest paid 10 percent or 5 employees, whichever is greater, are exempt from coverage under this legislation. Three years after enactment, firms employing 35 or more people would be subject to the legislation.

To estimate employer health insurance costs, we used data from a 1987 Small Business Administration (SBA) study of employee benefits in small and large firms. We computed the average employer portion of health insurance coverage to be about \$25.30 a week for each worker. This estimate averages the differences in cost and rates of coverage between large and small employers, and for family versus individual plans.

This legislation would apply to the 39 percent of employees who are full-time or permanent part-time employees of firms with 50 or more workers (about 5 percent of firms) during the first three years. Subsequently, the legislation would apply to the 43 percent of employees working for firms with 35 or more employees (about 8 percent of firms).

LEAVE TO CARE FOR NEW CHILDREN

We estimate that the cost for health care continuance for workers on unpaid leave to care for new children would be about \$90 million annually. To the extent that firms already offer unpaid leave similar to this legislation (which we were unable to satisfactorily estimate although we know some do), and to the extent that some states have comparable leave laws, the actual cost to employers of providing continued health insurance coverage to workers on leave will be less than our estimate.

We believe that leave to care for new children is used predominantly by women. Studies in the United States and in other countries that allow such leave for men as well as women, in addition to our own survey of companies, support this position. While it may be expected that some change in the behavior of men may result from this legislation, it is unlikely that enough men will take leave to materially affect the cost. Thus, we consider women to be the relevant population upon which to base our estimate. According to the March 1987 Current Population Survey (CPS), about 2.2 million women workers in 1986 gave birth (or adopted children). Given the firm size exclusion, about 840,000 women would have been eligible for leave under this provision.

We assumed that women will take the full 10 weeks of leave allowed by the legislation. We allowed 6 weeks of disability leave for the 40 percent of women in firms providing such leave. In addition, some women have paid sick and vacation leave available to use following childbirth.

When the firm size covered is reduced to 35 employees, the cost of this provision will be about \$102 million annually, and the estimated number of women covered will be about 931,000.

Certain key facts regarding our estimate are shown in the chart.

GAO Leave to Care for New Children

- | | |
|-------------------------|-----------------------------------------------------------------------------------------------------|
| Likely Beneficiaries | <ul style="list-style-type: none">• Very few men• 840,000 women |
| Expected Leave Usage | <ul style="list-style-type: none">• 10 weeks, the maximum allowed |
| Existing Leave Policies | <ul style="list-style-type: none">• 40 percent of women have 6 weeks disability leave |
| Expected Cost | <ul style="list-style-type: none">• Less than \$90 million |
-

LEAVE TO CARE FOR SERIOUSLY ILL CHILDREN

We estimate the cost to employers of continuing health coverage for workers on unpaid leave under this provision is about \$10 million annually, as shown in the chart.

GAO Leave to Care for Seriously Ill Children

| | |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| Likely Beneficiaries | <ul style="list-style-type: none"> • Workers with children having 31 or more days bed rest • 60,000 workers |
| Expected Leave Usage | <ul style="list-style-type: none"> • 7.8 weeks average length of illness • One parent takes off the entire period |
| Existing Leave Policies | <ul style="list-style-type: none"> • 1.6 weeks paid vacation leave |
| Expected Cost | <ul style="list-style-type: none"> • Less than \$10 million |

We assumed that one parent from 100 percent of the households in the eligible population would take leave for the full duration of their child's illness. This was necessary because we were unable to identify any information on the usage of leave to care for seriously ill children due to its low incidence and because firms do not keep records on such absences. Further, we assumed that these workers would have, on average, 1.6 weeks of compensated vacation leave available prior to taking unpaid leave.

Using information from the 1985 National Health Interview Survey conducted by the National Center for Health Statistics, we estimate that the number of workers likely to take leave under this provision is about 60,000. This is the number of workers

with children under the age of 18 requiring 31 or more days of bed rest in one year, where either two parents were present and working or a single working parent was present. We assumed that each illness would result in one worker being absent for the full period of bed rest, an average of 7.8 weeks.

When the firm size covered is reduced to 35 employees, the cost increases to about \$11 million annually. The maximum number of workers eligible increases to about 66,000.

LEAVE TO CARE FOR SERIOUSLY ILL PARENTS

We estimate the cost to employers of continuing health coverage for workers on unpaid leave under this provision is about \$35 million annually.

GAO Leave to Care for Seriously Ill Parents

| | |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Likely Beneficiaries | <ul style="list-style-type: none"> • Workers with a parent requiring long-term assistance • 165,000 workers care for disabled parents |
| Expected Leave Usage | <ul style="list-style-type: none"> • 10 weeks, the maximum allowed |
| Existing Leave Policies | <ul style="list-style-type: none"> • 1.6 weeks paid vacation leave |
| Expected Cost | <ul style="list-style-type: none"> • Less than \$35 million |

Using information from the 1982 National Long-Term Care Survey conducted by the Bureau of the Census for the Department of Health and Human Services, we estimate that about 165,000 workers would be in a position to take leave under this provision. This

is the number of workers who are primary caregivers to Medicare enrollees who require long-term assistance. Long-term assistance is defined as daily assistance with personal hygiene, indoor mobility, or taking medication. A primary caregiver is someone with the main responsibility of caring for the disabled person. This estimate of the eligible number of workers is probably an overestimate because it includes, in addition to the children, sons- and daughters-in-law of the care recipient, their siblings, grandchildren, other relatives, and friends not covered by the legislation. We were unable to factor out of this population those not covered.

We assumed that each worker would take the maximum length of leave allowed under the legislation because we have no information to provide us with another estimate. Further, we assumed that these workers would use their vacation leave, which averages 1.6 weeks, before taking unpaid leave.

When firms with 35 to 49 employees are included in the coverage, we estimate the cost to be about \$38 million annually, and the maximum number of workers likely to take such leave increases to about 182,000.

TEMPORARY MEDICAL LEAVE

We estimate that the cost of this provision will be about \$53 million, annually.

Again using the 1985 National Health Interview Survey, and defining an employee's serious illness as 31 or more days of bed rest, we estimate that about 610,000 workers would be eligible under this provision. The duration of illness averaged about 8.9 weeks. Because 40 percent of employees are covered by their employers' short term disability plans which generally provide for 26 weeks of partially compensated leave the cost estimate for this provision covers the 60 percent of workers having only some sick and vacation leave available.

When the firm size covered is reduced to 35 or more employees, the cost of this provision increases by about \$61 million annually, and the number of workers eligible increases to about 676,000.

GAO Temporary Medical Leave

| | |
|-------------------------|----------------------------------------------------------------------------------------------------------------------|
| Likely Beneficiaries | <ul style="list-style-type: none"> • Workers with 31 or more days bed rest • 610,000 workers |
| Expected Leave Usage | • 8.9 weeks average length of illness |
| Existing Leave Policies | • 40 percent have disability coverage |
| Expected Cost | • Less than \$53 million |

ROLE OF FAMILY LEAVE IN LABOR-MANAGEMENT BARGAINING

Family and medical leave benefits are likely to have little, if any, measurable impact on either the labor-management bargaining process or the final outcome of such negotiations. While removing any component of employee compensation from negotiations, by definition limits the range of bargaining and could be expected to have some effect, the magnitude of impact of legislating relatively a low cost benefit such as uncompensated family and medical leave, is likely unobservable. Furthermore, in a series of discussions with private and public employers and employee organizations that have negotiated for family and medical leave benefits, neither management nor labor representatives believed that the costs associated with parental leave were large enough to result in trade-offs with other components of the negotiated compensation package.

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To sum up, we estimate the overall cost of this legislation as presently drafted is, at most, \$188 million annually. When firms employing between 35 and 49 people included, we estimate the annual cost to be about \$212 million. The actual cost is likely to be less when all existing coverage is factored out of the estimate. Specifically:

- some firms, (principally the larger ones) already have family and medical leave policies similar to the provisions of this legislation,
- several states have either disability and/or family leave statutes under current law, and
- although formal policies generally do not exist, many employers already make accommodations to employees who are ill or have children or parents who are ill for extended periods of time.

In addition, because we were unable to obtain estimates of actual usage by workers, we likely overstate the number of workers taking leave and the length of leave likely to be taken to some extent.

We estimate that the rate of usage under the provisions of this legislation will be equivalent to less than 1 in 300 workers being absent at any time. The most important benefit the legislation provides is job protection which could also reduce job turnover. Improved employee morale and a more experienced, loyal, and committed work force are other intangible, and perhaps unmeasurable, potential benefits of this legislation.

To update our estimates to reflect 1988 conditions, employer health insurance costs, the number of births and total employment figures would have to be adjusted. Health insurance premiums increased about 23 percent between 1985 and 1988, which would affect the cost of all of the legislation's provisions. Births have increased by about 4.2 percent, thus raising the number of likely beneficiaries covered by the provision providing leave to care for new children. Finally, total employment has expanded by approximately 7.5 percent, affecting the other provisions of the legislation. Overall it would increase the cost of this legislation by about 30 percent.

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Mr. Chairman, this concludes my prepared statement. I and my colleagues will be pleased to answer any questions you and the other members of the Subcommittee may have.

Chairman CLAY. You can keep the microphone for a second. I have one question relative to your last statement. I have heard for the last three or four years the dramatic impact this legislation would have on small businesses and how it would drive them out of business.

Did I understand you to say that the cost of this would be \$4.50 per employee, per year?

Mr. GAINER. That is when you look at all the employees who are eligible for the legislation, but we estimate that for the average employee who actually takes leave during the year, the average cost would be about \$110 for that employee.

Chairman CLAY. If he actually took it.

Mr. GAINER. That's right.

Chairman CLAY. But, you are saying \$4.50. In other words, if a company had ten employees, you are saying the cost would be \$45 a year?

Mr. GAINER. On average, that would be the cost of providing the benefit unless they had a higher than average number of people who actually took the leave.

Chairman CLAY. In other words, you do not believe that it would result in any major trade-offs of other benefits for any sized business, and we are now talking about fifty employees or more?

Mr. GAINER. Based on our discussions with people in industry and unions and just the logic of the situation, it is hard to imagine how it could have a significant effect.

Chairman CLAY. I can imagine why small businesses were concerned when we first proposed this legislation because there were estimates by some organizations that it would cost two or three billion dollars. I see now your conservative estimate is no more than one hundred and eighty-eight million dollars per year and perhaps much less than that.

Mr. McEntee, we keep hearing words relating to this legislation such as intruding and compelling and imposing and mandating. Do you believe that the federal government has a justifiable role for setting minimal standards for the workplace?

Mr. McEntee. We certainly do. In terms of the public sector, I guess about 65 percent of the people we represent through the collective bargaining process already have this benefit. But when you turn and look at the private sector, it is probably 35 percent or less.

We think that it is really a minimum level labor standard, almost like the minimum wage, and that it is absolutely critical for it to come about in these United States, that the federal government take the major role in the beginning in terms of a benefit like this. They really have to do it.

Just as you said, in terms of the process of collective bargaining, it becomes sort of a low ladder on that pole in terms of bargaining. We represent over—we have over 500,000 women so it becomes even more important, and it becomes even more important as more women are working in our society.

It is really necessary in terms of our experience, and we look at it in terms of the past, that the federal government really does have to take a hand in this, as a minimum level labor standard.

Chairman CLAY. Thank you. Mrs. Roukema?

Mrs. ROUKEMA. Thank you, Mr. Chairman. I hardly know where to begin because I have so many biases on this subject. We have gone through this subject so frequently, and I am happy to say that we have three individuals here who have validated all my preconceived ideas on this subject.

I hope that all my colleagues on this subcommittee and in the Congress at large will read their testimony very carefully and, if they do not, I shall be sure that they are exposed to it in one form or another.

I want to thank Dr. Brazelton particularly for being here today. As you say, he is a hard act to follow. He has become America's pediatrician. I am not throwing this out as a threat to my colleagues, but I do want to tell them how I happened to pick up the phone and call Dr. Brazelton.

I was out in Colorado caring for my first grandchild and my daughter at a time when I became aware of his new book, *Working Parents*. I thought: Who better could we have come and speak on the values that we associate with this bill, quite aside from the practical aspects of the problem?

I say I am not going to threaten you, but having had that experience as a grandmother, a grandparent, and comparing notes with others, you had better watch out. We may add an amendment to this bill that provides leave for grandparents, because with families at different ends of the continent, it becomes more of a problem for young parents whether or not they are worried about going back to work.

Dr. Brazelton, I cannot add more eloquently to what you have already stated, but I do believe that we, as a society, are trying to hide from some very serious problems that we have with relationship to families.

Those of you who know me and who have been following the issue know that I recently wrote an essay, published in "U.S. News and World Report", in which I clearly stated my own preference, which is: I wish mothers were home taking care of their children. I do not know whether or not you would agree with me on that, but I also live in the real world.

I have a daughter and a daughter-in-law and I do not know if, economically, they are going to be able to maintain the standards and yet, they have the same feelings of responsibility towards their families and their children that we had in our generation.

I do not know how much longer we can go on ignoring the sociological problems that we see in family life today on which you speak so eloquently. This is such a small step that we can take in terms of being supportive to families and recognizing that they are important, because, as you have said, what we do in the law has profound symbolism and makes an important statement in society as to what our real values are.

If we really think families are important and the nucleus of civilization, then we ought to be doing something substantial to help them stay together. I am very grateful for your being here today. Would you like to add anything?

Dr. BRAZELTON. I have just been in China. I have been fighting at the national level—not fighting, but working with the one-child family over there. When I was there five years ago, it looked like

the one-child family was not working. Children were self-centered; they didn't share toys; other kids didn't like them, so their reaction at that point was, "Oh, it's because of the four-two-one, four grandparents, two parents and one child."

So, they were going to abolish grandparents and I said, "Oh, don't do that in a country like yours that cares so much about the linearity of families. Don't do that." Well, five years later, they have mandated that if a mother can't stay home because of her job, the grandmother can stay home the whole first year with her grandchild so China is listening.

I think there are some very interesting things in the wind. Since I started fighting, with Ms. Schroeder and Bill Clay, for this bill, I have gotten called by five major companies in this country who have said, "How do we put into action a parental leave act before the government tells us to do it?" I said, "Well, this is really the reason why the government has to take a stand."

It will push businesses to be responsive at a time when I think they are teetering. I think they are ready, teetering and they are thinking.

The other thing that happened, which I would like to report, is that the Chamber of Commerce plea bargained me in Massachusetts. We have an 18-week bill that is ready to go on the floor now that Dukakis is not running any longer, and we are going to get in on the floor.

The Chamber of Commerce called up and said if we would change it to a maternal leave act, they would see that it moved through. I said, "You know, that is missing the point. This is not a woman's issue, it's a family issue, and men have got to be involved."

If we do not do it at a national level and a state level, saying this is partly men's responsibility, too, I think we are dumping this whole movement we are seeing in this country, that men really are coming into the family and are feeling good about it. They are beginning to get torn, just like women are. The second they get torn enough, we are going to get some action in this country.

I think we have got to include men in this even if, as some of the Congressmen said, they are not likely to take much of the leave. At least, they are going to feel backed up, for being wanted at home and being needed at home.

Mrs. ROUKEMA. Thank you, very much.

Chairman CLAY. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman. Dr. Brazelton, your testimony leads to, I think, the ultimate conclusion that a parent should spend a long duration of time with the newborn. How then will ten days do it? You showed us two days, two weeks, and two months.

Doesn't the conclusion follow out that the parent should remain with the child for the proper development?

Dr. BRAZELTON. As I said, I still have a bias that you are representing right now, that a mother ought to be home and that a child is best off with a parent at home. I think that is, in the face, though, of reality. I don't think women can be at home right now, most women, seventy percent of them, without suffering at many different layers.

I find today that the women who are staying at home, and I do see, just as you do, that giving the baby the first year at home is like giving them a very precious gift, those women that are at home full time are going through the same kind of turmoil that we see in women in the workforce. It is not easy to give up right now and stay at home for even the whole first year. Of course, I would like to see that happen.

Mr. MURPHY. Are you advocating one year of parental leave?

Dr. BRAZELTON. Oh, would I. If I had a choice, I sure would, but I think it would be to give people choices and give them mandated choices so they could make their own choice, not saying they ought to be home for a year. I don't think most people can do it either financially or psychologically. I am not sure, if they are at home under pressure, that they are going to be that good for their children.

Mr. MURPHY. Will ten weeks help?

Dr. BRAZELTON. Yes. It will be a major, major back-up for most women in this country, most men, too, perhaps, to say ten weeks are critical enough so our government is responsive. I think it will be symbolically saying to them, "Your being at home for your baby, but also for yourself, is a very important thing to pay attention to right now in the U.S. economy."

Mr. MURPHY. One question to the GAO. You mentioned a cost of an employee who takes the leave is \$110. Does that cost vary with the number of employees in a particular firm? For instance, would it be higher in a small business and less in a big business, or is that a constant figure?

Mr. GAINER. That is an average employee cost and probably, it would work the other way around. The more significant the benefits that a firm offers—and the larger firms usually have the better health benefits—the more it would cost per employee.

Mr. MURPHY. Why? They already have those built in. You are talking about additional costs, aren't you?

Mr. GAINER. The cost we are talking about in each case is the cost of continuing the employer's share of health benefits while the employee is away from work.

Mr. MURPHY. These figures do not represent what the bill will do, then?

Mr. GAINER. What they represent is the cost that the employer has to continue to incur while someone is absent even though they are not getting the benefit of that person's work.

Mr. MURPHY. But the more the employer offers now without the law, then the less impact the additional, mandated ten weeks would have?

Mr. GAINER. I don't think so. If, for example, an employer has a very rich health benefit and that health benefit is worth maybe \$100 per week instead of \$25 per week, then that employer's cost is going to be higher than someone who offers a very limited health benefit.

Mr. MURPHY. Yes, but he has done that without the Act. He has done that without our mandating it.

Mr. GAINER. I am not talking about the firm that offers parental leave. If the firm already offers parental leave similar or better than this, there is no cost to that firm, but if a firm doesn't and

they have to take it on as a result of this legislation, then the more they spend on health care per employee now, the more it will cost.

I would expect that if you correlate benefits with firm size, the bigger the firm, the more likely that it offers more expensive health benefits.

Mr. MURPHY. I see.

Mr. NILSEN. For those firms that already have existing leave, we were unable to factor out that cost.

Chairman CLAY. Have you finished, Mr. Murphy?

Mr. MURPHY. Yes, I have, Mr. Chairman.

Chairman CLAY. Mr. Armev?

Mr. ARMEY. Thank you, Mr. Chairman. I should like to point out that unlike my colleague, Mrs. Roukema, I approach this subject without bias, although I do share her enthusiasm for the relationship between grandparents and grandchildren. It seems to me they must be natural allies since they have a common enemy. I can assure you that the alliance with my grandchildren is going to be a lively one indeed.

I do, Dr. Brazelton, appreciate your work and I feel that in my experience as a young parent, I was blessed by two things. One, I did at that time work as a college professor, so I had a great deal of opportunity to be away from the job and at the home.

Two, my wife was almost totally incompetent at dealing with the seamier logistics of child raising. I think that was probably creative incompetence. Anybody who has changed a diaper would understand the value of such incompetence.

I did have a great advantage over most fathers in participating on a daily routine with the youngsters, and I wouldn't sacrifice or trade or give up that option. In fact, to some extent, I think I willingly gave up gains in my career and career reputation for that wonderful opportunity.

My relationship with my own grandfather tells me something of the value of family, and my own relationship with my mother and father-in-law tells me some of the wonderful things of having that relationship at this time in my life. I think all things family are an extraordinary privilege.

I do hope that America, as a nation of individuals, becomes again a nation of families, as I enjoyed in my childhood days, so I applaud your work.

On the other hand, here we are talking about making public policy. I am an economist and my field of specialization in economics was public choice theory, which I combined with welfare theory. One of the things you cannot escape in the making of public policy is that there are always, in public policy, gainers and losers.

The unhappy thing we have seen here—GAO has made it very clear—is that almost always, the gain to the gainer is specific and quantifiable. GAO has given us their best effort and I think it is quite a commendable effort, although I think there are many ways, in particular—loss productivity and so forth—by which measurement is an impossible task, so I think they ought to be applauded for their job.

Unhappily, the loss to the losers is often diversified and immeasurable and that is what I must evaluate. Having evaluated that, I will tell you that I oppose this legislation on two bases:

One, that it interferes with the right of the individual to determine their own family-work relationship free of government encumbrance, whether it be the employee or the employer; and

Two, that it is an inherently unfair distribution of real income among those who avail themselves of the privilege under the mandate and those who must share the burden of their work in their absence.

I understand what you mean, the concern that you have about the youngster who faces a parent who comes home from work with a dead face. Certainly, if I can leave work for ten weeks and stay home and have that lively face that my youngster is entitled to, that's a good thing.

Those who must stay behind me at work and have their job more complex, more complicated, are more likely to come home. I don't think that it is fair for my life face at home for my youngsters to be a cost to those other parents who come with a more dead face, because they are doing my share of the work. That is the way these things will work out.

Now, that's a judgment call, I understand, but I do want to admonish your enthusiasm for your work, which is so justified, to think of the dark side of the coin, because that is the side we so often overlook in making public policy.

One other thing, and especially to Mr. McEntee. I read your statement and I thought the tone of it was very harsh. Dr. Brazelton, you fell into one of the traps of logic related to this legislation that somehow or another, nothing good is happening if, in fact, there is no government mandate.

I think, Dr. Brazelton, quite innocently enough, you have failed to understand, and Mr. McEntee, out of the spirit of assertive advocacy, you may have overlooked the fact that the American business community has been outstanding in its track record for innovative, creative personnel policies designed to encourage the kind of things for which you fight—flex-time, shared time, and so on.

We would have more American people working at home if we didn't have a fair labor standard that prohibits people working at home out of deference to the unions. Some of us have been fighting that on behalf of women who want to stay home and work, but they cannot.

The American business community has been creative. It has been innovative. It has been responsive. They do understand this. Rather than complaining that we have no federal mandate that takes away private choices and imposes a burden on some workers; in consideration of others, we ought to applaud the American working community for their enormous responsiveness to our changing lifestyles.

For that reason, I still see no demonstrated need for this specific legislation, even though I applaud, with all my enthusiasm, some of the objectives of the legislation. I wish that somebody would give the American employer community some recognition for their wonderful responsiveness to the American family. That's my statement.

Chairman CLAY. Yes, Mr. McEntee?

Mr. McENTEE. Can I just make maybe one or two comments?

Chairman CLAY. I think you should.

Mr. MCENTEE. As I said, I certainly did not mean to be harsh on the American business community, but if the American business community was as family oriented as the Congressperson would lead us to believe, we wouldn't be here today. We wouldn't be worrying about this kind of legislation and doing these kinds of things.

In terms of infringement upon the rights of an individual, this is merely an option. This is something that allows them to do that. They are not mandated to do that. They can take advantage of this or not necessarily take advantage of it.

We have, as I said, sixty percent of our membership under contract that now gets this benefit through the process of collective bargaining. We have not seen any evidence at all that the people who remain in the workplace are somehow damaged by the fact that this benefit exists and other people get the opportunity to have some kind of unpaid leave of absence.

If this was, in fact, the case, we would have had on the collective bargaining table time and time again some kind of trade-off for this benefit, if other people were being literally, as you say, in some way hurt or damaged, in some way having this dead face that they bring home. That has certainly not been our case at all.

We have no problem, essentially, with American business. We would like to join with American business in many ways in labor-management relationships, but we do find them rather tardy in addressing some issues that affect the American family and the American worker, such as their minimum labor standards.

When you talk about the process of home work and the fact that if it wasn't for the Fair Labor Standards Act, a lot of people could stay home, the reason it was put in the Fair Labor Standards Act was the tremendous amount of abuse by employers all across the United States in terms of the issue of home work and taking advantage, particularly, of women in terms of not being able to police minimum wage and other minimum standards.

We would only hope that the American business community would enter into a partnership with the labor movement and other constituent groups in this area to provide some decent minimum laws, if you will, for the American family.

Chairman CLAY. Thank you. Mr. Hayes?

Mr. HAYES. Thank you, Mr. Chairman. I don't want to get into a philosophical discussion.

Chairman CLAY. Please don't.

Mr. HAYES. With my colleagues, oftentimes we are as far apart as the two poles, so that would take more time than we all have. But I am really receiving some real benefits from this kind of testimony, as a member of this subcommittee. It is hard to stay within the confines, Mr. Chairman, of the jurisdiction of this particular piece of legislation.

Chairman CLAY. Will you try?

Mr. HAYES. I sure will. I sure will. I can't help but reflect upon the fact that we talk about the extension and preservation of family life—that is what we are talking about—which is a very interesting subject, so you have to make some comparisons in your own mind.

Having been one with my background, I didn't really understand the real difference between parental leave and maternity leave, be-

cause I can remember sitting, Doctor, across the collective bargaining table when my colleague, there, characterized paid maternity leave as gross negligence. They did not want to pay any mother who became pregnant. We have come a long way since then.

When you look at the family crisis, I represent a district that—I call it a crisis because there are an awful lot of poor people in it who have no insurance coverage whatsoever and they are rushed in and out of the hospital. They do not get a chance to stay long enough to go through some of the things that we saw on the screen there.

Those mothers, some of whom are single parents, would like much to have a job but can't find a job. The Medicare payments, a hospital won't admit them, so they go into the county hospital or some other publicly financed hospital in order to have a baby.

I think we need this kind of legislation. My direct point to you, Doctor, is I gather what you say and according to statistics we received from the GAO, we are talking about the difference in cost between \$138 million—that is only 35 proposed Stealth planes or 188 days of delivery of oil for the European countries from the Persian Gulf—so we have to somehow readjust our priorities.

Would you support a national health care program financed by the government? I think we are moving in that direction.

Dr. BRAZELTON. Do you really want to get into that? I would under certain conditions, because I think we need to do some more homework before we are ready for that. I think that if we had a national health care act that was as insensitive to people's needs for relationships as it might be, I wouldn't support it.

If we were in a position to encourage active participation by the patient with a chosen doctor of his own, yes, I would think that was wonderful. I do think we need to think about that sort of thing to back up families, as well as this sort of thing.

I guess I would like to respond to Mr. Armev, because I think what you are saying is exactly what I feel that, yes, middle class women do have a choice and they do have the capacity to make their own choice about staying home long enough to feel good enough about themselves.

I am talking about poor people who don't, and I think they need the back-up of a government mandate like this to give them the sense of power that we are trying to instill in lower classes today.

We have an opportunity. This is what I want to keep pointing out. This is an opportunity, not just a mandate, but an opportunity, to give people, at a time when they are up, a sense of, "Wow, you are important." The baby does it. That's why I showed you the baby. The baby is doing his part.

I think if we can do our part to back up young, disillusioned, disabled people in our society, we could change a certain number of them, at least, to begin to believe in themselves and believe in their families. That is where I think the opportunity is.

I think it is worth one missile or one Stealth bomber or whatever it is going to take to pay for this, so I think we had better look at priorities in this country.

Chairman CLAY. Will the gentleman yield?

Mr. HAYES. I yield all my time.

Mr. ARMEY. Let me say I have been more than willing to throw in a military base in Massachusetts. I think you really hit on a point. I am the villain who labelled this bill "Yuppie Welfare". I know a lot of folks did not like that label, but in talking about this income transfer between co-workers, it is precisely the upper income professional or semiprofessional man or woman who can afford to avail themselves of the opportunity to take leave.

That working man or woman who works because they desperately have to have that job to make ends meet can never enjoy the opportunity as we mandate it, but they will share the burden of covering for their supervisor who is off for ten weeks, and that is the income transfer I am talking about.

It is the meanest kind of transfer, because you transfer income from the more well-off to the—

Dr. BRAZELTON. I think poor people who have never had the experience of being backed up will reach for it around the new baby.

Mr. ARMEY. Unhappily, your predictive capacity with respect to human action is somewhat, I think, misdirected here because people do what they must first and do what they would like to do only when they can afford that privilege. Unhappily, the poor are, by definition, people of lesser privilege.

Chairman CLAY. Mr. Fawell.

Mr. FAWELL. Doctor, in your presentation you were referring to bonding. I know there is not a person alive who does not empathize and sympathize with you and appreciate your comments.

One of the things I had always hoped about this bill is that it truly could be just a parental leave bill which, unfortunately, it is not. Hardly anybody ever gets a good idea that is not then carried-too far.

With all due respect to the Chairman and to Congresswoman Roukema, I think that we have gone way out. We have to define a serious health condition. We talk about the employee's right to leave for a whole bunch of other reasons. It is a family leave and employee leave. One of the particulars is in regard to parental leave.

I wish we could zero in on the parental leave, for instance, and forget about the rest. The serious health condition is so widely defined that you don't need an M.D. Any so-called health provider appointed by a local government is qualified to determine if there is a serious health condition and so forth and so on.

I speak as a grandfather. My three children have presented me with five grandchildren in the last five years, one per year and another one on the way. I have done a lot of watching my daughter, who teaches. I have a son who had been going to Boston University and he just got his Ph.D. He has a new child. My other son is in Cambridge with an architectural firm, and has two and a half children.

As a grandfather, I look at what they are doing in the revolutionary, changed times in which they live their lives compared to myself in the '50s, the post-World War II era. I do not believe that most women work just to make more money. I think women go to work for all the reasons men go to work, to do and express themselves and be what they are.

I couldn't help but notice you said that the mother ought to be in the home—and, indeed, Marge, you, too, that the mother ought to be in the home—I suppose preferably for all of the young lives of our children?

Dr. BRAZELTON. I said that was a bias that we all live with.

Mr. FAWELL. But many people today use pro-family, pro-life, as a sword or a shield, it seems. I watch my three children and they are not rich. The architect is beginning to make headway. I do not consider myself wealthy. I came from a very poor family.

My kids are making it on very, very little—\$28,000 as an assistant professor at Boston University ain't much. They utilize child care. They were not so disillusioned and abused that they could not take some time off. In each case, the employers involved were able to work it out. At relatively early ages, all five grandchildren are in child care; loving, beautiful, child care facilities. All in all, it seems to me they are all doing a better job than my wife and I did, perhaps, in raising three.

I do not, I guess, share the deep despair you have. But you do see these young single parents, and I know that in America, there is a family problem. I do not believe that the federal government is the end-all solution, by waving a wand and passing a bill, that we are going to somehow alter all of this.

If we are serious about it, I wish some time we had a federal law that said there should be truth in titles, so that what we call a parental leave bill, which is so much more than a parental leave bill, would be titled what it really is, so we can talk about all the issues.

If it is going to be a parental leave bill, and we did all we could possibly do to give some type of incentive to the disillusioned and the abused. God knows what the reasons are for all the abused children and children at risk in our inner cities, but people don't seem to care and aren't doing anything about it, either white or black. For instance, in Chicago, we aren't doing much.

America isn't doing very much. People aren't doing very much. Maybe you are talking about saving souls to change all of this. We come in here and there is a little bit of unfairness, it seems to me, when you sell something like this without knowing fully how many more ramifications it does have.

Even our parents are no longer at home. The care giver is gone, so that we have them all in nursing homes and you know the tremendous costs that are involved with that. It is such a huge problem. I guess what I am saying is: Although I agree a hundred percent with everything you have said about bonding and how important that is, it just seems to me that it is almost irrelevant to really addressing the problem of helping the disillusioned and the abused, who are the very people who can't take advantage of this, anyway.

Chairman CLAY. The time of the gentleman has expired. Mr. Miller?

Mr. MILLER. Thank you, Mr. Chairman. I don't have any questions for the panel. I just have admiration for them and want to thank them for their support and their effort on behalf of this legislation and a number of other pieces of legislation that are terribly important to the well being of our families. I can't tell you how much I appreciate it.

Chairman CLAY. Thank you. We thank you for your testimony.

The next witnesses consist of a panel: Dr. Earl Hess, Mr. Robert Wingert, John Motley, Jonathan Howe and Cynthia Simpler. Welcome to the committee. Your testimony will be included in the record at this point if I hear no objection, and I hear no objection. You may proceed as you desire. The first witness is Dr. Earl Hess.

STATEMENTS OF EARL HESS, FOUNDER AND PRESIDENT, LANCASTER LABORATORIES, LANCASTER, PENNSYLVANIA, REPRESENTING THE U.S. CHAMBER OF COMMERCE; ROBERT WINGERT, CORPORATE DIRECTOR, HUMAN RESOURCES, DENTSPLY INTERNATIONAL, INC., YORK PENNSYLVANIA, REPRESENTING THE NATIONAL ASSOCIATION OF MANUFACTURERS; JOHN MOTLEY, DIRECTOR, FEDERAL GOVERNMENT RELATIONS, NATIONAL FEDERATION OF INDEPENDENT BUSINESS; JONATHAN T. HOWE, IMMEDIATE PAST PRESIDENT, NATIONAL SCHOOL BOARDS ASSOCIATION; AND CYNTHIA SIMPLER, PERSONNEL MANAGER, JAMES RIVER CORP., REPRESENTING THE AMERICAN SOCIETY OF PERSONNEL ADMINISTRATORS.

Mr. Hess. Mr. Chairman, I appreciate the chance to appear before you today and very much applaud your interest in what is obviously a family issue of great importance.

I guess before I go to my prepared text, I really have to square accounts with you a bit, because I think coming here, as representative of the Chamber of Commerce, I automatically wear a label.

Chairman CLAY. A label?

Mr. Hess. A label that says I am a capitalist who only looks at the bottom line and does not necessarily empathize with the issues that have been discussed here.

Chairman CLAY. Who labelled you as such? Nobody on this committee.

Mr. Hess. I sensed that from the last panels and the dialogue that was going back and forth. I hope I can prove you wrong.

Chairman CLAY. You have the same First Amendment rights as the last panel, so go ahead.

Mr. Hess. I simply want to say that when I hear things about the sandwich generation, family requirements and that sort of thing, they mean very much to me. I started my own business 27 or 28 years ago. My wife, who is with me, struggled with family issues; at the same time, she tried to help me get started. We think we reared a fairly good family.

We now have a couple of grandchildren that we are concerned about and we also have three elderly parents. I know I am in the sandwich generation when I have to take the car seat out of the car to put the wheelchair in. Here we are coming at an issue which all of us, as responsible American citizens, need to talk about.

My company is Lancaster Laboratories, Incorporated, in Lancaster, Pennsylvania. It started out very small, as a true family business. It was a long, hard struggle, but after 28 years, we now have three hundred people and are in the process of hiring about 75 more this year, after having completed a building expansion.

I am here representing the U.S. Chamber as a member of its board and the Small Business Council. Accompanying me today is Christine Russell, Director of the Small Business Council.

I do not oppose parental leave; it is not going to force me to provide anything that I do not provide already. In fact, the opposite is true. All through our expansion at Lancaster Laboratories, even though we have three hundred people working for us now, it has been very important to retain a familial atmosphere within our company.

The benefits that I provide to my employees surpass those that legislation would require—not because of any mandate, I might add. As I have described to House committees in the past, my company has provided on-site health care for the past three years, two years before it became politically expedient. It now handles up to 112 children and is shared by our employees' children with other children in the community.

Our employees also enjoy a broad leave of absence policy that is flexible enough to permit an average of three months leave when an employee becomes a parent. Also, we have an innovative flex benefit package that allows the day care costs, of which the employee carries 75 percent and we carry 25 percent, to be paid for with before tax earnings.

I oppose mandated parental leave because of the nature of the government mandate. The idea of providing leave to employees for family needs is not objectionable in itself; however, in principle, I object to the government moving in to tell me what benefits I must provide.

As I have said, parental leave legislation would not affect my business directly, because I provide more than it would require. However, legislation such as this limits my flexibility in what I can or will be able to do for my employees because it is simply one more step in taking the "free" out of free enterprise.

Any sensible employer with a good employee wants to do all he or she can to keep them. Further, in today's labor markets, it is a business necessity. My company has retained several key employees who we would have lost without our child care center and leave policy. We have also attracted some talented employees for whom these issues were important.

My first point, then, is that I oppose it on principle because I believe in free enterprise. As I have mentioned already, I know what it is to start out small. This is my second reason for opposing this mandate so strongly.

By adding to the burden of start-up entrepreneurs, mandates like this could well be the straw that breaks the camel's back. Start-up businesses I refer to as the free enterprise's reforestation process, and small businesses are the seedlings of this system. They are fragile; they do not grow well when too many layers of legislative mulch are thrown upon them.

The mortality rate for small businesses is already staggeringly high. Most of them fail very early and the heaping of government mandates upon fragile, young enterprises usually rules out their ever becoming big enough to provide more benefits voluntarily.

If you want a good example, look at Section 89 that is now taking place. With three hundred employees, the Virginia House Council

is driving me nuts. It seriously misallocates our resources with its complicated compliance apparatus.

Government must give business a chance, a chance to grow, a chance to do what is most advantageous for its survival and for its employees. My business would likely not have survived had it been required to provide leave benefits such as these from the very beginning.

Here, I would like to challenge the GAO costs. I do not think a person who has appeared on this panel before me has met a payroll. When you talk about what the cost of health insurance is, that is nothing compared to the loss in productivity and our loss of ability to survive when a key employee is lost.

Returning to our own experience, our leave policy is flexible and negotiable enough to work out for all of us. The average length of leave is three months, but some employees come back earlier and some need more time. The key is freedom to negotiate what is best for each employee in his or her specific situation and still compatible with the company's viability.

We need to develop a broader understanding of our free enterprise system. Being an entrepreneur involves a lot of risk and uncertainty. When government, labor, or society in general attempts to transfer many of their risks to the shoulders of the entrepreneur, that combined weight becomes unbearable.

What is the result? We lose our entrepreneurs. We lose the reformation process. The free enterprise system will lose the jobs—the employers that you now are depending upon to provide all of these benefits. Thank you.

[The prepared statement of Earl H. Hess follows:]

STATEMENT
 on
 PARENTAL LEAVE
 before the
 SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS
 of the
 HOUSE COMMITTEE ON EDUCATION AND LABOR
 for the
 U.S. CHAMBER OF COMMERCE
 by
 Dr. Earl H. Hess
 February 7, 1989

Mr. Chairman and members of the Subcommittee, I am Earl H. Hess, founder and president of Lancaster Laboratories, Inc., located in Lancaster, Pennsylvania. My company is an independent laboratory providing chemical and biological services to a wide range of clients in the food, environmental, and pharmaceutical areas. I am here today as a Member of the Board of Directors of the U.S. Chamber of Commerce and as Chairman of the Legislative Policy Committee of its Small Business Council. Accompanying me today is Christine Russell, Director of the U.S. Chamber's Small Business Center.

The first board meeting for Lancaster Laboratories was held in my living room in 1961. The business was truly a "family business." My wife handled the bookkeeping, clerical, and housekeeping aspects of the business, oftentimes while babysitting our youngest daughter. I was lab manager, research director, and the general "Jack of all trades." The family cleaned the lab together every Friday night, with each of our children having chores appropriate to their ages.

We now employ 300 people and over the years have developed a national and international reputation in the environmental and life sciences. Even with this number of employees, we work very hard at maintaining a familial atmosphere within our business.

The Chamber opposes mandated leave benefits because they are unworkable for most small employers; are irrelevant to many employees when compared with other "family" needs; will inflict unintended consequences on the employer, the employee, the economy and our

competitiveness; and will restrict the voluntary employee-benefits system, which has worked so well in our country. Mandated parental leave would allow the government, rather than management, to set personnel policies for private companies.

The business community today faces new challenges of achieving a balance between work and family life; between increasing productivity and meeting the human-resource needs of the work force; and between enhancing our international competitiveness and placing new social responsibilities and financial burdens on employers. Flexibility is the key for businesses that are pressured into balancing so many priorities.

On the surface, a mandate for unpaid leave, with job protection, for those who must care for a disabled family member or an ill child or parent, appears to be a simple way to guarantee that all employees receive equal benefits for family responsibilities. However, a new national policy, albeit well-intentioned, presents serious problems.

First and most importantly, a government mandate for parental leave will not decree good parenting. Federal legislation skirts the underlying issue and does not replace basic parental responsibility as the essential ingredient for raising children. Proponents of mandated parental leave see it as a means to improve family life, which is a laudable goal but clearly out of the realm of a Congressional mandate.

Second, any mandated benefit is likely to replace other, sometimes more preferable, employee benefits. A mandated benefit, regardless of how worthy it may be, does not increase the employee benefits "pie"; rather, it redivides it in a manner dictated by powerful special-interest groups. If one employee benefit is required, then another benefit, perhaps one more greatly desired by the employees of a particular company, must be eliminated or reduced to offset the costs associated

with the new mandated benefit. Employee benefit packages differ among employers according to their affordability and the needs of individual employers and their employees.

Parental leave deprives employers and employees of the right to be flexible in negotiating alternative benefits, such as longer vacations or better medical insurance. All employees -- male, female, young, and old -- will be subject to a uniform parental leave law, whether they are new parents or not, whether they like it or not, or whether they can afford to take advantage of it or not. Federal legislation ignores the irrelevance of benefits that are meaningful only to a portion of the work force. Such legislation results in a loss of freedom of choice -- the hallmark of our economic system.

The Chamber believes that flexibility works best in addressing diverse and evolving family needs. Congress cannot predict whether employers would be able to afford or whether employees would prefer flextime, child-care, dental, or liberalized leave benefits. Employee benefits designed in Washington are certain to alienate employers from the particular needs of their own workers. Flexibility, not mandates, allows employers to respond to employee needs and function in a competitive economy.

Impact on Small Business

Small and entrepreneurial businesses are this nation's greatest weapon in its battle to retain a competitive edge in world markets. America's 18 million small firms are the economic engine of this country, annually creating most new jobs and encouraging product innovation and technological advancement.

Not every small business employer can afford to offer the benefits that a large company offers to its employees. Ninety-five percent of the Fortune 1500 companies already provide parental and disability leave. However, the dynamic, growing sector of the economy is dominated by small businesses, some of which are struggling to survive. It is primarily these small businesses that will bear the costs of mandated parental leave.

At the 1986 White House Conference on Small Business, the No. 2 recommendation of the 1,800 delegates was an end to government-mandated employee benefits, including parental leave. A large majority of the female business owners present at the conference opposed parental leave legislation, urging instead that private-sector solutions be devised.

Discriminatory Effects

Mandated parental leave is discriminatory. Jobs for those in their early family and childbearing years could be jeopardized. Mandated parental leave could handicap prospective parents in the labor market. Faced with mandated parental leave, a business owner choosing between two qualified candidates -- one male and one female -- would be tempted to select the male. Direct and hidden costs to employers will compel them to think twice before hiring additional employees.

Costs and Competition

Mandated benefits are nothing more than a hidden tax on employment and one more cost of doing business. In a competitive global economy, raising costs would result in higher prices, cutting profits, and crippling business's ability to expand and create jobs.

Currently, employers, on average, voluntarily spend a record 39.3 percent of their payroll on benefits, or \$10,283 per employee per year. Voluntary annual expenditures on benefits by employers have risen from \$190 billion in 1973 to \$742 billion in 1986. Vacations, pensions, health insurance, and even time off for voting are employee benefits -- like parental leave -- but none of these has been federally mandated.

As mentioned above, employee benefits make up 39.3 percent of an employer's payroll in the U.S. By comparison, in Korea benefits constitute 21 percent of an employer's payroll; in Japan, 16.8 percent; and in Taiwan, 5 percent. Legislation that significantly increases the cost of doing business for U.S. companies limits the U.S.'s ability to compete and forces businesses to produce goods overseas.

In the past, sponsors of this legislation have pointed to Canada, Italy, Germany, Sweden, Finland, Austria, and Chile, all of which grant paid leave as a matter of right to all employees. These countries have a myriad of other government-mandated benefits, as well. However, between 1980 and 1986, the total number of people employed in these seven countries increased from 69.5 million to 71 million, an increase of only 1.5 million, or 2.2 percent. During that same period, the total number of persons employed in the U.S. increased from 99.3 million to 109.6 million, a net increase of 10.3 million new jobs, or 10.4 percent. European-style government interference in benefit plans is not a precedent that Congress should consider.

Summary

Private employers increasingly are changing their policies and environments to meet the needs of working parents. A range of solutions exists for the needs of working parents in any given workplace. No one solution is necessarily the best. Only after employers and employees

assess their needs and decide whether they are capable of providing particular benefits can the appropriate, affordable employer response be instituted.

Ultimately, a healthy economy, jobs, and a cooperative labor-management environment can offer the most basic support -- both financial and personal -- that families must have to survive. The issue is not parental leave, which many support in concept, but the appropriate role of government.

* * *

Chairman CLAY. Thank you.

Mr. Wingert, will you speak into the mike, please?

Mr. WINGERT. I am Bob Wingert, Corporate Director of Human Resources for Dentsply International. We are the world's leading manufacturer and distributor of all types of dental material and supplies and we are based in York, Pennsylvania.

I am also representing the Concerned Alliance of Responsible Employers, a coalition of 170 corporations, associations and public interest groups opposed to mandates in the workplace. More specifically, I am testifying today on behalf of the National Association of Manufacturers.

On behalf of all our manufacturers, I would like to thank you for this opportunity to express our opinion on federally mandated leave policies and for the purposes of time, I will limit my comments this morning, but I respectfully request that my entire statement be entered in the record.

Chairman CLAY. All statements will be entered into the record, yes.

Mr. WINGERT. Thank you.

As an employee of the company, I believe Dentsply brings a somewhat different perspective to the debate on mandated leave benefits. Dentsply has been in business since 1899. Annual sales are approximately \$260 million. We have 3500 employees, half of which are in this country, half of which are overseas.

In the United States, we have six work locations, two of which have collective bargaining units. For many years, our stock was traded on the New York Stock Exchange, but we went private in 1982 to avoid a hostile takeover. At that time, we created an employee stock ownership plan, an ESOP, and today, our employees own forty percent of the company.

In the seven years since the inception of our ESOP, the per share value of our stock has virtually tripled. Each ESOP participant has approximately four times their base salary in their ESOP account as of the end of 1988. Our success, among companies with ESOPs, is well known nation-wide, and a source of pride to all employees at Dentsply.

A large measure of this success is directly attributable to several factors. The first is the more participative management style that includes enhanced employee involvement through quality circles and problem solving teams; increased communications with employees at all levels to ensure that they are fully aware of current business conditions and future company plans; and expanded employee education in all regards.

Our success is also due to the belief that our employees are, indeed, owners whose ideas, suggestions, problems and needs must be an integral part of Dentsply's business, planning and personnel policies.

In recognition of employee needs, we provide an extensive list of benefits in addition to the usual medical, social or surgical and dental programs, including short and long-term disability, dependent life insurance, prescription drug coverage, educational reimbursement, an employee assistance plan, paid sick days and year-end bonus.

In return, management expects higher productivity, consistent quality and outstanding customer service in order for Dentsply to be competitive in both U.S. and overseas markets. None of the above benefits that I have mentioned are unique to Dentsply but they are part of a program that has been carefully crafted on the basis of what is affordable, what the employees have told us they need and what we, as a company, must offer to compete in an ever tighter labor market.

As medical costs continue to balloon through the 1980s, we have had to require both employees and retirees to pay more for their coverage. None of us at Dentsply are happy about the rise in such costs; however, as owners of their company, our employees understand that Dentsply cannot be everything to everyone internally and yet compete profitably externally.

In our employee meetings, few matters are discussed more than our benefit programs and the attendant costs, which are currently about forty percent of our payroll. Dentsply employees clearly understand how this affects the pricing of our products which, in turn, affects our bottom line and ultimately affects the value of their stock.

As has been indicated by Dr. Hess, one of the keys to benefit costs is to maintain flexibility. I realize you may be tired of hearing that word from business concerns opposing this measure, but flexibility is, indeed, the key to successful business operation today. It is the key to our company's ability to afford benefits.

We offer our employees a choice of medical and life insurance options and several new plans are being considered in 1989 in direct response to employee input. Parental leave simply has not been an issue with our employees.

We have three major unions, one of which is the UAW, the International Chemical Workers Union, and while I hear that the cost that would be projected in such a negotiation would be \$4.50 a year, if the cost were that small, I cannot understand why even unions would not have proposed this extra benefit or why we would not have thought of it ourselves as a trade-off in negotiations.

Even with our three bargaining units, the subject of parental leave has never been placed before us. Perhaps that is because our leave of absence policies are good enough as they are. Perhaps it is because our employees have other benefit needs which are more important for them. Perhaps it is because an unpaid leave is not included in their yearly W-2 earnings, which determines their annual allocation to their ESOP account.

Perhaps it is because no need has actually ever arisen or because our employees understand the importance of productivity and the impact an individual's absence has on the work group, most likely as a combined impact of each of these factors.

I am certain, however, that our workforce understands the effort and the cost of training a new employee who, in our departments, would diminish their overall productivity. I have heard in other testimony the exemption of key employees. While I am sure you are generally referring to managerial or professional types, I can assure you in the dental business, we have employees at various levels in our workforce where everybody is as key as our senior ex-

cutives because of their skills, which are virtually impossible to replace or to train an individual to replace in a short time.

Ignoring an employee's need for temporary leave or forcing them to choose between work and family would not only contradict everything we have achieved since our ESOP was formed but it is, in fact, repugnant to us as management.

People at Dentsply are not just employees. I emphasize that. They are also owners, members of a team. To earn and keep their trust, management must treat them accordingly.

We urgently ask that you consider the individual needs of our employees, which differ depending on their age, their work location and family situation and a number of other variables. When our employees decide that parental leave is of significant value to them, we will respond, just as we have responded this year to employee child care concerns.

In fact, we are in the process currently of planning for child care arrangements at two of our major divisions in 1989. We happen to think, by the way, that if we address that issue, perhaps the issue of parental leave will be less significant.

With any policy or legislation that is passed, at the end of the ten weeks or fifteen weeks, they still have a child care problem and will have to come back to work. From the timing, from the standpoint of financing and morale, it is best left to our company and its employee/owners who do not need restrictive mandates, who do not need more burdensome paperwork which has had exactly the impact as was suggested earlier with respect to Section 89. We do not need the federal government deciding which benefits our employees need.

Mr. Chairman, we agree sincerely that parental leave is an issue that ought to be addressed. We differ, however, on the means to best achieve equitable, work/family policies without diminishing the competitive posture of U.S. industry.

Some companies may not be as fortunate in their employee relations as we are at Dentsply, but more companies are providing family leave voluntarily because it is good for business. Voluntarily provided benefit programs allow companies to meet the most important benefit needs of its workforce and also allows U.S. companies to remain competitive against foreign competition and in exporting to foreign markets.

The American industry needs a Congress that understands and fosters this flexibility in the marketplace. Thank you.

[The prepared statement of J. Robert Wingert, Jr., follows:]

**MANUFACTURING
= CREATES =
AMERICA'S
STRENGTH**

TESTIMONY OF
J. ROBERT WINGERT, JR.
CORPORATE DIRECTOR, HUMAN RESOURCES
DENTSPLY INTERNATIONAL, INC.
YORK, PENNSYLVANIA

ON BEHALF OF
THE NATIONAL ASSOCIATION OF MANUFACTURERS
BEFORE THE HOUSE EDUCATION AND LABOR SUBCOMMITTEE
ON LABOR MANAGEMENT RELATIONS

FEBRUARY 7, 1989



National Association of Manufacturers
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Executive Summary

U.S. manufacturers, like Congress, are well aware that the workforce of today and tomorrow is dramatically different from the workforce of 20 or even 10 years ago. Business is cognizant that women, now 50% of the workforce, will soon comprise 2/3 of the workforce.

The NAM believes that family leave is an excellent benefit, and encourages business to provide it when economically feasible and employees want the benefit. NAM does not support imposing this benefit on companies and employees without regard to economic capability, worker needs, size and skills of the workforce, type of industry, or industry standards or location. These factors are vital components in determining what benefits package is right for any given company.

Company policies and procedures have changed with the entry of women into the workplace. Increasingly, companies are providing flexible benefits plans, parental leave and child care, all of which assist working parents meet their competing responsibilities as parent and employee. While such policies are not being uniformly implemented by companies across the United States, they are being implemented. Just as health insurance was not implemented by all companies at the same time, it is now provided by nearly all U.S. companies without being federally mandated.

It has been said that other countries providing this leave have felt no adverse impact on productivity. In Europe, where this benefit is firmly entrenched, job growth has been practically zero. In Japan, manufacturing wage earners make less than their American counterparts. If we are to bring our benefits in line with those of other countries, are we also willing to experience the lower wages and higher unemployment that often accompany these benefits?

Companies now providing this benefit have implemented it with the flexibility to adjust other facets of their operations to accommodate a new benefit. This is far different from imposing a "one-size fits all" benefit on workers and on business. Enactment of generic benefit mandates like parental leave, is inconsistent with Congress' professed interest in improving America's competitive posture.

We agree that parental leave is an issue that ought to be addressed. We differ, however, on the means to best achieve equitable work-family policies without diminishing the competitive posture of U.S. industry. More companies are providing family leave because it is good business. Voluntarily provided benefit programs allow companies to meet the most important benefit needs of its own workforce while retaining the flexibility essential to compete in world markets.

TESTIMONY OF
J. ROBERT WINGERT, JR.
CORPORATE DIRECTOR, HUMAN RESOURCES
DENTSPLY INTERNATIONAL, INC.
YORK, PENNSYLVANIA
ON BEHALF OF
THE NATIONAL ASSOCIATION OF MANUFACTURERS
BEFORE THE HOUSE EDUCATION AND LABOR SUBCOMMITTEE
ON LABOR MANAGEMENT RELATIONS
FEBRUARY 7, 1989

Mr. Chairman and members of the Subcommittee, I am Robert Wingert, Jr., Corporate Director of Human Resources for Dentsply International. We are the world's leading manufacturer and distributor of dental equipment and materials. I am testifying today on behalf of the National Association of Manufacturers. I am also representing the Concerned Alliance for Responsible Employers, which NAM helped to found and currently co-chairs. The Alliance is a coalition of 170 corporations, associations and public interest groups opposed to mandates in the workplace.

I. Introduction

NAM strongly supports company programs to assist workers in meeting the challenges of work-family responsibilities, and encourages employers to actively seek innovative solutions to the

problems working parents encounter. NAM member companies believe that all avenues of change and possibilities of accommodation should be explored to allow working parents to remain on the job.

As more workers with family responsibilities enter and remain in the workforce, companies are implementing programs designed to help parents meet their dual responsibilities. Flexible work scheduling, including flexitime, voluntarily reduced workweeks, job sharing, part-time employment or flexible leave is provided by 60% of U.S. firms with ten or more employees. This type of benefit allows employees to continue to collect a paycheck while freeing up the time necessary to meet family needs. Other employer-provided benefits aimed at easing work-family pressures are (1) flexible benefits plans; (2) cafeteria-style benefit plans which allow workers to choose those benefits most suited to their particular needs; (3) parental leave policies; (4) information and referral programs; (5) child and dependent care programs such as on-site or near-site day care, day care subsidies or vouchers; and (6) employee assistance programs.

The extent and feasibility of such programs differ for each company based on a variety of factors, such as the type of industry, size and skill of the workforce, individual workforce needs, competitive standards in the industry and ability to assume costs.

NAM opposes legislation that would impose across-the-board requirements ignoring the unique circumstances of individual enterprises, their workforces, and the changing economic and

business climates. The Family and Medical Leave Act of 1989, if enacted, would seriously undermine many business operations, particularly smaller concerns that may find it impossible to hold open a position for the leave periods mandated in this bill. The legislation would result in additional costs and hamper productivity.

Benefits currently account for approximately 5% of compensation costs in the manufacturing sector. Requiring an additional benefit will not simply cause employers to increase that percentage to 47% or 48%, for example, but will likely cause adjustments to be made in other areas to accommodate the cost of an extra benefit. Perhaps businesses would scale back or drop other benefits, or maybe hire fewer new employees in the coming year. And without a doubt, this legislation would severely limit this country's greatest job generators, small businesses, that will think long and hard about expanding beyond the coverage threshold of 50 or 35.

Parental leave policies are excellent benefits, but an extended leave policy is only one benefit option among many that can be instituted to help parents with their family responsibilities. Benefits and policies to help working families are important to companies because they are becoming increasingly important to their workforces. They are valuable recruitment and retention tools in an era when the pool of skilled workers is shrinking. With nearly half the workforce comprised of women, formalized family leave policies are rapidly

becoming the smart way to do business and retain a qualified, trained workforce.

II. Current Business Policies

It is important to note here that company maternity policies have changed as the composition of the workforce has changed. Trends indicate that the same thing is happening with parental leave, only faster. Eight or more weeks of job-protected maternity leave is now the norm in the American workplace, according to a survey by the National Council of Jewish Women (NCJW). About 95% of larger companies provide paid, job-guaranteed maternity leave, with more than half these firms offering additional unpaid, job guaranteed leave, as indicated in a 1986 Catalyst Study. In addition, the Pregnancy Discrimination Act of 1978 ensures that companies treat pregnancy as they would any other temporary disability.

Just as maternity policies reflect the new workforce demographics, so do child care benefits, which are being offered by a growing number of companies. The Conference Board estimates that 3,300 companies with 100 or more employees provide child care services for their employees, either sponsoring centers, providing information/referral services, or offering dependent care spending accounts through flexible benefits plans. Contrast this with the number of companies offering comparable benefits in 1978--100 companies; . 1982--600 companies; and in 1985, 2,500 companies. A 1987 Bureau of Labor Statistics survey revealed that some 60,000 establishments with 10 or more employees either

sponsor daycare centers or provide financial assistance for childcare and related services.

Clearly, momentum for work-family initiatives is increasing. As companies provide a wider array of family benefits, more companies will offer similar or alternative benefits in order to compete successfully for workers.

Throughout the debate on mandating benefits, it has often been pointed out that the United States is one of the few industrialized countries that does not have a national family leave policy. Three-quarters of industrialized countries, most of which require parental leave, pay their manufacturing workers less than the U.S. worker earns. None of these countries come close to the U.S. in creation of new jobs.

Given the wages and given the creation of 20 million new jobs since 1981 and 43 million new jobs between 1962 and 1986--far more than any other industrialized nation--do we really want to risk bringing our wage and benefits structure more in line with that of other nations that pay lower wages and create far fewer, if any, jobs?

III. Impact on Business

Companies today are faced, as never before, with the challenge of improving productivity and controlling costs. The costs that would be incurred with this legislation are not consistent with the current economic climate, nor with the emphasis Congress is presumably placing on competitiveness and economic growth.

Two sets of cost estimates are associated with mandated leave legislation--those of the General Accounting Office (GAO) and those of Robert A. Nathan Associates. Relying on a study of only 80 companies in two cities (Detroit, MI and Charleston, SC) the GAO concluded the cost to employers to be \$188-\$212 million per year based solely upon the cost of continuing health insurance for employees on leave. Administration and enforcement costs are not calculated and the GAO report notes that the broad definition of serious health condition could result in substantially higher costs to employers. The GAO assigns no cost to workers' absence and lost productivity, or to overtime expenses required when work is reallocated among the remaining workforce.

The Robert Nathan study estimated the insurance costs alone at \$152-\$270 million the first year and \$397 million in the fifth year, depending upon the definition of serious health condition. These figures utilize much of the data derived by GAO and incorporate many of their assumptions.

The Nathan study also notes that a Catalyst survey of parental leave policies in larger firms found that where parental leave was granted, employees were frequently expected to pay part or all of the health insurance premiums. Thus, although companies may now grant parental leave equivalent to or exceeding the length of leave stipulated in this measure, they may provide it under different conditions. The assumption that these companies would experience no additional cost from a mandated

leave is questionable and is not borne out by letters that NAM members have sent to Congress:

"We, like most other manufacturing companies are concerned about the availability and costs of locating, hiring and training replacements for workers on parental leave. We are also seriously concerned about the incredibly high costs associated with administering such benefits and stacking other benefits like accrual vacation, sick leave and medical benefits on top of parental leave. We are rightfully worried that the parental leave bill will open...a Pandora's box of litigation, most of which will be very expensive because it will be comprised of test cases, especially in the early days of such a program...workers are not...as interchangeable as legislators like to believe. When a worker leaves our plants for 10 to 15 weeks, not only do we have to train his replacement, we have to retrain him when he returns." National Industries Inc., Montgomery, AL

"The L.C. Miller Company is small...our work is diversified ... and we also do highly specialized machining ... People performing the various tasks are highly skilled with each person doing a specific job requiring several years of training...It is not practical to train people to "fill in" for 10-15 weeks so that another employee can take that time off... if we are unable to deliver products and service to our customers in time and with good quality we would soon be out of business. Our company operates on a very limited profit margin so that we can remain competitive. The disruption caused by employees being away for long periods of time and continuing to receive medical benefits would result in high additional costs and reduce our market potential." L.C. Miller Co., Monterey Park, CA

"Now we pay 100% of the health and life insurance premium. We have a very complete and expensive plan. It will cost the company \$614.76 for a ten week leave. This is a disincentive for the company to pay the entire cost of the insurance. I think if it were put to a vote of our employees, ...they would turn it down on that basis." Hilfiker Retaining Walls, Eureka, CA

"Parental leave, if...enacted will do little to improve life for the employees of Conax Florida Corp. when one considers the benefits and programs available to them. It will...place an increased financial burden on the company, limit our ability to maintain a full time, consistent work force, result in lost productivity due to increased training requirements for temporary replacements and potentially have an adverse impact on company operations...I am forced to wonder just what ...benefits could be reduced or eliminated to recover part of the cost of this bill." Conax Corp., St. Petersburg, FL

"The United States probably leads the developed nations in payment of employee fringe benefits. These benefits add 34.6 percent to the average U.S. hourly wages: South Korea, 21 percent; Japan, 16.8 percent; and Taiwan, 5 percent. Costly legislative mandates render business less competitive, reduce job opportunities and can make offshore location more inviting for businesses...hard pressed to meet competition." WestPoint Pepperell, West Point, GA

"90% of our help is either skilled or semi-skilled. It's impossible to train help in a matter of 10 to 15 weeks, and trained help is just not available. We estimate conservatively that it costs...\$3,000 to \$4,000 to locate, hire, and train a new employee. We usually have to hire two people to replace the trained employee to get approximately the same production for a skilled employee..." Dayton Carton, Louisville, KY

For many manufacturers the biggest problem is not replacement costs, but finding replacement workers with the necessary skills and qualifications. If an employee cannot be found or it is impracticable to hire a replacement, the additional workload must be assumed by coworkers and overtime costs are incurred.

In addition, costs such as unemployment insurance taxation costs will increase as companies are forced to dismiss temporary employees when the regular employee returns to work. Other costs may include advertising for, obtaining and training replacement personnel for those employees on leave. Even large companies are segmented into small work groups where the absence of as few as one or two employees could critically affect the group's performance. Replacing employees for a leave period is often inefficient because there is not enough time available for adequate training and consequently the work performance is substandard. The net effect is higher costs and less productivity.

Larger companies that have implemented parental leave policies have done so with the flexibility to adjust other benefits or other company programs accordingly. The leave has been integrated into existing programs, not imposed without regard to usefulness or workability. What is right for one company and its employees is not necessarily right for all companies or all employees. When questioned on their preference for benefits plans, 91% of women and 80% of men using flexible compensation plans prefer more flexible benefits options as opposed to fewer standard "required" benefits. (Swinehart Consulting Inc., Employee Attitude Survey). While some surveys indicate public support for the parental leave benefit is as great as 80%, those surveyed are not asked to rank the benefit relative to other benefits currently being provided.

The arguments for mandating parental leave, as opposed to job-sharing, flexible work hours, child care assistance, 401(k) plans or employee assistance plans, to name a few, are simply not compelling. American companies and American workers deserve greater latitude in choosing just how they will meet the challenges of work and family.

IV. Dentsply International

As an employee-owned company, I believe Dentsply brings a somewhat different perspective to the debate on mandated leave benefits. Let me begin by describing our company, and why mandating this benefit is truly inappropriate for our company and would have an overall detrimental impact on our carefully constructed benefits plan.

Dentsply has been in business since 1899. Our annual sales are approximately 260 million dollars. Half of our 3,500 employees work in the U.S., at six locations, three of which have unions. For many years our stock was traded on the New York Stock Exchange (NYSE), but we went private in 1982 to avoid a hostile take-over.

At that time, we created an Employee Stock Ownership Plan (ESOP) and today our employees own 40 percent of the company. In the seven years since the inception of our ESOP, the per share value of our stock has virtually tripled and each ESOP participant has approximately four times their base salary in their ESOP account. Our success among companies with ESOPs is well-known and a source of pride to all employees at Dentsply.

A large measure of this success is directly attributable to several factors: A more participative management style that includes enhanced employee involvement through Quality Circles and problem-solving teams; increased communications with employees at all levels to ensure they are fully aware of current business conditions and future company plans; and expanded employee education including everything from company paid, in-house Dale Carnegie Courses each year to supervisory training and management development programs.

But our success is due also to the belief that our employees are indeed owners whose ideas, suggestions, problems and needs must be an integral part of Dentsply's business planning and personnel policies.

In recognition of employee needs, we provide an extensive list of benefits in addition to the usual medical/surgical/dental programs, including short and long term disability, dependent life insurance, prescription drug coverage, educational reimbursement, an Employee Assistance Program (EAP), paid sick days and a year-end bonus. In return, management expects higher productivity, consistent quality and outstanding customer service in order for Dentsply to be competitive in U.S. and overseas markets.

None of the above benefits are unique to Dentsply, but they are part of a program that has been carefully crafted on the basis of what is affordable, what the employees have told us they need and what we, as a company, must offer to compete in an ever-tightening labor market. As medical costs continued to balloon through the 1980's, we have had to require both employees and retirees to pay more for their coverage. None of us at Dentsply are happy about the unabated rise in such costs. However, as owners of the company, employees understand that Dentsply cannot be everything to everyone internally and yet compete profitably externally.

In our employee meetings, few matters are discussed more than employee benefits costs, presently about 40% of payroll. Dentsply employees clearly understand how this affects the pricing of our products, which in turn affects our bottom line, and ultimately affects their stock value.

One of the keys to dealing with benefit costs is to maintain flexibility. I realize you may be tired of hearing that word

from business concerns opposing this measure, but flexibility is indeed the key to successful business operation today, and it is the key to our ability to afford benefits. We offer our employees a choice of medical and life insurance options, and several new plans are being considered for 1989 in direct response to employee input. Parental leave simply is not an issue for our employees, who outline benefits preferences in regularly conducted surveys. Perhaps that's because our leave-of-absence policies work well enough as they are. Perhaps it's because our employees have other benefit needs which are more important to them. Or perhaps it's because an unpaid leave is not included in their yearly W-2 earnings which determine the annual allocation to their ESOP account. Perhaps it's because no need has ever arisen, or because our employees understand the importance of productivity and the impact that an individual's absence has on the workgroup. Most likely, it is the combined impact of each of these factors. I am certain, however, that our workforce understands the effort and the cost to train a new employee who, in our skilled departments, would diminish their overall productivity.

Generally, recruiting new employees is not difficult, especially in the smaller communities where the Dentsply benefits of job security and accumulating employee wealth in ESOP accounts are well recognized. Does this imply that we do not have to be concerned about an employee's need for a leave simply because hiring a replacement would not present problems? On the contrary. First, the number of available people in each of our

labor markets will likely decrease, as is predicted for the entire U.S. More importantly, ignoring an employee's need for a temporary leave, or forcing them to choose between work and family would contradict everything we have achieved since our ESOP was formed. The people at Dentsply are not just employees; they are also the owners - members of a team - and to earn and keep their trust, management must treat them accordingly.

We urgently ask that you consider the individual needs of our employees which differ depending upon their age, work location, family situation, and a number of other variables. When our employees decide that parental leave is of a significant value to them, we will respond - just as we are responding this year to our employees' child care concerns. We are in the process of planning for child care arrangements at our two major divisions. But the timing, from a standpoint of financing and morale, is best left to our company and its employee-owners. We do not need restrictive mandates. We do not need more burdensome paperwork. And we do not need the federal government deciding which benefits our employees want.

Some companies may not be as fortunate in their employee relations as we are at Dentsply, but the number of companies voluntarily providing employees with parental leave benefits is expanding. This expansion would be greatly encouraged if Congress would refrain from passing such anti-competitive initiatives as Section 89 non-discrimination rules, mandated health insurance or future taxation of fringe benefits. To remain competitive against foreign competition and exporting to

foreign markets, American industry needs a Congress that understands and fosters flexibility in the marketplace.

Chairman CLAY. Thank you. Mr. Motley.

Mr. MOTLEY. Thank you, Mr. Chairman. I am John Motley, the Director of Federal Governmental Relations for the National Federation of Independent Business, NFIB. On behalf of our 570,000 members coast to coast, I want to thank you and the other Members of the committee for the opportunity to come and share our views today on H.R. 770.

I have submitted a full statement for the record, which I will attempt to summarize for the committee to save time. Maybe the best place to start my testimony is to restate two points that we have made over and over again on this particular piece of legislation.

One of them we have heard from the two witnesses who testified first on this panel and, that is, that small business owners across America do not oppose family, parental or medical leave, per se. What they do have a problem with is the government mandating that they provide this leave.

A second point is to restate what I perceive to be the tremendous depth and breadth of small business opposition to the legislation. In 1986, NFIB polled its entire membership on a very similar proposal and 83 percent of the members who responded opposed; eleven percent were in favor.

The 1986 White House Conference on Small Business made opposition to mandated parental leave its number two recommendation, with 1360 out of the 1715 delegates who voted voting against it.

In 1988, a resolution against this bill was adopted unanimously by the Small Business Administration's National Advisory Committee, and also in 1988, a similar resolution was adopted by the Senate Small Business Committee's National Advisory Committee.

NFIB is currently repolling the issue. Right now, it is in the field. Also, a proposal put forward by one of your former colleagues, Congressman Dan Coates, in using the tax credit approach. We will have those results supposedly within two to three weeks and we will certainly provide them for the committee.

There are many reasons I feel that small business owners oppose this particular piece of legislation. First of all, you heard Dr. Hess say here before—and I think it is a very accurate statement—that most business owners, people who have started their business, philosophically oppose the government telling them that they have to provide this, philosophically oppose the government attempting to micro-manage the day-to-day operations of their businesses from Washington.

Second, I think that most business people tend to feel that it is wrong from an economic standpoint, that it is rather foreign and misguided economic policy to follow what we feel are the failed policies of western Europe where the management/employee relationship is extremely rigid and has created tremendous problems for those economies over the last ten to fifteen years.

Flexibility, which you have heard also here before, which we have in our system, including the collective bargaining process, has made that system the envy of the free democracies of this world.

There is cost. Even though this is on paper and, I believe, as we have discussed many times in the past, there are costs involved.

There is the cost of replacement and overtime for the person who is on leave. There are training costs involved.

The other day, in testimony before the Senate committee, the young woman who testified from Methodist Hospital in Indianapolis, indicated that if this was used by one percent of the nurses in that hospital, her training costs for the year would be approximately \$1.2 million. She said that that would have to be taken care of in some way.

There is lost productivity, as Dr. Hess has indicated. There are the health insurance costs which, for small businesses in this country, are the number one problem that they are facing today, and it is going to continue because their health insurance costs are going up very rapidly.

Then, of course, there is also pressure being put on unemployment compensation trust funds across the country. At the minimum wage, for ten weeks of temporary employment, an individual let go by a small business will be eligible in nineteen states for unemployment compensation insurance. If that individual were to make the average, non-agricultural wage in this country of \$9.23 an hour, he or she would be eligible in 37 states for unemployment compensation insurance.

I think it is probably proper to point out here that we, just like Dr. Hess, strongly disagree with the GAO estimates, of course, in this area. We believe that the research is of poor quality and that it is misleading. It is based upon a survey of eighty firms in two labor markets, when we have 4.5 million employers in this country.

I propose to you that if we brought a survey like that to this committee, we would not get away with it without some very severe and pointed questions.

We also have problems with the 9-to-5 survey which has been cited here before. That survey has foreign methodology, from our standpoint. It uses the Small Business Administration's data base and SBA says it will not stand behind the use of that data base for the survey.

In addition, when we contacted the researchers to talk about it, they said that they would not stand behind some of the conclusions reached by the organization.

Specifically, there are other problems with H.R. 770 other than the broad arguments that we have against it. Let me just go over them very quickly, if I can. We believe it will have a negative impact on start-up businesses in this country who are, by definition, extremely marginal, but they have really represented or accounted for a great part of the job growth that we have had in the last decade in this country.

Employer's cannot seek an attempt-to-return promise from employees under this which sets them up for a third problem and that is the double-whammy of carrying the health insurance benefits for the parental leave period and then slipping immediately into COBRA.

Not only do they have to provide health insurance for their employees under COBRA now, but many in Congress want to make COBRA pay for employees.

The definition of part-time employment in the bill gives us a problem. It comes out to 19.2 hours per week. It is better than the

Senate bill, which is 17.5 hours per week but still, I think it is considerably below what industry in general considers to be part-time.

Loosely defined medical leave provisions we see causing all sorts of problems in trying to determine when somebody can go on medical leave. Excessive penalties and high cost of litigation, as I mentioned before, pressure on state unemployment compensation, which we think would happen if employers were not asked to pick up the additional compensation costs involved.

Last, but certainly not least, three forms of what we consider to be rather subtle discrimination could come from this bill. First of all, discrimination against the working poor who we doubt would be able to take advantage of unpaid leave and will lead Congress immediately to consider paid leave provisions.

Second, subtle discrimination as to age and sex of people of child-bearing age. If you have two people who are equally qualified for a job and the employer is faced with somebody who is not in one of these categories, we believe that the employer will subconsciously choose the person who would not be eligible for the leave.

Third, discrimination against fellow employees if they cannot use this type of benefit and the employer is forced to substitute for another benefit which they may be using now, if Congress mandates the leave.

Before concluding, Mr. Chairman, and certainly, without questioning either your concern or the sincerity of the hundred-and-some-odd co-sponsors on this bill, I would have to question the need for this particular piece of legislation. We can almost always find an example of abuse. I will bet you we can probably even find some Members of Congress who don't treat their employees particularly well in this particular area.

I think it is acknowledged that most large businesses provide this type of leave as part of their fringe benefit packages. We have data and several other associations have presented data that roughly three out of four small employers provide unpaid leave.

The changes that are occurring in the marketplace now are going to create tremendous competition for qualified employees in the near future. I wonder if we are not trying to deal with a relatively small problem with a major piece of legislation.

In conclusion, parental leave, family leave, medical leave, are all excellent fringe benefits and we at NFIB encourage our members, no matter what their size is, to think of providing them as part of their fringe benefit packages. It is only good, in our estimation, if it remains voluntary, negotiated between employer and employee, whether it be part of a collective bargaining agreement or not.

We remain staunchly opposed to the government mandating that employers provide this as part of a fringe benefit package. Thank you, Mr. Chairman.

[The prepared statement of John J. Motley III follows:]

NFIBNational Federation of
Independent Business

STATEMENT OF
 JOHN J. MOTLEY III
 DIRECTOR OF FEDERAL GOVERNMENTAL RELATIONS
 NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before: House Subcommittee on Labor Standards
 Subject: Mandated Family and Medical Leave
 Date: February 7, 1989

Mr. Chairman, my name is John Motley, and I am the Director of Federal Governmental Relations for the National Federation of Independent Business. NFIB is a voluntary membership organization with over 500,000 small business owner members. Our membership comes from all of the industrial and commercial categories and reflects the national small business community in its distribution among industries. That is, we have about the same percentage of members in the construction industry, the manufacturing industry, wholesale, retail, etc., as exists in the national business profile.

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The Guardian of
 Small Business

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NFIB appreciates this opportunity to testify on proposed legislation mandating family and medical leave benefits. To begin with, let me reiterate the small business community's position: we support the concept of parental leave. With today's new workforce and the changing demographics of this country, accommodating the needs of the woman employee and her family is not only important to fostering good employee-employer relationships; it is also becoming a competitive necessity.

In fact, a 1987 random field survey indicated that 72% of our small business owners offered some form of parental leave: leave that was, however, voluntarily provided and negotiated. Unfortunately, it is at this juncture that your proposed legislation and small business owners diverge.

The 1986 White House Conference on Small Business voted opposition to government mandated benefits, such as parental leave, as their number two priority -- second only to the liability insurance crisis -- receiving 1,360 votes of 1,715 ballots cast. While the recommendation was to oppose all federal mandates, it was parental leave that brought this issue into focus and was specifically cited.

Likewise, the results of the September 1986 NFIB Mandate polling showed 83% opposed governmental mandated

parental and medical leaves (11% favored and 6% were undecided). Preliminary results of the 1989 NFIB Mandate indicate that opposition to mandated parental leave remains adamant.

In addition, both the SBA National Advisory Council and the 40 small business owner participants on the National Advisory Council to the U. S. Senate Committee on Small Business have passed resolutions opposing enactment of mandated parental leave.

Beyond this legislation's practical difficulties and costs, on which I will elaborate later, the small business community's strong and vocal opposition to mandated parental leave is also an outcry of rage on two principles: one, that the Congress would force its judgment onto the employer-employee relationship to a new and unprecedented degree, and two, that the Congress would attempt to define and regulate the individual needs of the employee. In my department at NFIB alone, the majority of my employees neither need nor desire such a leave package, opting to take advantage of other benefits that better reflect their needs -- benefits such as dependent dental coverage and tuition reimbursement. Similar situations are prevalent in many businesses -- leave packages are generally available to those who need it, but not at the expense of benefits desired by other employees. Small firms in particular find providing desired benefits to be a competitive advantage necessary to keep valued employees

Small business owners fear that such a precedent would open the floodgates to an increasing number of attempts to force businesses to pay for every benefit deemed so desirable, or those unattainable at the bargaining table, by various elements in the national workforce. Indeed, in the 100th Congress alone we encountered a plethora of mandate proposals including: the Kennedy/Waxman bills mandating health insurance coverage, the Stark/Gradison proposal for mandated catastrophic coverage; and the consideration of employer-paid continuation of health insurance coverage for former employees, their spouses and dependents. Again the goals of many of these bills were laudable, but the small business community does not support the public policy choices made by their sponsors -- that American social policy should be implemented and paid for by American businesses in an effort to keep deficit spending low. Not only is that bad public policy, it also threatens the very existence of our most prolific job creators -- small business.

The American vs European Small Business Communities:
An Issue of Job Creation

In the past decade, small business has been responsible for the creation of over 70% of the 14 million new jobs in this country. The small business community is dynamic in its activity -- record number of new firms and

--

jobs are created each year, resulting in new products, services, and research. This same group, however, also experiences a high number of business failures. At any one time, over 20% would be considered extremely marginal, either as new, startups, or expiring businesses. Despite the inherent marketplace difficulties and government regulation, small business in America is growing

Contrast the above scenario to the European economy -- the same group of countries held up as a model for the United States because of their "progressive" mandates in areas such as parental leave. The European economy has been stagnant. The twelve leading economies in Europe combined have created less than two million new jobs since 1970. Since 1980, Europe has actually lost jobs and business start-ups are minimal.

Another surprising revelation arises from standard of living comparisons. Despite the proliferation of fringe benefits, usually mandated, available to the European worker, a greater percentage of his or her working day must be devoted to purchase goods and services considered standard in this country. The following chart illustrates how many minutes, hours, or months employees in each city must work to purchase a specific commodity

| <u>Commodity</u> | <u>Washington</u> | <u>Munich</u> | <u>Paris</u> |
|-------------------------------------|-------------------------------------------------|---------------|--------------|
| | minutes of worktime unless otherwise specified. | | |
| Television (hours (color, 61 cm) | 2 | 54 | 176 |

| | | | |
|-------------------------------|----|-----|-----|
| Telephone (monthly rent) | 20 | 126 | 287 |
| Toothpaste (75 g) | 6 | 12 | 16 |
| Suburban movie (best seat) | 40 | 42 | 48 |
| White bread (unwrapped) | 6 | 25 | 20 |
| Hamburger meat (beef) | 30 | 60 | 75 |
| Car (months) (medium) | 9 | 12 | 15 |
| Jeans (hours) | 4 | 7 | 10 |

Source: NFIB Foundation, 1986.

Do we really want to Europeanize the American job creation record and the American standard of living by moving down the path of extensive European mandated employee fringe benefits?

The voluntary negotiation system here is working, adapting, and moving forward. As stated earlier, over 72% of the small business community offers some form of parental leave. The reasons for not providing leave simply cannot be addressed through federal or state legislation as they are inherent in the very being of a small firm. These reasons include: high employee turnover, high percentage of part-time workers, unique and specialized jobs vital to the firm which no replacement or overtime worker can fill, cannot afford to provide certain

benefits, cannot afford to hire a consultant to develop a cafeteria plan, or simply no employee interest.

Finally, in this context I would be remiss to not mention the competitiveness, or more precisely the anti-competitive, nature of mandated parental leave. The European experience with mandated benefits is that it has increased the fixed costs of hiring to the point of stagnation. Much of our competitive threat is now coming from Japan and Asia. The compensation packages in those countries is such that Congressional mandating of an even minimal level of benefits for U.S. employees will most certainly reduce our competitiveness and is likely to result in the loss of American jobs.

Mandates and the Employee

In all businesses, and particularly small businesses, benefit packaging is a zero-sum game. There are only so many dollars to go around.

The types and feasibility of benefit packages differ for each employer and are based on a variety of factors such as type of industry, size and skill of the workforce, individual workforce needs, competing standards in the industry by geographic location, and the ability to absorb or pass through costs.

Small employers typically institute a hierarchy of benefits as they mature and become profitable. Vacation and sick leave benefits are generally offered first, followed by health insurance, which also happens to be the most desired benefit. Small businesses expand benefit coverage as their profitability increases and as employees demand certain benefits. Nowhere are these facts recognized or dealt with in this legislation.

Clearly, it is unfair to mandate that a benefit plan for a 55 year-old woman or a 20 year-old single male, for example, contain a parental leave provision when such a mandate might well preclude the offering of benefits, such as paid prescription drugs or dental care, which could be more important to that employee.

Mandates like parental leave change the fixed costs of hiring and could affect a firm's employment decisions. Sixty-six percent of the jobs for young Americans are provided by small employers. They provide the bulk of the on-the-job training for first time job holders. Small business -- labor intensive and pressed for a competitive edge -- will be forced to overlook these same young men and women as the costs of hiring these individuals exceed their potential value to the firm.

An architectural firm's president provides somber testament to "the detriment and harm it (mandated parental leave) would cause to the young people of the future":

We have an Architectural firm with 65 employees, 60% of them are under 30 years of age. 30% have been with the firm over 20 years. The young people are professional, college graduates and our firm is known as "the springboard to Architecture" in Orange County. We provide health insurance, life insurance, Workmen's Compensation, paid vacations and major sick leave. There are approximately 400 to 500 architects in Orange County who have worked in our firm and left with our blessing to go on with their careers. Our entire program for young people will come to a roaring halt if this law is passed. We could no longer stay in business with a potential of 30 employees home on paid or unpaid leave, and obviously, all interviewing and hiring would be from the 40 years and older group

Requiring employers to provide parental leave benefits creates opportunities for potential yet subtle discrimination based on age and sex. When choosing between two equally qualified candidates, an employer may be more likely to hire the candidate least likely to take the leave. Clearly it is the wage levels and jobs of women of childbearing years which are most at risk in such a situation.

Congress already has provided a chilling demonstration of this dynamic. In 1982, Congress amended the Age Discrimination in Employment Act, requiring firms with 20 or more workers to provide health insurance for their employees aged 65-69. The amendments also required that the plan be the primary payer of health costs for those workers.

The small business community responded quickly, in the only way it could. Prior to the law's enactment, small firms provided jobs for more than 3 of every 4 senior citizens aged 65-69. Within a year, firms with fewer than 100 workers employed only two-thirds of the elderly workforce.

Mr. Chairman, mandating these benefits may destroy the very jobs proponents seek to protect. The parental leave mandate also threatens to hurt the opportunities and positive gains made in eradicating the wage differential between men and women

Mandates and the Employer

The House Bill -- Problems and Considerations

Mr. Chairman, I would like to move from the practical and long-term problems with mandates in general and mandated parental leave specifically to discuss the actual details of your legislation.

Putting the fundamental and insurmountable problem of the mandate aside, there are many aspects of this legislation that further erode a small firm's ability to offer the proposed package and to operate

I. Impact on Unemployment Insurance Costs

Payroll taxes, which include unemployment insurance (U.I.), are generally the largest tax bite incurred by small firm. According to the GAO, additional burdens on the unemployment insurance trust funds will jeopardize their fiscal integrity because many do not have adequate reserves (GAO testimony on July 7, 1987 before the House Subcommittee on Employment and Housing, Committee on Government Operations).

The parental leave proposals dictate a period of leave with a provision for reinstatement of the employee to the same or comparable employment position. If the employer hires a replacement for the employee on parental leave, then dismisses that replacement upon return of the permanent employee, this has consequences in terms of the U.I. program.

Unless the temporary employee has U.I. coverage through an employment agency, the U I coverage is the responsibility of the employer. Should an employer dismiss the temporary employee, that employer would, under state U I. laws, become a "base period" employer. Unemployment benefits are charged to base period employers. Benefit charges determine an employer's future tax rate.

Even if, while substituting for someone taking parental leave, the temporary employee did not acquire enough wage credits to qualify for U.C. benefits, he or she may have accumulated additional wage credits from other employment sufficient to meet state qualifying requirements, again putting the onus on the current employer.

Assume that a temporary employee works full time for 10 weeks at the federal minimum wage. Under this assumption, depending upon the distribution of wages within the calendar year, that individual could qualify for U.I. benefits in 19 states and the District of Columbia. At higher wages, which most workers receive, additional states would allow the individual to qualify for benefits

Under the circumstances cited above, the following 19 states would allow qualification for benefits

| | | | |
|------------|-------------|---------------|----------------|
| Alabama | Connecticut | Massachusetts | Nevada |
| Alaska | Delaware | Minnesota | New Mexico |
| Arkansas | Iowa | Mississippi | South Carolina |
| California | Louisiana | Missouri | Texas |
| Colorado | Maryland | Nebraska | |

The April 1988 Employment and Earnings report of the U.S. Bureau of Labor Statistics places the average hourly earning at \$9.23 for non-supervisory, private, non-agricultural workers. Therefore, assuming a temporary

employee earns \$9 23 per hour, an individual could then qualify for UI in the following 37 states and the District of Columbia: *

| | | | |
|-------------|---------------|----------------|----------------|
| Alabama | Illinois | Minnesota | Oklahoma |
| Alaska | Indiana | Mississippi | South Carolina |
| Arizona | Iowa | Missouri | Tennessee |
| Arkansas | Kansas | Nebraska | Texas |
| California | Kentucky | Nevada | Utah |
| Colorado | Louisiana | New Hampshire | Vermont |
| Connecticut | Maine | New Mexico | Virginia |
| Delaware | Maryland | North Carolina | West Virginia |
| Georgia | Massachusetts | North Dakota | Wyoming |
| Idaho | | | |

UBA and the National Foundation for Unemployment Compensation and Workers Compensation affirm these calculations. Obviously this unintended impact on the states would be significant.

Discretion and Flexibility

Mandated parental leave usurps the ability of the small businesses owner to make decisions critical to the operation of the business.

Let's take a real life example. The president of a manufacturing firm employing 100 people related to us that if she were forced to include this parental/medical leave in the benefits package she now offers, she would put her business in jeopardy. Aside from the costs involved, her business employs specialized technicians

that cannot be replaced in the temporary market and whose jobs cannot be performed by putting other employees on overtime. The vast majority of her employees hold specialized and unique positions that are an integral part of the production chain. The long absence of one employee would be difficult for the firm, but the absence of many employees has the potential to paralyze her business.

How does she respond to requests for additional maternity or personal medical leave? "We work it out between the employee and his or her supervisor -- it's as simple as that. If the employee is a valued one, we will find a way to accommodate both of our needs."

The above illustrates three obvious flaws in the legislation. First, there is no provision to permit the employer to make the final determination about leave time based upon a reasonable judgment as to what will or will not unduly disrupt the business. The bill also fails to recognize the unique position occupied by many small firms that rely upon specialized positions which are not interchangeable or cannot be temporarily filled by a replacement worker. The bill's "key exemption employee" exemption does not go far enough. The exemption does not address the issue of the impact of the leave itself, rather it only provides minimal relief granting the employer the flexibility concerning where to place the now

returning employee. In addition, not all key employees would fit the exemption's very restrictive definition

Second, there are no protections to ensure that a high percentage of a workforce is not out on leave at the same time or during peak work periods. Small firms are labor intensive, and the potential for a large number of the total workforce to be out on extended leave is a real threat.

Third, the voluntary approach is rejected by the bill's failure to allow the leave package to be offered in a cafeteria plan or selected at the option of the employee who desires such a benefit. Flexible benefits packages and cafeteria plans permit employees to match a benefit option with their own individual needs. Just as all firms are not alike, neither are all employees

Intent to Return

Sanctions can be levied against an employer in violation of the Act, however, no reciprocal guarantees or relief are available to the employer who provides leave after which the employee does not return. There is no mechanism by which to determine the employee's intent to return to the business, and failure to return without sufficient notice is essentially a "free decision" --

there is no incentive for the employee to disclose his or her plans to the employer until the last possible moment as there is no potential liability incurred by the employee. That now-former employee and his or her family are also eligible for an additional 18 to 36 months of health benefits through COBRA.

The employer should have the option to obtain a written and binding agreement from the employee stating an intent to return to the workplace. Failure to return or provide notice of intent should permit the employer at his or her discretion to recover the value of the health benefits received by the employee during leave and to retroactively offset the leave period against COBRA. These protections add necessary symmetry to the legislation

Sick or Medical Leave

Of the two leave periods, the medical leave is the most unmanageable and disruptive. The potential liability and costs are also enormous. The loose medical leave definition would permit broad eligibility, broad applicability, and great uncertainty. The medical leave

would be highly disruptive to the firm because intermittent leave with little or no notice is possible, if not encouraged, by the legislation, and leave would be available for illnesses that are not life threatening or that require extensive hospital care. The situation of a child with leukemia is one thing, but to grant extended leave for a child with chronic sore throats is quite another. Under the current definition, both illnesses accrue equal rights to the leave period and equal employer obligations.

Vacation, sick, and personal leaves should remain the primary leave mechanisms and, if necessary, additional time could be secured by the employer and employee working out a flexible work schedule or additional leave program. Incentives to provide these options could be easily drafted and would ensure that extraordinary medical leave is appropriately targeted to the most critical situations.

What concerns small firms is not crisis or critical situations but the potential for abuses inherent in the loosely designed structure set up by this legislation. Intermittent leave, duplicative leave, and leave for virtually any medical reason are just a few. The second opinion system and "reasonable" notice requirements attempt to deal with some of those concerns, but in

reality both would be an ineffective policing mechanism, and the opinion system is costly to the employer, who bears all expenses

Part-time Definition

Unconventional definitions for part-time, those that do not reflect customary and standard business practices, have crept into legislation throughout the Congress. A survey by the National Association of Grocers indicated that part-time workers were employed 26 to 30 hours a week; the National Restaurant Association places its definition in the mid-twenties. Even this legislation's 19 hour definition, though not as onerous as the more pervasive 17.5 hour definition, still does not meet industry standards or employee expectations.

Requiring benefits such as parental leave to be offered to part-time and less-than-part-time workers, as this legislation would require, will jeopardize the very existence of those jobs. Traditionally, part-time positions yield to the firm higher costs and lower productivity. Dramatically increasing the costs of these marginal positions will force employers to re-evaluate the desirability of hiring part-time or seasonal workers. Given that the majority of those workers are senior citizens, students or women, this legislation and others

employing this definition act against the very individuals they seek to protect.

Finally, this testimony would not be complete without mentioning the complex problems created by the bill's enforcement mechanisms. The Department of Labor last year issued a comprehensive letter outlining the difficulties of the administrative procedures and the high costs that the government would incur with its enforcement activities. The employee's private right of action to sue the employer will contribute substantially to litigation under the proposed Act and to costs of defending the suit in the administrative and the judicial arenas. In addition, the amount of damages an employer faces is unprecedented.

Related Problems

Because the stipulated leave periods are unpaid, a *casua'* analysis would lead one to believe these bills are cost free. Nothing could be further from the truth.

The proposed bills require employers to continue the existing benefit arrangements of employees on leave. We know from our 1985 Employer Benefit Survey that two-thirds of the small employers providing health coverage pay the entire premium cost -- the median cost being \$75-95 per month for single employees, \$125 per month for an employee with dependents. These expenses would have to be carried by the employer for an employee on leave.

Consider, too, the double-whammy of "COBRA" if the employee on leave decides to quit after the leave period -- the employer must then extend coverage for another four months. One member explains:

We recently had a young woman who requested three-months' maternity leave which we granted. In order to hold her job, we employed a temporary employment service to fill this job as secretary/receptionist. During the leave, we paid all benefits. At the end of the leave time, the individual informed us she had decided not to return to the labor force. In other words, we went through a period of inefficiency and delay in being able to seek and train a replacement (as well as a monetary outlay to cover fringe benefits) for an employee who did not return.

The number one problem for small firms is the cost of health insurance, according to the 1985 NFIB Small Business Problems and Priorities Survey. Mandating these benefits with continued coverage during the leave period acts as another disincentive for employers to offer health insurance.

For those firms that can afford hiring temporaries, there are the grave consequences of unemployment insurance mentioned earlier. The medical and elder care provisions further drive up the costs. Add to all of the above the elusive costs in lost productivity, training time, and workplace morale, and you have sent the price tag of this legislation through the roof.

The bill also contains a disturbing definition of worksite. The 75 mile radius definition to determine the number of employees for eligibility purposes is difficult to conceptualize, difficult to ensure compliance and will lead to greater uncertainties. A much simpler approach is to define threshold eligibility by worksite.

Mr. Chairman, all businesses are not the same, and very real economic conditions often dictate the availability and length of any leave period or benefit. Mandatory benefits increase fixed costs. Small businesses already operating on thin margins could be forced to eliminate jobs and may well be driven out of business

This legislation has the perverse effect of hitting a start-up business the hardest. It is generally agreed that a small business' first three years are its most difficult and precarious. Yet under this bill an original employee would be eligible for the mandated leave in less than one year. This large burden could not come at a worse time for a new business that is striving to expand

With regard to thresholds, David Birch, the noted MIT economist, has published a book in which he discusses the detrimental "hour glass effect" of Canada. Government-imposed thresholds have made medium-sized firms extinct. The Canadian economy must operate with only very

large and small firms. Birch is credited for his work in discerning the special dynamism of small firms in creating jobs. His "hour glass effect" is illustrated by these comments of a small business owner.

If this bill is passed, I am sure that each employer will be extremely cautious when making a decision to hire a person who might fall within these categories. Likewise, I can see that small businesses who now have [49 or 34 depending on the year] employees would think twice before hiring any additional help which would automatically place them under jurisdiction of this pending legislation.

Conclusion

The real question is whether this type of government is needed at all. It is acknowledged that rarely all large businesses provide for these types of leaves. And NFIB field survey data indicate 72% of small firms allow time off without loss of benefits. Of the 16.3% "no" responses (11.9% were "no reply"), more than half were from firms with fewer than five employees. The United States' voluntary, flexible benefit system has worked well in this area.

While parental leaves are excellent benefits, they are only one option among many. For instance, small firms are more flexible and more likely to offer part-time jobs that allow women to work and still be at home with their children. This mandate would begin to eliminate those options.

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The costs of mandated parental leaves will limit the availability of other benefits. NFIB and its members believe that employers and employees are in the best position to structure benefit packages. Congressional dictates ignore individual needs and differences that private negotiations can accommodate.

Congress should not attempt to manage the Nation's businesses from inside the beltway. Mandates haven't worked in Europe and won't work here. I encourage this Subcommittee to defend the flexible, voluntary benefit system and oppose the benefit mandates; jobs really do depend on it.

¹⁴² Source: The National Foundation for Unemployment Compensation and Worker's Compensation

Appendix-- NFIB small business owner comments

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Chairman CLAY. Thank you. Mr. Howe?

Mr. HOWE. Thank you, Mr. Chairman. I am Jonathan Howe, the Immediate Past President of the National School Boards Association. I am an almost twenty-year veteran on the school board in Northbrook, Illinois.

We welcome this opportunity to testify on the Family and Medical Leave Act as it applies to the nation's 16,000 school districts and the approximately 41 million plus children enrolled in our public schools today.

Virtually all public schools have leave policies which, in many respects, are far more generous to employees than that proposed by this bill. However, NSBA must oppose the mandates in this bill which effectively preclude local school officials from exercising discretion in considering and applying leave requests, thereby causing the quality of education for children in the classroom to suffer.

For example, currently, school districts retain the discretion to require employees to return from family leave at the beginning of a semester or school year, or at such other times which are not disruptive to the learning process.

By contrast, this bill would enable classroom teachers to return to such leave just days or weeks before the end of the school year when review occurs, tests are developed, and students are evaluated for grades. Likewise, teachers and other instructional employees could take extended family leave with just days or weeks remaining, again disrupting review, testing and grading. The result would be the bringing in of a substitute teacher into the classroom.

Both of these situations we believe are totally unfair to the students who would be affected. Clearly, the task of temporarily replacing a physics teacher or a special education instructor for the handicapped who, in mid-May, or who, several times within a given school year, elects child bonding leave, would be impossible for many of the nation's local school districts, especially those in remote areas.

Indeed, without local administrative discretion, situations might well occur in which school districts would have to violate their federally mandated requirements under the handicapped laws in order to comply with this particular mandate.

The disruptive impact of untimely leave schedules will more than break the continuity of programming for an elementary teacher's 25 students or a high school English teacher's one hundred students. Frequently, it means not being able to find substitutes who are competent or much less, even available on a schedule determined solely by the employee seeking to take a leave.

The point is, although leave generally is granted under school district policies, there are defined areas in which school officials need discretion. Frequently, even within these areas, at times, school officials do find ways to accommodate their employees through temporary assignments.

However, under the bill, even that option would be taken away because federal administrative law judges—most likely individuals not familiar with the needs of public school students—would determine what constitutes an equivalent placement and for a teacher who seeks to return at the end of the leave time and who is temporarily assigned somewhere else within the school system.

Leave policies voluntarily adopted by school districts today focus on the primary purpose of school district employment—education. In striking a workable balance, our policies also recognize the unique calendar of the school calendar which allows employees substantial flexibility by providing about 15 during-the-school-year days of official holidays, and nearly three months of summer, during which time non-emergency needs can be attended to if a school district cannot otherwise accommodate the teacher's leave request.

Not only do school employees currently have substantive leave policies, but their procedural rights for enforcement are also guaranteed. Apart from any contractual provisions, as public employees, they are protected by state laws, the right to due process, as well as local governmental policy.

The imposition of a federal enforcement by the Department of Labor does not add procedural rights as much as it means more regulation, judgments by federal administrative law judges over the day-to-day, case-by-case, school personnel decisions, and employee form shopping, among the best federal and state remedies.

Further, we expect that federal procedures will create a chilling atmosphere in which school officials will not exercise those narrow areas of discretion which the bill currently leaves to them, regardless of the educational impact.

As a nation, I would think we are all committed to improving educational quality in each of our classrooms. To that end, school districts have workable leave policies and procedures and the record does not show any real evidence to the contrary.

We believe that this mandate is out of balance with the educational disruption which will result and the totally negative impact that it will have on our nation's most valuable natural resource—our children.

Because lost education cannot be recaptured, as public officials elected to govern our nation's schools, we must strongly object to the application of this bill to the school district setting, and we thank you.

[The prepared statement of Jonathan T. Howe follows:]



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TESTIMONY
on behalf of
THE NATIONAL SCHOOL BOARDS ASSOCIATION
on
FAMILY AND MEDICAL LEAVE
before the
Subcommittee on Labor-Management Relations
February 7, 1989
Presented by
Jonathan T. Howe
Immediate Past President
National School Boards Association

Also present for NSBA

Thomas A. Shannon
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I. INTRODUCTION

I am Jonathan T. Howe, Immediate Past President of the National School Boards Association (NSBA) and a member of the Northbrook Board of Education, Northbrook, Illinois. The National School Boards Association is the only major education organization representing local school board members, who have the responsibility of governing the nation's public schools. Throughout the nation, approximately 95,000 of these individuals are Association members. These people, in turn, are responsible for the education of more than 95 percent of the nation's public school children.

The National School Boards Association appreciates this opportunity to testify on the Family and Medical Leave Act. At the outset, we wish to point out that virtually all school districts currently have parental and medical leave policies -- many of which contain elements more generous than the provisions of this bill. However, after careful consideration of the proposed legislation,* which included a survey of school districts comprising 14 percent of the total national student enrollment base, we are forced to conclude that the application of this broad legislation to the school setting would be a serious mistake.

* NSBA's Testimony is based on H.R. 925, which was considered in the 100th Congress.

Before presenting NSBA's specific points of concern, it might be helpful to explain the general perspective from which we have approached this legislation.

Currently, the American people are demanding that within affordable tax limits the three levels of government do more to increase the effectiveness of public education than at any other time in recent history. Accordingly, we believe that when proposed federal legislation seeks to promote other interests in a manner which substantially or unnecessarily detracts from the achievement of the nation's educational objectives, the wisdom of that legislation must be questioned. The Family and Medical Leave bill, which was not created with the classroom specifically in mind, falls within that category.

Because local school board members are elected or appointed to govern the nation's local school districts, our opposition is solely based on the negative impact which it would have on the nation's 40 million public school children -- including those who are the children of school district employees.

In urging the rejection of this legislation in the school district setting, we want to emphasize that our opposition is not tied to the adoption of leave policies by local school boards. Rather, we must object to the federal government imposing upon local government a mandate which 1) contains specific provisions which are not a part of current practice precisely because of the negative operational impact which they would have in the education of school children, 2) presents unnecessary enforcement

procedures in view of the existing state and local procedural rights which already protect public employees; and 3) alters the employer/employee relationship in the performance of our primary governmental purpose.

II. REVIEW OF PRACTICAL PROBLEMS RAISED BY THE LEGISLATION

Generally, school district employee leave requests are accommodated by operation of legally enforceable school district policies. However, there are a number of critical instances where school officials must have the discretion to alter leave schedules to fit the needs of the classroom. Therefore, perhaps it would be best to begin with a review of some examples of the practical concerns that this legislation would present in the school setting.

A) INTERFERENCE WITH CLASSROOM PROCESS

1. TEACHER RETURNING AT END OF THE SEMESTER

The bill would provide a classroom teacher taking extended leave over most of the semester with the absolute right to return to the classroom just two weeks before the end of the semester or the school year. By contrast, most school districts retain the discretion to require that teachers return to the classroom from extended family leave only at the beginning of the semester or at the beginning of the academic year. The reason is that classroom instruction is designed to be built progressively over those time periods. Further, in academic subjects, review occurs at the end of the semester,

teachers develop tests based on the material they cover, and students are evaluated (i.e., graded) on the basis of semester or year-round performance. In terms of educational merit and fairness to the students, the date of that teacher's return should rest with the discretion of local school officials.

2. TEACHER BEGINS LEAVE AT END OF THE SEMESTER

Likewise, the bill would provide teachers with the absolute right to take child bonding leave two weeks before the end of the school year, even though 1) the 37 week school year normally allows the summer to be used for those purposes, and 2) official vacation periods during the school year typically cover about 15 days.

In addition to the disruption of the educational process, a school district may experience extreme difficulty in finding a substitute who can pick up the pieces, and competently teach the subject matter, test and grade the students, and do other year-end paper work. The task of even replacing a physics teacher or special educator, who in mid May elects to take family leave, would be impossible for many of the nation's 16,000 local school districts.

3. TEACHERS TAKING PERIODS OF SPORADIC LEAVE DURING THE SEMESTER

While much of the debate on family and medical leave has focused on extended periods of leave, the bill applies to short-term leave in ways which can be even more disruptive to the classroom. For

example, the bill does not limit the number of times during the school year that a teacher may take several days of family leave.

Again, to avoid sporadic or multiple disruptions to the classroom, including the difficulty in finding competent substitutes, school districts should have the discretion to require teachers to take continuous leave.

4. CONFLICTS WITH P.L. 94-142

Under §504 of the Rehabilitation Act of 1973 and P.L. 94-142, school districts are mandated by federal law to provide a free appropriate public education to each handicapped child. Under the operation of these laws an Individual Educational Plan (IEP) is developed for each child which specifically delineates those services which are to be received.

By operation of the proposed legislation, school districts will experience increased use of leave, as well as increased difficulties in reacting to leave schedules determined by special educators, therapists, and other employees related to the IEP process. This activity will put school districts in greater jeopardy of violating one federal mandate to serve another.*

* The handicapped legislation and recent regulatory action by the Department of Education require that providers of special education have the highest level of certification granted by the state. This will make finding qualified substitutes even more difficult.

We ask this Committee to decide which federal mandate takes precedence -- since the school district will be subject to lawsuit under federal law each time they come into conflict.

5. TEACHERS TAKING LEAVE IMMEDIATELY BEFORE AND AFTER HOLIDAYS

In view of the vacation periods available to teachers both during the school-year and during the summer, many school districts have policies which preclude employees from taking non-emergency leave immediately before or after holidays. The purpose of these policies is not just financial, but to discourage idle class days, avoid mass absences around holiday periods, and to send a message to students and parents that the presence of their teacher in the classroom means that learning will occur on those days -- and they too are expected to be present.

Under the operation of the proposed legislation, bus drivers and classroom personnel could take child-bonding leave to extend holiday periods. In the long run, this will put pressure on school districts to abandon their restrictive pre and post holiday leave policies entirely.

6. GENERAL DISCUSSION OF SUBSTITUTE TEACHERS

Each of these examples will result in the increased use of substitute teachers. Disruption of educational continuity aside, one of the greatest complaints among educators, parents, and students is over

the competency of substitute teachers -- who frequently are not even certified.

At a time when new efforts are being undertaken to increase teacher professionalism, including proposed federal legislation to raise teacher certification, the quality of instruction during the 180-day school year should not be limited by mandates that place an even greater demand on the use of substitutes. The proposed legislation does just that in terms of 1) increasing the number of substitutes needed in each local labor market; and 2) providing employees with control over leave schedules that might not be attractive to retaining the best substitutes.

B. SAME OR EQUIVALENT POSITION

When employees return from extended leave, typically school district policies require that the person be assigned to the "same or equivalent" position. Especially in larger systems, the ability to assign teachers to "equivalent" positions that "happen" to open offers an attractive alternative to otherwise objectionable return schedules. Further, it provides school officials with the discretion to cover the open class, rather than removing the substitute from the teacher's original class and then assigning the substitute to the open class.

Currently, it is the school district which determines whether a position is "equivalent." By contrast, under the proposed bill, not only would that determination ultimately be made by the federal Department of Labor

(DOL), it would be based on criteria tied to general labor concepts relating to terms and conditions of employment. Hence, without any consideration for educational impact (which DOL does not have the competency to judge) temporary school district placement decisions might very well be reversed on the basis of class size, grade level, location, resources (such as teacher aides), assignment of additional duties, different subject, or curriculum, etc.

We expect that any change in the current balance on "equivalent" placement will increase classroom disruption, the need for substitute teachers, and destroy a key mechanism that school districts have utilized to make return from extended leave within the semester more workable.

C. DEPARTMENT OF LABOR REVIEW

The problems posed by the above examples can not be resolved by adding "rules of reasonableness" or "educational necessity" if they become subject to Department of Labor review. The reasons are that 1) the timing would not make that approach feasible; and 2) federal agencies should not be empowered to determine day to day administrative decisions as to what constitutes sound educational practice (whether it is to determine the educational impact of several periods of leave within the semester or the equivalent placement each time the employee returns). Finally, any after-the-fact review involving financial damages will only serve to "cull" school administrators from making educationally sound judgments in the first instance.

III. OTHER OBJECTIONS: PROBLEMS OF STUDENT SAFETY/DEALING WITH EMPLOYEE ABUSE

A. STUDENT SAFETY

Under current practice school officials retain discretion to require employees who return from an illness to produce medical certification of fitness for work. During the course of last year's legislation, a process was put into place through which, upon certification by the employee's health care provider (who need not be a physician), the employee would be entitled to resume work.

We believe that for employees such as bus drivers, cafeteria workers, and teachers, a more responsible procedure should be available when the nature of the employee's illness is tied to student safety (e.g. airborne communicable diseases or emotional instability). In such instances, local school officials should have the right to 1) insist that the employee's health care provider be a physician; 2) permit the direct intervention of public health officials or other appropriately employer-designated individuals; as well as 3) maintain the person on unpaid level until the safety issue is resolved.

Our concern over this provision primarily relates to student safety. However, we are also concerned over potential tort liability arising from the standard of care exercised by school districts if they allow employees to resume work in certain situations by adhering to the mandate.

C. PROBLEMS OF ABUSES

School employees are hard working and dedicated persons. However, the bill sanctions a looser good faith "ethic" for taking leave to the detriment of the educational process. Further, the bill will encourage abuses stemming from a process which leaves school administrators with little substantive discretion (and no feasible procedural mechanism) for denying leave when the legitimacy of the original basis for taking leave is at issue, or how the employee actually used his/her time while on leave.

The bill is silent as to school district rights when the employee appears to have abandoned his/her position. For example, can school districts terminate health coverage or deny job reinstatement to an employee who seeks ten weeks of family leave and uses the time to pursue training or employment in another field -- or who otherwise principally uses the leave for a purpose not covered by the legislation?

IV. ROLE FOR THE DEPARTMENT OF LABOR RAISES CONCERNS: INAPPROPRIATE COMPLEXITY

The bill envisions a role for the federal Department of Labor which raises additional concerns for local school districts.

A. SUBSTANTIVE OBJECTIONS

As noted earlier, in the relatively narrow areas of managerial discretion allowed by the bill, the judgements of school officials would

be appealable to an administrative law judge.

Clearly, these day-to-day substantive schoolhouse management decisions should not be made by administrative law judges. Regardless of whether school officials spend time and money to defend these decisions or simply decline to assert their managerial judgement to avoid becoming entangled in federal adjudicative proceedings, the result will be harmful to school operations.

B. REVERSAL OF FEDERAL POLICY

By authorizing the Department of Labor to become involved in local school district policy and personnel administration, this legislation would reverse a long standing principle which was codified in the Department of Education Organization Act, and at 20 U.S.C. 3403(a) states:

It is the intention of the Congress in the establishment of the Department to protect the rights of state and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies...

Subparagraph (b) goes on to express the intent of Congress that the Department also not interfere with the:

"direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system"

Hence, while Congress does not allow the Department of Education -- the federal agency with the strongest claim to expertise in the area of education policy -- to interfere in school district personnel policies, it is willing to empower the Department of Labor to do so.

C. EXISTING PROCEDURAL SAFEGUARDS FOR SCHOOL EMPLOYEES DO NOT JUSTIFY FEDERAL ENFORCEMENT

The bill presents procedural objections as well. Currently, many school districts have collective bargaining agreements which provide procedures to resolve disputes between employees and the employer. Additionally, several states have enacted family and medical leave legislation, which contains statutory procedural safeguards. Moreover, in addition to procedures under contract and state substantive legislation, school employees (as public employees) universally have basic "due process" rights which guarantee the enforcement of school policies. Because the bill seeks to coexist with these state and local processes -- rather than being triggered by their absence -- employees would not be gaining a procedural safeguard but the opportunity to forum shop.

In essence, the involvement of the federal Department of Labor will give rise, unnecessarily to a whole new body of law, regulations, data collection requirements, damage awards, attorney fees, etc., NSBA believes that in the school setting this new body of law, will disproportionately diminish the amount of energy and funding that otherwise would be available for instructional programs or other elements of the school district compensation package.

V. INTERFERENCE WITH INTEGRAL FUNCTIONS OF LOCAL GOVERNMENT

From the foregoing, it is clear that despite existing school district policies in this area, the bill seeks to impose federal rights and procedures which will substantially interfere with the conduct of local school district government. As such, the bill represents an historic departure from the tradition of federalism that has enabled three levels of government to serve and be responsible to the citizenry for their respective governmental purposes.

Although the federal government has previously legislated in specific area of public employer/employee relations, (i.e., minimum wage provisions), the impact of those laws on the day-to-day operational decisions of local school districts government is far less entangled than either the substantive rights or the educational judgements that would be assigned to federal administrative judges under this bill.

Following earlier efforts to legislate a federal collective bargaining bill for public employees, the prevailing wisdom has been that the federal government should not be the arbitrator of last resort on policies or grievances of school employees. By establishing specific federally mandated substantive rights, the proposed legislation goes much further than simply creating a process. In that regard, we believe that the bill creates a powerful precedent for the Congress to legislate in other aspects of the employment relationship -- and thereby further impact on the operation of state and local government.

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Further, we do not believe that school employees themselves would uniformly support this legislation if they were fully aware as to how the costs would preclude other compensation items from being considered, how workloads would be altered in those very area in which school officials currently exercise discretion to deny, or how the education of children would be negatively impacted.

VI. THE RECORD DOESN'T SUPPORT THE MANDATE

Despite the great number of persons employed by local school districts, the record does not reveal broad scale school district insensitivity in the treatment of medical, maternity, family or related leave.

Rather, the record which was developed in the 100th Congress was comprised of several anecdotal accounts -- without indication of whether they could have been rebutted or explained by the local school district. In this regard, the Senate witness subsequently was found to have misled the committee as to the school district policies and procedures available to him, as well as the basic facts of what occurred.

We were pleased that the House report included the opinion of a local school board member that a locally developed leave policy worked well in his school district. However, the issue today is over the details of applying a rigid mandate to the school setting, not the principle of leave. Ironically, the proposed mandate would remove policies from that witness' school district that retain the type of discretion which we have indicated

is necessary for local school districts to accomplish their main mission -- the education of children.

VII. CONCLUSION

The policy leaders of this nation, especially the members of this Committee, have supported a greater commitment to the education of our youth. To that end, school districts have adopted policies which accommodate the family needs and provide job security of school employees in a manner which is in operational and financial balance with the educational needs of the 25 students in each classroom -- as well as the priorities of the bargaining table. By increasing the number of opportunities that employees will have to freely move in and out of the classroom during the school year, this legislation concomitantly multiplies the loss of classroom continuity and the ability of school officials to find competent substitutes from the available pool in any given marketplace. This act of reaching beyond current school district discretion in policy-making undermines current efforts to improve time on task, and to improve the teaching standard that takes place in the classroom. When the quality of education in the classroom is diminished, whether first graders or high school English students, school children will lose an educational opportunity that cannot be recaptured.

11.

Chairman CLAY. Thank you.

Mrs. SIMPLER.

Mrs. SIMPLER. Thank you. Mr. Chairman and Members of the subcommittee, my name is Cynthia Simpler. I am the Personnel Manager for James River Corporation, Non-Woven Division in Greenville, South Carolina.

We manufacture a wide array of non-woven products which are used in personal care products, disposable diapers, baby wipes and medical applications as well as industrial applications.

I have worked in human resources for eleven years. My most important job, however, is that of wife and mother of four children. If I may introduce them, my children include a son, Russell, age 13; and, three daughters, Jennifer, age five, Katy, age four, and one who is asleep, Jessica, age two.

I am here today representing the American Society for Personnel Administration and the James River Non-Woven Division. ASPA is the world's largest professional society devoted exclusively to excellence in human resource management.

The society's membership has grown to over 41,500 since its founding in 1948. ASPA represents individuals employed by companies which collectively employ more than 41 million people and includes managers from a cross-section of American business—from large corporations to smaller family operations. ASPA is also a member of the Concerned Alliance of Responsible Employers, CARE. I would like to submit CARE's statement for the record.

Chairman CLAY. Without objection, that will be included.

Mrs. SIMPLER. Thank you.

On the front line as practitioners, innovators, managers and decision-makers, human resource professionals are challenged to contribute both to a company's productivity and to its profitability. We are in a unique position to provide practical guidance on the issue of work and family conflicts.

For instance, ASPA has recently helped the Department of Labor to pilot test its new clearinghouse of information on work and family issues.

ASPA opposes legislation which dictates federally mandated leave. We are seeking to preserve the voluntary benefit system that allows employees and employers, working together, to determine which benefits best meet mutual needs.

Individuals, organizations and businesses have presented testimony on both sides of this issue. Proponents of the bill have talked about the importance of parents being with their newborn or sick children.

Opponents have presented facts about the costs to their operations, products, and productivity in addition to the disadvantages of fixed benefits to their employees. The views seem to be polarized. On the one side are those who favor parental leave, on the other are those who oppose parental leave. We are really not polarized on our view of parental leave. The issue is whether parental leave should be mandated by law.

As I prepared to come up here, I had to ask myself what makes me uniquely qualified to speak my opinion on this bill? I am a working mother. I support my church and my community. I worked my way through college as a single parent. I have experi-

enced first-hand the trials of being female in a work environment which is predominantly male.

What is unique about me? Nothing in particular. Most working women could share this testimony. I am a representative of today's typical working mom and that is why I am here today.

When I put on my business hat, I oppose mandated benefits, particularly parental leave, because of the costs, both the specific, measurable costs and the subtle intangible costs. Businesses will pay the price of recruiting, hiring, training, salary, benefits, and lost productivity. Consumers will pay the price of decreased quality and increased product cost. Employees will pay the price of fewer options and benefits. In sum, this bill bears a hefty price tag.

There are other, less apparent costs, as well. Since working women will be viewed as the most likely candidates for parental leave, hidden discrimination will occur if this bill becomes law. Women of child-bearing age will be viewed as risks, potentially disrupting operations through an untimely leave.

Unlike men, women must still constantly prove that they can handle the responsibilities of work and family at the same time. If this legislation passes, it will only reinforce the prejudices which already exist. Consequently, we will find employment opportunities in less critical, lower paying jobs.

As this subcommittee knows, our workforce is changing dramatically. More women are working than ever before. Between now and the year 2000, 66 percent of the new entrants into the labor force will be women. Only one in seven, or 15 percent, will be native, white males.

Simultaneously, the lower birthrate of the 1970s is resulting in a shrinking labor pool. This means fewer available employees with intense competition among employers to attract and retain workers, most of whom will be women. Consequently, employers are preparing for the new workforce with richer and more varied benefit packages than ever before, not as a result of federal mandates, but rather, in response to the workforce changes.

According to a 1988 survey of the American Society for Personnel Administration, unpaid maternity leave is offered by most companies for more than eight weeks; however, most respondents did not support government control over the issue. I have attached the executive summary for that survey to be included in the record.

Chairman CLAY. Without objection, so ordered.

Mrs. SIMPLER. In my home town of Greenville, South Carolina, the unemployment rate is 2.7 percent. The influx of new business and industry has forced innovation in total compensation packages as we fiercely compete within a tight labor market.

Some of the most exciting, leading edge programs have been born as a result of this simple law of supply and demand. For example, educational programs have become the standard because new technologies demand higher skill levels. Employees have been able to develop new skills as companies have recognized the need for continuous training and retraining.

Flex-time work schedules and job sharing allow employees to balance the demands of work and family life. Cafeteria style benefits give employees the opportunity to choose benefits which best suit their individual and family needs.

Business leaders and educators are joining forces to address the child care needs of our community as we try to find an affordable way to provide quality child care for the growing number of working families. Companies are offering richer and more varied benefits packages than ever before, not as a result of legislation; rather, in response to the competition for available workers.

Let me take off my business hat and get personal for a moment. I am concerned about the issue because I care about people. I am a member of the Greenville Private Industry Council. I am a board member of our Vocational Rehabilitation Center. I am also a member of the Greenville Chamber of Commerce Human Resource Management Board and the Business Education Partnership Council.

I assumed these responsibilities to help remove barriers for people who want to work, to help people help themselves. I work in my community to help welfare recipients, ex-offenders, the handicapped and youth open doors to employment opportunities. As an insider to the business world, I know what obstacles they have to overcome. I am determined to help them break through the barrier, because I still believe in the great American dream.

So what of motherhood and family? What about the bonding period infants require? As a mother of four, I can tell you that bonding does not occur in only ten weeks. Bonding is a lifetime process. Russell, my 13-year-old son, needs me as much today as he did as an infant. His problems, like other American children, are very complex. School is tougher. The environment is tougher. Choices are tougher. Drugs, AIDS and abortion were not issues when we were children. Does he need his parents? Absolutely.

At thirty-something, I still rely on my mother for support and love and comfort. I can assure you legislation did not cause the bond. If this bill could help us be better parents, I would give it my whole-hearted support, but a few weeks off when a child is born does not determine the love, care and nurturing he experiences in his relationship with his parents.

We cannot afford to pass this bill in a purely emotional vote for the American family. The American family can best be served through responsible legislation which requires you and decision-makers to see beyond the emotionalism to the long-term implications.

All of us will pay the price for this one, especially working women just like me. I urge you to vote against federally-mandated leave. Thank you.

[The prepared statement of Cynthia Simpler follows:]



TESTIMONY OF CYNTHIA SIMPLER

PARENT

AND

PERSONNEL MANAGER
JAMES RIVER CORPORATION
NON WOVEN DIVISION
GREENVILLE, SOUTH CAROLINA

ON BEHALF OF

THE AMERICAN SOCIETY FOR PERSONNEL ADMINISTRATION

BEFORE THE

SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS
COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 7, 1989

 *American Society For Personnel Administration*
National Headquarters • 606 N. Washington Street • Alexandria, Virginia 22314 • Phone 703/546 3440

Mr. Chairman and members of the subcommittee, my name is Cynthia Simpler. I am the Personnel Manager for James River Corporation Nonwoven Division in Greenville, South Carolina. We manufacture a wide array of nonwoven products which are used in personal care products, disposable diapers, baby wipes and medical applications, as well as industrial applications. I have worked in human resources eleven years. My most important job, however, is that of wife and mother of four children. My children include a son, Russell, age 13 and three daughters, Jennifer, age 5, Katie, age 4 and Jessica, age 2.

I am here today representing the James River Nonwoven Division and the American Society for Personnel Administration (ASPA). ASPA is the world's largest professional society devoted exclusively to excellence in human resource management. The Society's membership has grown to over 41,500 since its founding in 1948. ASPA represents individuals employed by companies which collectively employ more than 41 million people and includes managers from a cross-section of American business -- from large corporations to smaller family operations. ASPA is also a member of the Concerned Alliance of Responsible Employers (CARE), and I would like to submit CARE's statement for the record.

On the front line as practitioners, innovators, managers and decision-makers, human resource professionals are challenged to

contribute both to a company's productivity and to its profitability. We are in a unique position to provide practical guidance on the issue of federally mandated benefits. For instance, ASPA has recently helped the Department of Labor to pilot test its new clearinghouse of information on work and family issues.

ASPA opposes legislation which dictates federally mandated leave. We are seeking to preserve the voluntary benefit system that allows employees and employers, working together, to determine which benefits best meet mutual needs.

Individuals, organizations, and businesses have presented testimony on both sides of this issue. Proponents of the bill have talked about the importance of parents being with their newborn or sick children. Opponents have presented facts about the costs to their operations, products, and productivity in addition to the disadvantages of fixed benefits to their employees. The views seem to be polarized. On the one side are those who favor parental leave; on the other are those who oppose parental leave. But we really are not polarized on our view of parental leave. The issue is whether parental leave should be mandated by law.

As I prepared to come up here, I had to ask what makes me uniquely qualified to speak my opinion on this bill? I am a working mother.

I support my church and my community. I worked my way through college as a single parent. I have experienced firsthand the trials of being female in a work environment which is predominately male. So what is unique about me? Nothing in particular. Most working women could share this testimony. I am representative of today's typical working mom and that is why I am here today.

When I put on my business hat, I oppose mandated benefits, particularly parental leave because of the costs -- both the specific, measurable costs and the subtle intangible costs. Business will pay the price of recruiting, hiring, training, salary, benefits, and lost productivity. Consumers will pay the price of decreased quality and increased product cost. Employees will pay the price of fewer options in benefits. In sum, this bill bears a hefty price tag.

There are other, less apparent costs involved as well. Since working women will be viewed as the most likely candidates for parental leave, hidden discrimination will occur if this bill becomes law. Women of childbearing age will be viewed as risks, potentially disrupting operations through an untimely leave. Anyone who has had a secretary out on maternity leave knows how chaotic the office is when an inexperienced temp steps in to take her place. Who takes care of the territory when a sales representative drops out for ten weeks? Who will close the books if the only accountant in the plant goes out on parental leave?

Unlike men, women must still constantly prove that they can handle the responsibilities of work and family at the same time. If this legislation passes it will only reinforce the prejudices which already exist. Consequently, we will find "employment opportunities" in less critical, lower paying jobs.

Why do we need this legislation anyway? Today businesses compete for available labor on the basis of pay, benefits and working conditions. Companies compete to attract and retain valued employees by offering employment packages which meet the needs of the broadest range of the workforce. That means employees have a choice. Employees choose companies which demonstrate concern for their individual needs.

As this subcommittee knows, our workforce is changing dramatically. More women are working than ever before. Between now and the year 2000, sixty-six percent of the new entrants into the labor force will be women. Only one in 7 -- or 15% -- will be native white males. Simultaneously, the lower birthrate of the 1970's is resulting in a shrinking labor pool. This means fewer available employees, with intense competition among employers to attract and retain workers -- most of whom will be women.

Consequently, employers are preparing for the new workforce with richer and more varied benefit packages than ever before, not as a result of federal mandates, but rather in response to these

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workforce changes. Flex-time schedules and job sharing allow employees to balance the demands of work and family life. Cafeteria style benefit plans are the wave of the future. These plans allow employees to select benefits which best suit their individual family needs from a whole array of options. According to a 1988 survey of the American Society for Personnel Administration, unpaid maternity leave is offered by most companies for more than eight weeks. However, most respondents did not support government control over the issue. I have attached the executive summary for that survey to be included in the record.

In my hometown of Greenville, South Carolina, the unemployment rate is 2.7%. The influx of new business and industry has forced innovation in total compensation packages as we fiercely compete within a tight labor market. Some of the most exciting, leading edge programs have been born as a result of this simple law of supply and demand. For example, educational programs have become the standard because new technologies demand higher skill levels. Employees have been able to develop new skills as companies have recognized the need for continuous training and retraining. Flex time work schedules and job sharing allow employees to balance the demands of work and family life. Cafeteria style benefits give employees the opportunity to choose benefits which best suit their individual and family needs. Business leaders and educators are joining forces to address the child care needs of our community as we try to find an affordable way to provide quality child care for

the growing number of working families. Companies are offering richer and more varied benefits packages than ever before, not as a result of legislation, rather in response to the competition for available workers.

But let me take off my business hat and get personal for a moment. I am concerned about this issue because I care about people. I am a member of the Greenville Private Industry Council and I am a Board Member of our Vocation Rehabilitation Center. I am also a member of the Greenville Chamber Human Resource Management Board and the Business Education Partnership Council. I assumed these responsibilities to help remove barriers for people who want to work, to help people help themselves. I work in my community to help welfare recipients, ex-offenders, the handicapped and youth open doors to employment opportunities. As an insider to the business world, I know the obstacles they must overcome to make it. I am determined to help them break through the barrier. I still believe in the Great American Dream.

So what of motherhood and family? What about the bonding period infants require? As a mother of four, I can tell you that bonding does not occur in only ten weeks. Bonding is a lifetime process. Russell, my thirteen-year-old son, needs me as much today as he did as an infant. His problems, like other American children, are complex. School is tougher. The environment is tougher. Choices

are tougher. Drugs, AIDS, and abortion were not issues when we were children. Does he need his parents? Absolutely. At thirty-something, I still rely on my mother for support and comfort and love. I can assure you, legislation didn't cause the bond. If this bill could help us be better parents, I would give it my whole-hearted support. But a few weeks off when a child is born does not determine the love, care and nurturing he experiences in his relationship with his parents.

We cannot afford to pass this bill in a purely emotional vote for the American family. The American family can best be served through responsible legislation which requires you, the decisionmaker, to see beyond the emotionalism to the long-term implications. All of us will pay the price for this one. Especially working women just like me. I urge you to vote against federally mandated leave.



EMPLOYERS and CHILD CARE

The Human Resource Professional's View

1988 Child Care Survey Report of the American Society for Personnel Administration

EXECUTIVE SUMMARY



The American Society for Personnel Administration (ASPA) has conducted the first national study of its members' views on the subject of child care. In March, 1988 a random sample of 5,554 human resource professionals was selected from the ASPA membership, and 1511 usable responses were received (response rate - 27 percent).

This survey not only addressed the present level of member interest, awareness and involvement in child care, but also inquired about specific services their employers are considering or have implemented. Another important goal of the survey was to examine the perceived obstacles to their employer's involvement in child care, as well as to uncover member opinions about related legislative initiatives.

Survey Sample Demographics

Company size is an important demographic variable in this study. The size of an organization relates closely to knowledge of and activity in child care. Because of this, many responses were analyzed using data grouped by company size.

Almost 40 percent of the respondents were from companies of small to medium size (100-500 employees), 25 percent were from medium to large companies (501-1500 employees) and 25 percent were from large companies (more than 1500 employees). Twelve percent of the sample were from companies with less than 100 employees.

Manufacturing was the industry category in which the largest percentage of the sample was employed (45%). Finance, insurance, and real estate was the next largest industry category represented (14%), followed by the services category (7%). The geographic regions most heavily represented were the midwest (29%), northeast (23%) and southeast (16%).

Slightly less than half of the survey respondents held the title of Director or above (45%). The other half consisted primarily of Managers (36%) or Administrator/Specialists (14%).



Section A

Current Involvement in Child Care

While half the respondents surveyed state their company is not yet involved in child care, the other half have some level of involvement. The majority of these are in the process of exploration, ranging from researching the issues to investigating employees' child care needs. Ten percent of the sample currently provide some type of child care support or service (see Figure 1).

Regardless of company size, three percent of the respondents believe their companies are very adequately meeting the child care needs of their employees and 10 percent say they are adequately doing so. This leaves the majority who state they are either less than adequately fulfilling their employees' child care needs (57%) or are unsure about it (24%).

Adequacy of Employer Information on Selected Child Care Issues

As figure 2 displays, there appears to be a general need for more employer information on child care and greater knowledge about employees' child care needs. Respondents were most informed about the tax advantages for employees choosing child care through a flexible benefit savings plan, although large companies were more likely to have this information. Approximately half of all respondents state their companies are informed on proposed federal legislation.

Companies need more information on the costs of providing child care. As later data reveal, employers perceive cost as one of the biggest obstacles to becoming

SURVEY FINDINGS



more involved in child care. Up to 77 percent of those from small organizations state they are not informed on cost, with those from larger organizations somewhat more informed. However, even for these, half report they are not adequately informed.

Regardless of company size the majority of respondents state they do not have a current assessment of their employees' child care needs. Almost 80 percent report they are not up-to-date or are unsure if they are up-to-date in assessing their employees' needs.

Section B

Employer Activities in Child Care Support and Services

More than one approach can be taken to assist employees with their child care needs. Respondents were asked to describe their company's choice of initiatives which were categorized as the following:

- 1) Financial Assistance, 2) Information Services, 3) Company Owned/ Sponsored Child Care Services, 4) Alternative Work Schedules, and 5) Family Leave Options.

Financial Assistance

The two financial assistance methods which are most popular include flexible benefit plans with a child care option, and Section 125 savings plans. One out of two companies in the sample have considered, are currently considering, or have implemented one or both of these benefits. Although larger establishments are more likely to be providing or considering these plans, small companies are considering these benefits as well.

COMPANY SIZE

| Level of involvement in Child Care | COMPANY SIZE | | | | | |
|----------------------------------------|---------------------------|------------------------------------|--------------------|----------------------|------------------------|----------------------------------|
| | All Companies (n=1811) | Less than 100 employees (n=178) | 100-999 (n=640) | 1000-9999 (n=347) | 10000-99999 (n=220) | 100000 plus employees (n=186) |
| Primarily exploring issues | 25% | 16% | 21% | 32% | 26% | 46% |
| Researching employees child care needs | 10 | 6 | 6 | 13 | 12 | 20 |
| Currently choosing child care service | 4 | 1 | 2 | 4 | 10 | - |
| Currently providing child care service | 10 | 2 | 6 | 14 | 15 | 16 |
| Expanding/Revising child care service | 4 | 0 | 1 | 3 | 10 | 12 |
| Not currently involved in child care | 53 | 71 | 63 | 42 | 36 | 41 |
| Other | 5 | 6 | 4 | - | - | 5 |

*NOTE: Percentages may not equal 100 because more than one response may be checked.

ALL COMPANIES
(n=1811)

| Is Your Company Informed on the Following Topics? | ALL COMPANIES (n=1811) | | |
|--------------------------------------------------------------------------------|---------------------------|-----|--------|
| | Yes | No | Unsure |
| Tax advantages for employees choosing child care through flexible benefit plan | 60% | 27% | 14% |
| Proposed Federal legislation on child care issues | 51 | 29 | 20 |
| Tax advantages for employers who provide child care | 43 | 35 | 22 |
| Research on effects of child care on productivity, absenteeism, etc. | 38 | 44 | 18 |
| Employer costs of providing child care services | 33 | 46 | 21 |
| Current assessment of employees' child care needs | 21 | 63 | 16 |



Information Services

One out of three companies either have an information/referral service or are considering it. These services, where companies gather and disseminate information on available child care in the community, are most frequently reported by respondents from larger companies. Counseling services which help working parents cope with family stresses are also being considered by more than one half of the larger organizations.

Company Owned/Sponsored Child Care Services

Activities such as employer-sponsored child care centers, centers provided by contractors, and child care consortiums are found in few companies. Currently, five percent of all companies surveyed offer an employer owned/sponsored child care center. The consideration and provision of a child care center directly relates to company size. About half of the larger companies (more than 1500 employees) have at least explored the possibility of an employer owned/sponsored center.

Other types of child care services such as employer contributions to after school programs, telephone "hot lines" and nursing services for sick children have not yet been investigated by the majority of companies. This holds true regardless of organizational size.

Alternative Work Schedules

Work policies which may help accommodate parental needs include flextime, part-time work options, job sharing, work at home programs, and special summer or holiday hours. Based on this survey, the option which employers appear most likely to pro-



vide include alternative schedules, especially part time work, and flex time to assist with employees' child care needs. One out of two companies have part-time work available, and over one third have flex-time arrangements. Although there is still a positive relationship between provision of these options and company size, a significant number of small companies offer these alternatives to their employees.

Family Leave Options

Respondents were asked to describe what types of leave opportunities their company currently provides to parents. As Figure 3 reports, pregnancy disability is the type of leave offered most frequently by employers. This is leave granted for pregnancy which ends after the woman give birth and the doctor allows her to return to work. If the company has a disability policy, then, by law, they must include pregnancy as a disability. Paid pregnancy disability leave is offered by more than two thirds of the sample.

Maternity leave was defined as leave given the mother to be with her child, even though she is healthy and able to work. Ten percent of all companies report they offer paid maternity leave. This is fairly consistent across company size, with a range of seven to 13 percent. Unpaid maternity leave is offered by 44 percent of all companies. Forty five companies (3%) offer paid paternity leave, with unpaid paternity leave offered by 19 percent.

Almost all companies (95%) which offer paid pregnancy disability leave do so for longer than four weeks. Half of these offer paid leave for more than eight weeks. Small companies were less likely than larger companies to offer paid leave for longer than eight weeks.

The majority of companies

Type of Family Leave Options

ALL
COMPANIES
(n = 1511)

Pregnancy Disability Leave

| | |
|---------------------------|-----|
| Paid Disability | 68% |
| Unpaid Disability | 41 |
| Partially Paid Disability | 23 |

Maternity Leave

| | |
|-------------------------------------------------|----|
| Paid Maternity | 10 |
| Leave charged to vacation, sick, or other leave | 15 |
| Unpaid Maternity | 44 |
| Part Time Return | 17 |
| Flexible time off | 9 |

Paternity Leave

| | |
|-----------------------------------------------------|----|
| Paid Paternity | 4 |
| Unpaid Paternity | 19 |
| Paid leave charged to vacation, sick or other leave | 21 |
| Temporary Part Time | 2 |
| Flexible Time Off | 5 |



which provide paid maternity leave offer it for five to eight weeks (59%). Another 32 percent offer this leave for more than eight weeks. Unpaid maternity leave is offered by most companies for more than eight weeks (63%).

Thirty of the 45 companies which provide paid paternity leave reported a specific time period. Of those 30, sixty percent offer it for less than four weeks. However, unpaid paternity leave is available for more than eight weeks by the majority (65%) of the 246 companies who offer it.

Section C

Potential Obstacles to Employer Involvement in Child Care

The intent of this section was to learn what the respondents believe to be obstacles to their company's involvement in child care. Potential obstacles were listed and the respondents were asked to circle the appropriate number on a scale ranging from 1 (not an obstacle) to 5 (major obstacle). Cost and liability issues, concern over equity of employee benefits, employer's familiarity with child care options, commitment from top management and company involvement in family matters were some of the topics addressed.

The survey found all companies are especially concerned with expense and liability insurance. Respondents generally are familiar with the child care options available to them, although the complexity of a child care system is an obstacle for many. Lack of commitment from top management was cited as a major obstacle by about half of all companies, and the lack of research evidence into the long term benefits of providing child care was also a major concern.



Section D

Employer Perceptions of Child Care Legislation

Because of the increased interest of Congress in child care, and the numerous related legislative proposals, a section was included in the survey to examine respondent's opinions on certain legislative initiatives. Specifically, questions were asked regarding funding responsibilities, incentives for increased employer involvement in child care, and legislation mandating certain entitlements.

Survey respondents hold strong opinions about who is responsible for child care. Most agree that the funding of child care is not primarily the responsibility of the employer or the government, but the employee. However, there is mixed reaction about whether the funding of child care services should be shared between the government, employer and employee.

Most respondents do not advocate government control over child care issues. For example, 83 percent disagree with mandated paid parental leave, and 69 percent disagree with mandated unpaid parental leave. Most also do not agree with legislation which gives pregnancy disability preferential treatment over other disabilities.

Three out of four companies would like tax incentives for providing child care assistance, and one out of two agree government grants should be provided for employer sponsored programs.

How to Obtain Additional Information

A full report with detailed information on each of the above sections is available from the American Society for Personnel Administration. Most data is analyzed and displayed for all companies and by company size. The cost of the report is \$35.00 for ASPA members and \$50.00 for non-members. To order complete the following ASPA Publications Order Form.

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Chairman CLAY. Thank you. I thank each of you.

Mr. Motley, you say that you polled the members of the National Federation of Independent Business.

Mr. MOTLEY. Yes, Mr. Chairman.

Chairman CLAY. What is the average size of the companies?

Mr. MOTLEY. Eight employees.

Chairman CLAY. Eight?

Mr. MOTLEY. Eight employees, between eight and nine.

Chairman CLAY. Then what would be their concern about this bill, other than that your opposition is based in principle?

Mr. MOTLEY. I believe that the principle argument is a very strong one, but I also believe that most small businesses today don't necessarily believe that the exemptions which are placed in the bill are going to remain there.

They also believe that this bill is nothing more than a first step to paid parental leave for everybody; whether their beliefs are mis-founded or not is difficult for me to say, Mr. Chairman. In the bill itself, we start out with an exemption of fifty going down to 35 over several years.

A number of business owners point that out in conversations with us, you know, saying, you know, what is the next step, down to twenty, down to ten and so on.

Chairman CLAY. The only empirical evidence that we have heard in terms of how it affects small businesses is the survey that was mentioned earlier by one of the panelists, which I have before me. It says that firms with fewer than twenty employees grew by 32 percent in parental leave states compared to 22 percent in states without the leave.

I fail to understand the argument that has been proposed here by each of you as to the impact it would have on small businesses and their ability to compete.

Mr. MOTLEY. Mr. Chairman, that is the 9-to-5 study that I mentioned, and we would be more than happy to provide a critique of costs from our standpoint of that study. They used the Small Business Administration's data base and SBA will not stand behind the use of that data base, and the committee might wish to query them on it.

Chairman CLAY. We would welcome your stats. I hope that they are much better than the stats that Dr. Hess' organization has provided to this committee.

When we first proposed the original bill, the Chamber of Commerce estimated a cost tag in excess of twenty billion dollars. Then they revised it downward to sixteen billion. By the time they got to this committee, they said somewhere between two and three billion dollars.

When we asked them how they arrived at those figures, they said they would go out and come back and give us in detail, which they have never done. Now, the GAO says the cost would be 188 million. Would you care to tell us why, Dr. Hess, there is such a vast difference between your estimate and the GAO?

Mr. HESS. First of all, I was not personally a part of whatever estimates were made by the Chamber of Commerce. The only thing I would respond to is that I think you are trying to put a price tag on something which is intangible.

What would be the price tag if my business were starting now and would fail because of parental leave or some other mandated benefit? I don't know. Maybe some other business would take its place.

The economic contributions of a company with three hundred employees, in terms of jobs and taxes, are very important. Our economy would suffer a great loss if such a business were allowed to go under. There is no way to put a quantitative factor on the losses sustained as a result of dropping a few businesses off like that.

Chairman CLAY. Then I think the Chamber ought to say that, instead of saying it will cost twenty billion dollars. If you cannot put a price tag on it, I think it is irresponsible to just grab a figure out of the air and say this is what it is going to cost, and then you print it all across this country.

We had people writing us saying "We can't afford to spend twenty billion dollars." Then we ask you where did you get the figure from. Well, you just said you cannot put a price tag on it. So how did you arrive at a price, if you cannot document a price?

Mr. HESS. When the figures the GAO shows seem to meet your purposes, they put a low price tag on it, you seem very interested.

Chairman CLAY. It wouldn't influence me because, you see, personally, I wouldn't care what it cost. If I think it is right for the American worker, I would support it. Mrs. Roukema asked for the cost estimate, which is responsible, but I took the position there are certain minimum standards that this government has to enforce to protect the rights of working people.

The industry itself is not. If the industry were providing some minimum standards for workers, it would not be necessary for us to even deal with this piece of legislation. The majority of the American workers today don't have this kind of a minimal standard.

The government has an obligation to provide standards. We have an obligation to provide safety at the job site, even though the industry came here, the Chamber of Commerce and the Association of Manufacturers came before this Congress, lobbied vehemently against imposing safety and health standards on the job.

In the 21 years I have been in this Congress and been on this Labor Committee, the Chamber of Commerce and the National Association of Manufacturers have never come before this Congress and supported any minimal protection for American workers.

Most of the companies involved in your organizations don't provide the kinds of minimal standards that we insist that you ought to provide. I say to you that if you are opposed to this in principle, that is all you need to state. You don't need to try and justify why there should be corrections in the bill as if to give the impression that if you made those corrections, you would support it.

Last year, Mrs. Roukema and myself and a number of other people, acknowledging the concerns of business, attempted to satisfy and address those concerns. We had a bill that said that originally, we were going to impose 18 weeks of leave and did not reach an agreement because you objected. Now we are down to ten weeks.

We said 26 weeks of medical leave; we are down to 15 weeks now. We had no time of employment for eligibility; we imposed a one-year employment eligibility standard. We covered all part-time employees. You put in a twenty-hour a week factor. We had no key employee exemption; we put one in. We had five employees; now it is fifty employees.

Still, you come here and give the impression that if we were to correct some of these things in the bill, that you would support it, when you start off by saying you will never support it because you are opposed to it in principle. I don't understand the testimony. I don't even know why any of you came this morning to talk about it.

Mr. HESS. Mr. Chairman, if I may, I have a little different situation.

Chairman CLAY. Yes, you may. I'm sorry. I don't understand why the four of you came. You do, as the head of the school boards association, you do have some legitimate concerns which we will deal with.

I am glad you didn't say you opposed it in principle, because school boards mandate curricula and they are government agencies. They mandate teaching books and other aids. They mandate dress codes for the teachers and for the children. You don't give teachers flexibility, because I know teachers that would love to teach a course in sex education, but I know very few school boards that will allow it. But you do have some legitimate concerns, and we will deal with them.

I want to ask the four of you: Why did you come here?

Mr. HESS. First of all, I came to get a proper chastisement for the entire business community. My shoulders are broad enough for that, I suppose. I feel almost like somebody who is chastised for being a minister because Jimmy Swaggart happens to be a minister.

I came to tell you a story about small business taking the initiative. I would dearly love to have you visit my business some time. I'd like to show you our child care. I'd like you to talk with our employees. It is all done on a voluntary basis, far beyond the area of government requirement.

I would simply like to say that there is a much broader responsible business community out there than what you give us credit for. Because there are a few rotten apples in every bushel, including Congress, including the ministry, including the business community, I've taken it for them.

Chairman CLAY. Thank you. Mrs. Roukema.

Mrs. ROUKEMA. Mr. Chairman, I think you got a few things off your chest there. Let me tell why they are here.

Chairman CLAY. Well, we invited them.

Mrs. ROUKEMA. I invited them.

[Laughter]

Mrs. ROUKEMA. I might say, speaking as one who has strongly supported a good number of issues that the business community representatives here today have supported over the last eight years, I would say that I'm sorry for this honest difference of opinion.

Yet, we have been working on this for more than a year, going on two years, I think.

Chairman CLAY. Five.

Mrs. ROUKEMA. The honest differences of opinion seem to continue. I think the only conclusion we can come to is, as I referred, I believe, in my opening statement, that there are some ideological positions and philosophically strong enough positions of some in the business community—not all, but some in the business community—where they simply will not entertain any well conceived legislation on this subject.

I won't go into the long history of how I began. By the way, Mrs. Simpler, I agree with you on bonding. At the first hearing that we had, for those that will remember, I said, "Look, stop right there. This is not a bonding issue because if you start down that road, I, my husband, a psychiatrist, and a lot of other of my colleagues are going to say 'Forget it. Then the woman ought to stay home because you don't bond in ten weeks; you don't even bond in 18 weeks; it takes years.' So the woman might just as well stay home and not go out to work." That is getting off on the wrong foot.

Let's get back to what I believe is the essential issue. I don't understand why we are going to keep talking past each other on this subject. I had hoped that maybe someone here, and the Chairman has already alluded to this, would come in with more reputable cost data that could, in some way, justify your competitive argument, because I don't see it.

I think the GAO has clearly illustrated—and it was at my request that that study was made. The GAO has clearly given rational documentation to their position as to what constituted their projections, how they were constructed.

Yet, in all this time, the business community has not come back with a counter-balance to that. I would like to hear it, because if there is some genuine obstruction here to the competitive edge, not for the businesses of eight to twenty or less than fifty. I understand that; that is why I constructed this compromise.

But I wish you would come up with some data here, some that had some validation. You have frankly undermined your own arguments to begin with by coming in with figures that could not be validated; cost estimates that could not be validated.

Now, let's get away from that, because I just have one more substantive issue to get back to, one that has been raised. I think you have a legitimate position and that is, the health insurance cost question that has been raised. Those are clearly where the main body of costs are.

Yet, I've got to ask you this question. Do you really want to deprive your employees of health insurance coverage when they are facing a medical crisis? That is what we are talking about. We are not talking about maternity leave here, because most states cover that as a disability, anyway. People already get their maternity leave; that is almost a red herring in this discussion debate now.

We are talking about families that are facing medical crises, whether it is a serious illness of a child—not the sniffles or the flu—a serious illness of a dependent parent, or a medical crisis the employee has to face, which is an accident or some unforeseen medical catastrophe. That is what we are talking about here.

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I have gone over this with my own business community and groups that have invited me to speak and nobody speaks with much enthusiasm to me outside the hearing room about really, really entertaining seriously the thought that they are going to deprive their employees of health insurance coverage when the family is facing a medical crisis.

I would just like to hear anything you might have to say on that. Who would like to be first?

Mrs. SIMPLER. I'd like to speak to that on a couple of points. First, I think that costs are difficult to nail down because they vary from employer to employer based on the wages that they pay a particular individual.

The replacement costs associated with that are going to vary, whether it is the janitor or an administrative person or a professional person like myself. That cost is very, very difficult to ascertain. However, the—

Mrs. ROUKEMA. But you don't challenge the GAO study?

Mr. MOTLEY. I do.

Mrs. ROUKEMA. You do? Well, then I want you to come up with some other figures.

Mr. MOTLEY. We would be happy to submit them.

Mrs. ROUKEMA. Going back now to the health insurance question—

Mrs. SIMPLER. What I would like to submit is also information on costs, a fact sheet of replacement costs and operational difficulty of implementing family and parental and medical leave legislation, a document that we have here.

Mrs. ROUKEMA. That will be submitted for the record.

Chairman CLAY. Without objection.

Mrs. SIMPLER. Thank you.

Mr. MOTLEY. Mrs. Roukema, first of all, I think all of us do appreciate your efforts over the last year and the Chairman's efforts to keep a dialogue open on the issue. There have been changes in the bill, making it better than it was in the past, and there are other things that, if the legislation passes, I think we have outlined in our testimony that we think would make it more livable.

In addressing the question of cost, the problem really is that I think the cost not only is going to differ by business, but it is going to differ by employee. Different employees cost different things to businesses. If you want to give us a business with certain types of employees, we can probably come up with somewhat of a tangible cost.

But how do you figure in lost productivity? How do you figure in how you replace that employee? Most small businesses hire people off the street or they advertise in the paper. Businesses in an urban area would probably go to a temporary agency and you know that there is a built-in premium whenever you go to a temporary agency.

Costs are extremely difficult to put a finger on. In terms of health insurance itself, with that being one of the biggest problems that we have with the bill, an approach put forward by your former colleague, Mr. Coates, in which the tax incentives are used to help off-set those costs, such as we do to get firms to provide

health insurance now, would be one which probably would be considered much more favorably by the business community.

Mrs. ROUKEMA. I want to come back to that if there is not any other comment on this cost question, because that was going to be my next question, the tax credit question. I wanted you to amplify on that. Go ahead.

Mr. HESS. I am going to get off the cost question issue because, obviously, the Chamber doesn't enjoy a very high reputation with you on that.

I would just like to remark generally that whether it is parental leave, mandated health benefits or whatever the case might be, we have to recognize that we who are opposing those are being branded as against motherhood, apple pie—

Mrs. ROUKEMA. Not by myself.

Mr. HESS. The question is not: Does every American have a right to certain base medical benefits and so on. It is a question of who is responsible to pay for them. I would just like to take the example that in 1959 and '60, I was an employee in a good job. I had all the benefits in the world.

I took the step of going out to start my own business. It took me ten years to get back to the salary that I was making before that time and much longer than that to ever get back to those benefits.

In addition to that, all the employees that I brought on were supposed to be covered. I was supposed to be carrying on my shoulders all those benefits. I am asking you to look at the start-up business, the entrepreneur, who really is taking a tremendous risk in going out there. Then we are saying we are hanging all this burden onto him and if he isn't willing to accept it, he's against motherhood.

Mrs. ROUKEMA. I would like someone to amplify on the question of the tax credit approach to costs. First of all, what is the estimated cost in revenue loss to the federal government and how can you justify that? Wouldn't that be another tax break for business? That is somewhat out of touch with the climate of neutrality in the Tax Code.

Mr. MOTLEY. Maybe it should be viewed as another tax break for employees, rather than for business.

Mrs. ROUKEMA. I don't know. I don't know what Mr. Coates' proposal is.

Mr. MOTLEY. Mr. Coates, I don't believe, has introduced his proposal yet but I know that it is certainly being discussed within the administration and also among some people that he has been talking about it with.

It is, I believe, a fifty percent tax credit for the cost of both paid and unpaid parental leave with a whole series of incentives.

Mrs. ROUKEMA. A tax credit to whom, the employer?

Mr. MOTLEY. The employer, to help cover the cost of health insurance and for replacing that employee temporarily. The basis of it, I think, Congresswoman Roukema, is the fact that back in the 1930s and 1940s, we did not provide health insurance as a nation to employees, generally.

Back in 1940, just around forty percent of the people who worked for businesses in this country had private health insurance. Today, it is up over 85 percent. One of the reasons that we have done that

is because employers have been given an incentive to provide this fringe benefit which you, in Congress, deemed to be necessary

I cannot tell you whether NFIB would support that approach. I do know that we certainly would look upon that approach somewhat differently. Right now, we are polling it right alongside your approach to see which the membership would prefer.

Mrs. ROUKEMA. Thank you. I yield back whatever time I might have. I think I overstepped my bounds some time ago.

Chairman CLAY. Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman. You and Mrs. Roukema, I think, have dealt primarily with the things that this Committee has to understand and see.

I am a little bit bothered about a statement made by Ms. Simpler, who happens to come from a state of one of my most famous constituents, Reverend Jessie Jackson, who did very well running for president. I am sure he would disagree with your position in respect to not supporting this kind of legislation.

You made a statement that indicated that we should not be motivated by emotionalism on this committee to pass this legislation. I have not seen any manifestation of that kind of an attitude on the part of Members of this committee on either side.

Mrs. SIMPLER. May I respond to that?

Chairman CLAY. Certainly.

Mrs. SIMPLER. I think if we are going to make the nation strong for our children—and I've got four of them, so I am probably one of the people who has a great concern about the long-term implications. I think we have to look at the total cost, and not at whether we are for or against parents having an opportunity to raise their children.

My husband and I both share. We are working people. We both work to provide for our family without having to rely on government systems to provide for us. I believe employers need to, so that they can stay competitive in today's climate, that they need to be able to be flexible in the benefits that they provide, to meet the range of needs of the workforce.

I can tell you, in 1975—was it, Russell, when you were born—I was a single parent and I took two weeks off when Russell was born. It wouldn't have mattered if my employer had provided ten weeks, because I had my income to take care of the two of us. If it is targeted at single moms or lower income folks, they cannot benefit from it.

Middle class people from myself, we can ill afford to take off ten weeks without pay, because taking care of four kids is a costly proposition. So, with all due respect, it does look like "Yuppie" legislation.

When you talk about the key employees being in the top ten percent income earners, generally, even those folks cannot take advantage of it because they are in those key positions. Even if they can afford it, they can't be off because they are a key person.

In our organization, as we are trying to down-size and flatten our organizations and become more efficient, every employee becomes a key employee.

Mr. HAYES. Mr. Howe, we have within this committee statements from two entities in the education field which you have to deal

with. The Parent-Teachers Association and the Teachers Union both support this kind of legislation.

I was a little bit surprised at your lack of support for it.

Mr. HOWE. There are a large number of other educational organizations, Congressman, that join us in opposition to this because of the educational impact we believe it will have.

I am a locally elected school board member and I am charged with the responsibility of my community to formulate the policies for providing a quality education to the children who attend our schools.

Based upon our evaluation, based upon the recommendations we obtained from our school superintendents and other administrators, we believe—very much so—that one of the real problems we have would be the disruption that this would bring about in providing educational programming.

If we do not have the control as to when the leaves may begin, in the parental situation most particularly, any type of discretionary leave that might be allowed. The emergency medical, obviously, is an entirely different type of situation. Our survey indicates that every school district or almost every school district of the United States has both a parental type of leave policy as well as a medical or emergency type of leave policy.

We do have certain needs that we have to have. We vary from the AFT and the NEA in respect to this not being the type of issue that should be a mandated issue from Congress or it should be left to the collective bargaining process. I will say that this has never been, in my experience—and I have a district which is unionized—it has not been an item that has been a negotiated item.

It has been something that we as a board have done many years ago, and provide very flexible, very reasonable benefits to our employees because we value them and it is important to us. So, we disagree with them because we think, from our responsibilities, that this type of legislation would disrupt the educational process.

Mr. HAYES. You are aware of the fact that this piece of legislation is structured based on a national basis, not just on a local?

Mr. HOWE. Yes, sir.

Mr. HAYES. I think you said your district was Northbrook?

Mr. HOWE. Yes, sir.

Mr. HAYES. That is a very neat district, you know, as compared to mine.

Mr. HOWE. We are hoping that all districts in Illinois are going to be up there, Congressman, and we are working on it.

Mr. HAYES. They have a long way to go.

Mr. HOWE. Yes, they do.

Chairman CLAY. Mr. Armey.

Mr. ARMEY. Thank you, Mr. Chairman. I will be very brief. We have a vote.

Chairman CLAY. Take your time. We can come back after the vote.

Mr. ARMEY. I would like to thank you, Mr. Chairman, for holding these hearings. I would like to thank this panel for appearing.

Mrs. Simpler, I note with great admiration the demeanor of your youngsters. I think they have been very patient and are certainly

well behaved. I wish I could have had the same from my own on occasion.

Out of respect for their very good deportment today, I, for one, would like to volunteer a pencil that says U.S. House of Representatives and my pad, and I hope some of the other members will so that each of these youngsters could take one home as a souvenir.

Mrs. SIMPLER. Thank you. That would be wonderful.

Mr. ARMEY. I would also like to point out that I hope they are as proud of their Mommy as I am, because I think you did an excellent job. You were very comprehensive.

One point in particular that you made that I think needs to be emphasized and is borne out by the European experience is, under this legislation, women of child bearing age, especially young, single mothers, will find their employment opportunities diminished. That has, in fact, been borne out by the European experience, but I think you stated the point eloquently.

Gentlemen, the whole question of the information base for public choice is a difficult one. I am accustomed to sloppy studies out of the AFL/CIO and its affiliates. It is not unusual. I think it is absolutely imperative for those of us who want to argue a good argument that we get good, reliable studies.

Now, this is an elusive issue to try to measure. We have to try to anticipate it. I would like you to do your best. I would like you to bring something for us, but I must confess, clearly, I have searched my mind for benefits.

There will be no benefits in this legislation—I have no doubt about that—except to the legal profession and therein lies what will be the greatest cost that we will find for an ex post study of its implementation. Thank you.

Chairman CLAY. Mr. Miller.

Mr. MILLER. Thank you, Mr. Chairman. Just very quickly, what concerns me is that I don't think that this panel is typical of your associations or of the business community.

I would certainly like to work for any one of you because of the benefits you provide in which I strongly believe. There are only between five hundred and maybe one thousand employers who are providing on-site day care. There are only 3500 or 4,000 employers who are providing any kind of child care, including information and referral and wage reductions.

What bothers me is that the flip side of what you are presenting is that essentially hundreds of thousands of people are caught in an arbitrary system, for which, if it does not suit the employer, they pay the price.

While your testimony is replete with the notion that this is negotiated, the NFIB testimony on page 14 suggested that here is a firm where all hundred people are key people because they specialize in unique positions. The long absence of one employee would be difficult for the firm, but the absence of many employees is potential. I guess there is an assumption here that everybody would get pregnant or have sick children at the same time.

"How does she respond to requests for additional maternity or personal medical leave? We work it out between the employee and his or her supervisors—it's as simple as that. If the employee is a

valued one,"—it is really an objective phrase here—"we will find a way to accommodate both of our needs."

If the employee isn't, the employee can lose their job or they can give up their responsibilities to the family. The flip side of your anecdotal evidence about your firm or about your family is that thousands, if not millions, of families do not have the ability to exercise their obligations without reprisal.

The suggestion of your studies is that there is no cost to current policy; that there is no cost, if you decide that the person is not a valued employee or that there is not really a sick child in their family or an adult or they are not really pregnant, and you dismiss them. There are costs then.

The suggestion is that this bill brings with it new costs. I just find that, as bad as some of the studies may or may not be, the suggestion that you somehow represent the typical, well-meaning, decent employer is just not true. The fact of the matter is that the vast majority of employers are not engaged in this process.

Employees, in fact, unless they are highly organized with strong unions, do not have that opportunity. Apparently, if you get sick, Mr. Howe, in your school district at test time, your family is going to suffer.

Mr. HOWE. I made a very clear point. There is a differentiation between medical leave and parental leave. I did not say that if a person is sick, they are not going to be able to take leave.

Mr. MILLER. What if their children are sick?

Mr. HOWE. If the children are sick, you would have a different situation. That would be one that would be worked out or could be worked out, but again, it is the type of thing that is left to the discretion of the district to accomplish a result for both that would be beneficial.

Mr. MILLER. I am just afraid that discretion here translates in many instances to arbitrary and capricious. I am concerned that that is the flip side, as opposed to the suggestion that this panel is representative, because there just aren't that many employers who engage in child care or leave policies.

The fact that you are, I commend you for it.

Mr. HOWE. Congressman, if I may, I think that if you look at the testimony of the AFT, the NEA and the PTA, I do not believe in any of the testimony have any abuses been pointed out, but rather, there has been a request made by those organizations in support of the legislation.

I do not think that the evidence that has come before this panel and before the Senate shows more than three incidents of potential abuse of a leave policy by a school district.

Mr. MILLER. The leave policy, assuming you agree with the policy.

Mr. HOWE. That's correct.

Mr. MILLER. Assuming they have a policy.

Mrs. SIMPLER. Congressman Miller, may I respond to that?

Mr. MILLER. Yes.

Mrs. SIMPLER. We handle our leave on a case by case basis and we do that. I can speak to it. With all the different companies I have been with, obviously, through child birth but also through surgery and personal crisis and the death of a father, different

family crises, so I know what employers are doing nowadays in our community.

The very fact that I am not unusual, working women, working minority people, are growing in the workforce. We will have a tremendous influence on what employers offer. We do right now. I guess my concern is: Where do you draw the line when you start saying which benefits an employer should offer and which ones are appropriate to an individual workforce?

Mr. MILLER. Where do you draw the line when you deny that?

Mrs. SIMPLER. I beg your pardon?

Mr. MILLER. The flip side again is: Where do you draw the line when you deny benefits or you deny protections to workers?

Mrs. SIMPLER. I think that it is important that this governing body provide the standards for safety, provide the standards for minimum wage, and that we set up a fair situation so that the worker can negotiate within that equitably, and not be biased just because of race or sex.

Sir, I can assure you that subtle discrimination is still out there, particularly for women who have children because it is an assumed risk that people take. They look at you, and they say, "Oh, you have children." Naturally, even in here, you can hear the tone still is targeted at women, not at fathers.

I happen to be fortunate enough to have a husband who shares in helping to take care of the children.

Mr. MILLER. Let me just—we unfortunately have a vote.

Chairman CLAY. A vote on our pay raise, which we are going to lose.

Mrs. SIMPLER. We don't allow our employees to vote.

Mr. MILLER. Let me suggest that you are right that the notion that to provide these kinds of benefits is the assertion of some right and graciousness that employers desire to extend. Obviously, the question is: Where do you draw the line?

In my other committees where I have talked to many, many, other employers and employees, let me suggest that the question goes the other way.

There are a lot of people who have paid with their jobs, who have paid with the health of their children, because of the actions and the attitudes of employers and where they would like to draw the line.

Mrs. SIMPLER. Yes, sir, but I wouldn't punish the whole class for the misbehavior of one individual.

Chairman CLAY. You have the last word.

Thank you for your testimony. That concludes the hearing.

[Whereupon, at 1:10 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows.]

A NATIONAL SURVEY OF CAREGIVERS

FINAL REPORT

(ABRIDGED)

CONDUCTED BY:

**OPINION RESEARCH CORPORATION
WASHINGTON, DC**

CONDUCTED FOR:

**AMERICAN ASSOCIATION OF RETIRED PERSONS
WASHINGTON, DC**

AND

**THE TRAVELERS FOUNDATION
HARTFORD, CONNECTICUT**

SEPTEMBER 1988

**A PUBLICATION OF HEALTH ADVOCACY SERVICES SECTION, PROGRAM
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FUNDED BY THE AARP WOMEN'S INITIATIVE AND THE TRAVELERS FOUNDATION.**

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NATIONAL SURVEY OF CAREGIVERS FINAL REPORT

BACKGROUND AND PURPOSE

It is a well-documented fact that the older American population is growing at a rate surpassing any other age group, and this growth is expected to continue into the foreseeable future. There is substantial research to support the preference of older Americans to remain in their own homes and avoid nursing homes, for as long as possible. Many older persons are able to stay in their own homes because of personal care and financial assistance received from family members (Day, 1985; Tobin and Keelys, 1984). According to one report, for every older American in a nursing home, four others who suffer from physical and/or mental disabilities which impair their ability to function independently, are able to avoid institutionalization through such assistance.

"Caregiving" is typically performed by relatives and close friends and generally involves activities related to managing a household as well as activities related to direct care of the individual such as bathing, feeding, dressing, and toileting. Recent research has suggested that the burden of caregiving can create physical, economic and emotional stresses for the caregivers. Surveys conducted by both The Travelers Companies and the American Association of Retired Persons (AARP) have concluded that caregiving can be the equivalent of taking on a second job for those who work outside the home.

Although there have been numerous studies conducted on various issues related to caregiving, there is a void in terms of national data on the magnitude of the phenomenon, the financial costs associated with providing care, the use of services especially developed for caregivers, and the effects of caregiving on employment.

To address these issues, the AARP, through support from its Women's Initiative and the Older Americans Program of The Travelers Foundation, contracted with Opinion Research Corporation (ORC) to conduct a National Caregivers Survey among U.S. telephone households. Both the AARP and The Travelers provided technical assistance throughout the research effort.

During December 1987 and January 1988, 754 telephone interviews were conducted nationally with caregivers to answer these questions. Interviews were conducted using a national probability sample of telephone households. These households were screened to locate the actual caregivers, not the care recipients.

For the purpose of the National Caregivers Survey, a "caregiver" was defined as a person who provided unpaid assistance during calendar year 1987 to a second person, aged 50 or older. Current caregivers as well as those who had provided care within the prior twelve months were included in this definition. The care recipient may have been living either with the caregiver or somewhere else, but required help with basic daily activities. The caregiver must have provided, at a minimum, at least two IADLs or instrumental activities of daily living (e.g. managing finances, grocery shopping, etc.) or

one ADL (activity of daily living) such as dressing, bathing, feeding, toileting, or transferring. IADL's are activities one must perform in order to manage one's affairs and function in society. ADL's are activities related to personal care. This definition was chosen to allow examination of the entire continuum of care.

The research addressed the following key questions:

- o How many caregivers are there in the U.S.?
- o What types of assistance do caregivers provide to older persons?
- o What support services do caregivers use?
- o What are the perceived needs of caregivers?
- o What are the economic implications of caregiving?
- o What impact does caregiving have on employment?

In order to better meet the needs of caregivers, AARP is developing a comprehensive approach to caregiving issues. This approach centers on the development of resources which will address the needs of caregivers. The current survey findings are being used by the Association to continue its efforts and to raise public awareness.

In a separate but related effort The Travelers Companies is using the survey results to continue its pioneering work on developing workplace-based responses to the growing issue of working caregivers. Travelers will continue to make employers aware of how caregiving affects time away from work and changes in work status for caregiving employees.

In addition, it is the hope of AARP and The Travelers Foundation that program planners and employers will use the survey results to develop supports that will be most useful. And, hopefully, the financial data will serve as a basis for the development of public policy to lessen the burdens caregivers face.

NATIONAL SURVEY OF CAREGIVERS FINAL REPORT

EXECUTIVE SUMMARY

o How many caregivers are there?

Estimates of the number of U.S. households containing at least one caregiver range from approximately 1.5 million to 7 million, based on how caregiving is defined. Table 1, below, presents the estimated incidence of caregivers for several commonly used definitions of caregivers.

Table 1. Incidence and Population Estimates for Caregivers

| <u>Population Estimates And Incidence</u> | <u>Definition</u> |
|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7.8% 7 million households | - Provides unpaid assistance to 56+ year-old within the past 12 months consisting of <u>either</u> of the following: - 2 IADLs, activities for managing one's own affairs, including: -- managing finances -- grocery shopping -- housework -- preparing meals -- transportation -- administering medicine OR - One ADL, personal care activities, including: -- dressing -- bathing -- feeding -- toileting -- transferring |
| 4.2 percent 3.7 million U.S. households | - Current caregivers only |
| 3.1 percent 2.8 million U.S. households | - Current <u>and</u> past caregivers - 2+ ADLs only |
| 1.7 percent 1.5 million U.S. households | - Current caregivers only - 2+ ADLs only |

o Who are the caregivers?

The burden of caregiving most frequently falls on women. The typical caregiver is likely to be a woman in her mid-forties who is also employed outside the home in a white-collar profession. Caregivers often live in a "family" household with a spouse and children. The average income of caregivers is \$26,100, although 11 percent live in households with incomes of less than \$10,000 and 10 percent earn more than \$50,000.

Nearly two-thirds of those surveyed consider themselves to be the primary care provider (63%). The individual surveyed did not necessarily become the primary caregiver by choice. In one-third of all situations primary caregiving responsibility has fallen to this individual because he or she is the only one who lives close to the care recipient (33%). Another 25 percent say they are the primary caregiver because they have no choice -- no one else will do it. Nearly one-in-five (18%), however, have assumed primary caregiving duties because they feel they have a closer relationship than others with the care recipient.

As shown in Table 2, primary and secondary caregivers differ from one another demographically. Primary caregivers tend to be older; 20 percent are at least 65 years of age, compared to only nine percent of secondary caregivers. As one might expect, more primary caregivers are retired (20% vs. 9% of secondary caregivers) and, consequently, not currently employed outside the home (49% vs. 31%, respectively). Given the fact that many retirees live on fixed incomes, it is not surprising that primary caregivers tend to live in less affluent households.

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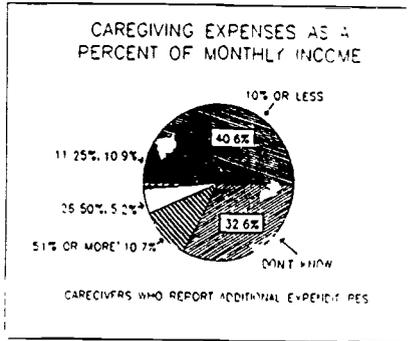
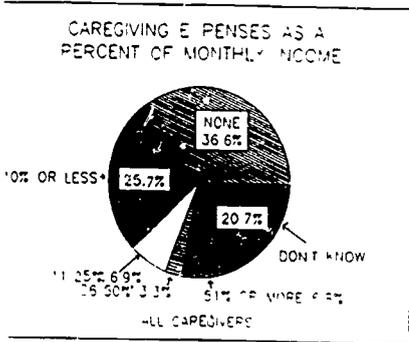
Table 2. Caregiver Profile

| (Base) | Total (754) | Primary Caregivers (475) | Secondary Caregivers (247) |
|------------------------------|----------------|--------------------------------|----------------------------------|
| Sex | | | |
| Male | 25% | 23% | 28% |
| Female | 75 | 77 | 72 |
| Age | | | |
| Under 35 | 28% | 20% | 42% |
| 35 - 49 | 29 | 28 | 32 |
| 50 - 64 | 26 | 31 | 16 |
| 65 or Older | 15 | 20 | 9 |
| Median Age | 45 | 49 | 38 |
| Marital Status | | | |
| Married | 66% | 66% | 66% |
| Not Married | 34 | 34 | 34 |
| Children in Household | | | |
| Yes | 39% | 34% | 48% |
| No | 49 | 51 | 43 |
| Current Employment | | | |
| Full-Time | 42% | 38% | 49% |
| Part-Time | 13 | 12 | 17 |
| Retired | 16% | 20 | 9 |
| Not Employed/Homemaker | 27 | 29 | 22 |
| Household Income | | | |
| Under \$10,000 | 11% | 13% | 8% |
| \$10,000 - \$19,999 | 17 | 17 | 18 |
| \$20,000 - \$29,999 | 19 | 19 | 21 |
| \$30,000 - \$49,999 | 22 | 20 | 24 |
| \$50,000 or more | 10 | 10 | 11 |
| Median Income | \$26,100 | \$25,700 | \$27,100 |
| Primary Caregiver | | | |
| Yes | 63% | 100% | 0% |
| No | 33 | 0 | 100 |

o What are the economic implications of caregiving?

Caregiving often involves additional financial responsibility on the part of the caregiver. Two-fifths of all caregivers report that they have incurred at least some additional expenses as a result of caregiving. However, it appears that it may be difficult for caregivers to determine the true economic costs associated with these responsibilities, since nearly one-third of these caregivers cannot estimate the actual amount of their expenses.

As shown below, about one-fourth spend up to ten percent monthly on such expenses (26%) and seven percent spend either between 11 and 25 percent of their incomes or more than 25 percent. Just over one-third (37%) of all caregivers say they incur no additional expenses. However, as many as 21 percent say they can not estimate the extent of their expenditures.



Overall, caregivers who say they have incurred additional costs estimate that these expenses amount to about seven percent of their monthly income. Certain groups of caregivers spend a larger percentage of their income on caregiving expenses than others. Demographically, these caregivers tend to be over 65, not currently employed, members of a racial minority, and living in a household with an income of under \$10,000 annually. They tend to provide more intense care to more disabled individuals. Often, they are providing constant care to their spouse.

As shown in Table 5, below, the magnitude and types of caregiving expenditures vary. On average, these expenses total \$17 per month. The largest numbers of caregivers report that they have incurred expenses related to travel, telephone bills, and special diets or medicines. While most widely incurred, these categories of expenditures constitute a lower average monthly expense than many others. Health-related expenses, such as in-home nursing care, hospital care, and home health aides, while not as widely incurred, are reportedly far more costly on a monthly basis. One-time expenditures such as adaptations to the care recipient's residence (\$240) or the purchase of medical equipment (\$158) also tend to be more costly. Each of these two expenses were incurred by 15 percent of caregivers.

Table 5. Monthly Caregiving Expenditures

| <u>Type of Expense</u> | <u>Percent Who Incurred</u> | <u>Average Amount</u> |
|----------------------------|-----------------------------|-----------------------|
| Travel | 31 | \$ 29 |
| Telephone bills | 25 | \$ 25 |
| Special diets & medicines | 24 | \$ 57 |
| Doctors fees | 17 | \$ 55 |
| Homemaker/cleaning service | 12 | \$ 76 |
| Hospital care | 12 | \$275 |
| Home health aides | 10 | \$ 63 |
| Respite care | 7 | \$ 83 |
| In-home nursing care | 6 | \$238 |
| None | 39 | N/A |
| Median | N/A | \$117 |

o What are the implications for caregivers working outside the home?

One of the primary objectives of this survey was to look at the special problems, if any, faced by caregivers who work outside the home. Results suggest that while working caregivers are no different with respect to service utilization and perceived needs, they do differ demographically and face different types of problems than those who are not employed.

Relative to others, working caregivers are more likely to be secondary, rather than primary caregivers. A larger number are men, who are younger, better educated and live in more affluent households. With respect to caregiving responsibilities, full-time employees bear a lighter load than part-time employees and those who were previously working. Full-time employees appear to care for "healthier" recipients. These recipients are most likely to be living in their own home and are least likely to be housebound. On average, caregivers who are working full-time spend less time per week on caregiving and perform fewer ADLs. (See charts on following page.)

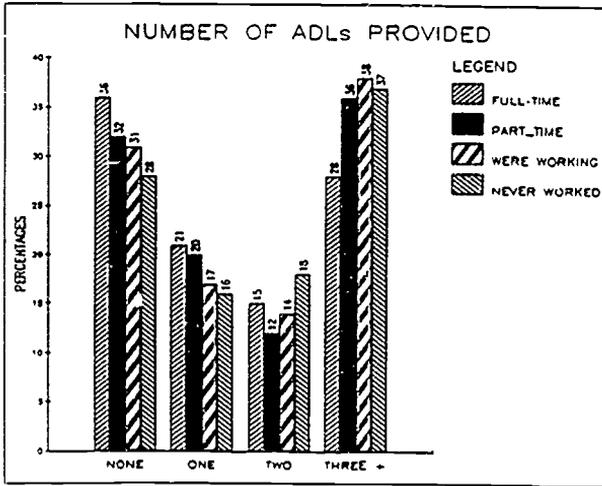
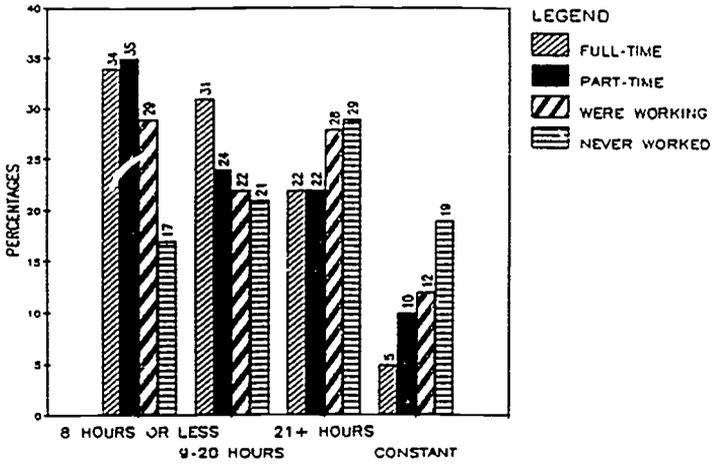
There is evidence to support the contention that caregiving duties may result in time lost from work. More than one-third (38%) of employed caregivers report a change in work status since becoming a caregivers; they have either lost time from work or have come in late as a result of their caregiving duties. From an economic standpoint, 20 percent of those who have reported some change in their work status have lost some benefits as a result.

As many as nine percent of working caregivers have taken a leave of absence, and six percent have cut down their hours from full-time to part-time. In fact, 14 percent of those who currently work part-time say they have had to cut down their hours strictly as a result of caregiving. Perhaps the hardest hit are those who previously worked, 15 percent of whom chose early retirement and 12 percent of whom had to give up working entirely as a result of caregiving.

Caregiving also creates stresses in the workplace. A small number of working caregivers have had problems with their supervisors (4%) and three percent had to turn down a promotion as a result.

When taking all monthly expenditures into consideration, it is the previously employed caregivers and those who have never been employed spend the greatest percentage of their income on caregiving. While on average, all caregivers typically spend seven percent of their income on caregiving, individuals who previously worked report spending 15 percent of monthly income on caregiving for an average of \$223 per month. This compares to expenses that are five percent of monthly income and average \$107 among full-time employees.

HOURS PER WEEK SPENT ON CAREGIVING BY WORKING CAREGIVERS



CONCLUSIONS & IMPLICATIONS

This research represents the first attempt at a national survey examining the caregiving continuum. The results have important implications particularly for further research, educational efforts and public policy. Following are the questions and significant findings that emerge from this data.

Service Utilization

The research provides a snapshot view of the caregiving continuum. As the older person's needs increase, so does the need for more intensive caregiving. Also, it appears that caregivers do not perceive a strong need for services until their responsibilities reach crisis proportions.

Consequently, program planners may want to begin implementing strategies designed to raise public awareness about the caregiving issue emphasizing the need for and value of planning ahead. Planners may also want to make helpful information available to persons who have not used their services, emphasizing the value of some support before a crisis level situation develops. In addition, aggressive outreach efforts to identify the most overburdened caregivers who perceive a high need for all services would be appropriate.

Additional information is needed regarding the continuum of care and the point at which a caregiver reaches out for support. Further clarification is also needed regarding the "perception that caregivers don't need services." Specific research questions may include:

- o What is the most effective way of getting information to caregivers?
- o How can caregivers be persuaded to plan before a crisis occurs?
- o Thirty-nine percent of caregivers said they need assistance dealing with the service bureaucracy. How can the service system be modified so that caregivers can obtain needed assistance?
- o Twenty-eight percent of caregivers in this study are 35 years of age and younger. What effect does caregiving have on this group? As most researchers have assumed that caregivers are much older, there is a lack of data on younger persons in this situation.

Costs of Caregiving

The research presented here is one of the first attempts to investigate the economic implications of caregiving. Although the information reported must be interpreted cautiously because the financial data are based on estimates, it represents a first step. Further clarification is needed on the financial costs associated with caregiving. The current data, however, do raise some interesting questions for public and private policy.

Perhaps policy makers may want to take a look at how "dependent" is defined. As only 37 percent of caregivers in this study share a household with the older person, should place of residence be a criteria for dependent-care tax credits and other benefits? As many caregivers are making significant financial contributions toward the care of aging loved ones, should caregivers be compensated perhaps through a tax incentive or through an employer-sponsored benefit which would cover the older person? Again, further research is needed before these issues can be addressed.

Working Caregivers

In the area of employment and caregiving, clearly additional research is needed about the effects of caregiving on work particularly as it pertains to loss of benefits and time lost from work. As the number of working caregivers is expected to increase, it may be wise for companies to begin exploring how to assist employee caregivers in order to avoid disruptions in productivity.

Conclusions

There are many other issues related to caregiving that need to be explored. The current research serves as a beginning and sheds some light on several issues. Perhaps more importantly, it raises many critical questions for further research, public policy and program planners.

Caregiving is -- or will be -- a reality for most Americans. It affects our families, our workplaces and our communities. The assistance provided by caregivers has its rewards but it can also create burdens. It is hoped that this research and future efforts will help develop creative and effective private and public initiatives that truly support caregivers.

I. CAREGIVER PROFILE

A. Caregiver Profile

One of the major objectives of the National Caregivers Survey was to develop a profile of the "typical" caregiver. To meet this objective, all respondents were asked to provide answers to questions about personal and household demographics, the person for whom they provided care, and the characteristics of this care. (See Tables 1 - 3, Appendix B.)

It appears that women bear the burden of caregiving responsibilities, as they constitute 75 percent of all caregivers. The typical caregiver is likely to be in his or her mid-forties, married, live in a household with a median income of \$26,000, and have a high-school degree or better. (See Table 1, Appendix B.)

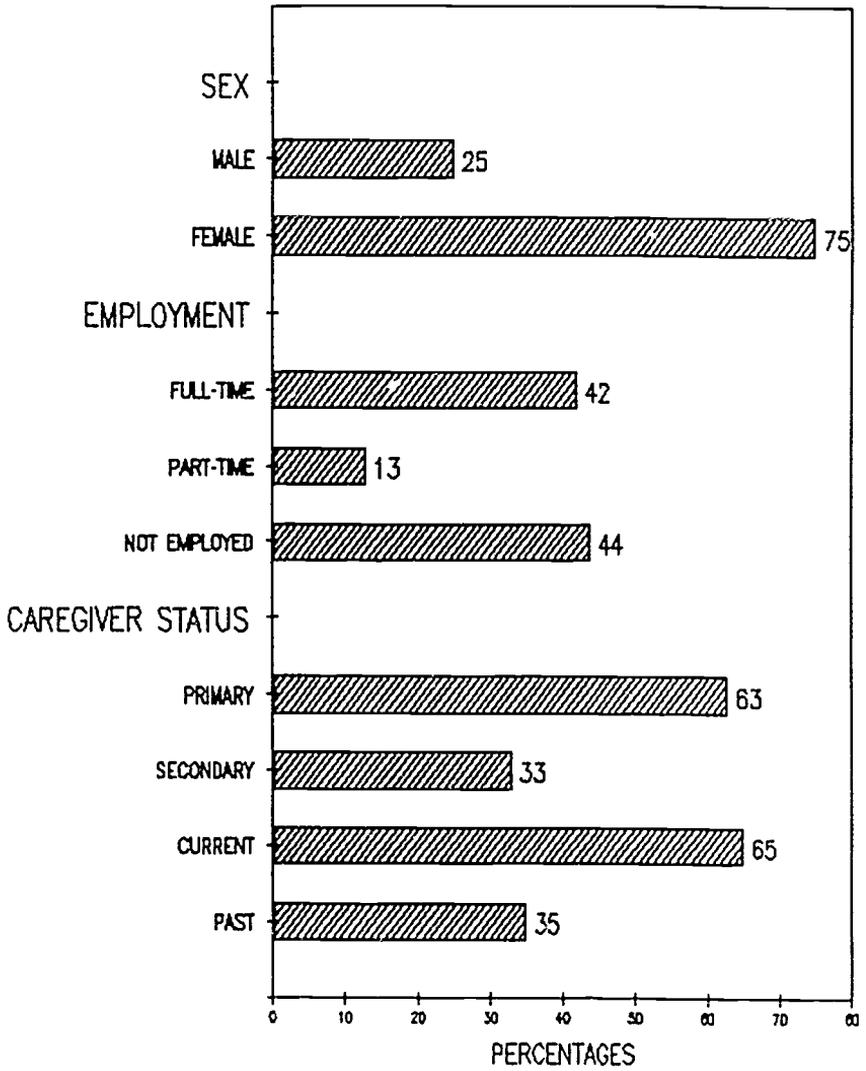
More than one-half of all caregivers are employed -- 42 percent full-time and 13 percent part-time, primarily in white collar professional or sales positions or blue-collar occupations. About 16 percent of all caregivers are retired and another 28 percent are not currently employed.

Nearly two-thirds (63%) of the caregivers interviewed consider themselves to be the primary caregiver for the specified recipient. Relative to others, persons who consider themselves primary caregivers are older -- about 50 years of age -- and are less likely to be currently or previously employed.

Primary caregivers did not necessarily assume this level of responsibility voluntarily. One-third say they are primary caregivers because they live the closest to the care recipient (33%). Another 25 percent state they they had no choice in the matter. Only relatively small numbers apparently take on primary care duties for altruistic reasons. Eighteen percent felt that they have the best relationship with the caregiver; six percent are doing it either out of goodwill or because it's family, and five percent say they do it out of love.

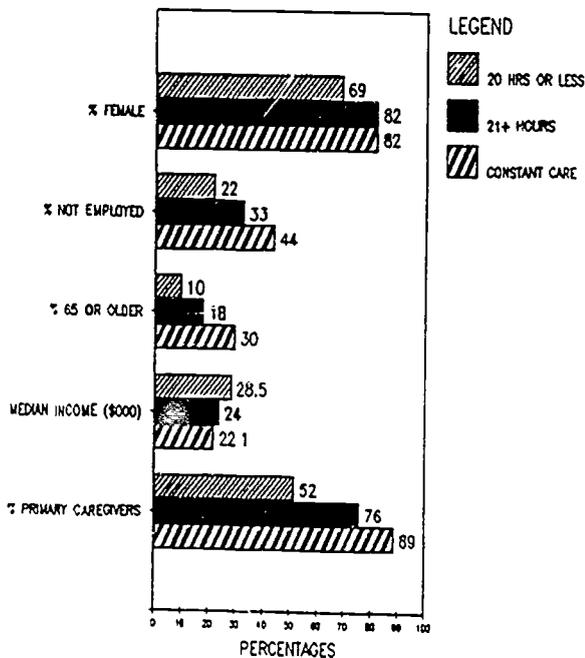
About two-thirds of the caregivers surveyed are current care providers who were actively providing services to the care recipient at the time of the interview. The remaining one-third are past caregivers -- those who had provided equivalent care to a recipient within the prior 12 months. Notably, those who are current caregivers and those who are past caregivers do not differ from one another along key dimensions. As a result, distinctions are not made in the remainder of this report between these two groups. (See Table 1, Appendix B and detailed tabulations.)

CAREGIVER PROFILE



The level of effort associated with caregiving -- as measured in hours per week -- also differentiates caregivers from one another. Relative to others, caregivers providing more than 20 hours of care on a weekly basis are more likely to be women, older, not employed, and less affluent. Not unexpectedly, the number of caregivers who report primary care responsibility increases as the number of hours spent on caregiving increases; from 52 percent among those who provide 20 or fewer hours of care weekly to 89 percent among those who provide constant care.

CAREGIVER PROFILE BY HOURS PER WEEK SPENT ON CAREGIVING



Caregivers generally care for a relative (85%), most likely their mother (28%). This is particularly true for primary caregivers (34%) and those providing constant care (36%). However, nearly as many of those who provide constant care do so for their spouse (32%).

Proximity plays a major role in caregiving. Nearly four-in-ten caregivers share a household with the care recipient (37%), and another 47 percent live within 20 minutes. While only 37 percent of all care recipients live in the same household as the caregiver, this number increases to 50 percent among primary caregivers and 89 percent among caregivers who provide constant care.

Of the 63 percent of care recipients who do not share a household with the caregiver, the majority live in their own home or apartment (79%). Only eight percent are confined to a nursing home, seven percent live in some other assisted-living arrangement, and six percent live with another family member.

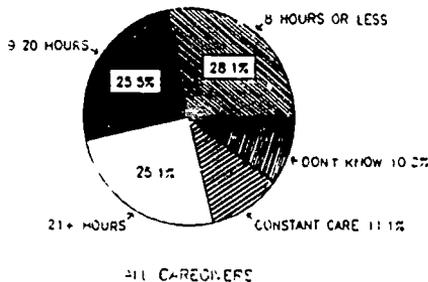
As a rule, care recipients are more likely to have physical limitations rather than mental limitations. More than two-thirds (70%) of care recipients suffer solely from physical disabilities; 21 percent suffer from both physical and mental impairments, and five percent have only mental disabilities. Regardless of the type of disability, the vast majority of care recipients' conditions are chronic, not acute.

The ability of most care recipients to function without outside assistance appears to be limited. More than half (58%) are housebound, and about one-fourth of those who are housebound are either bedridden (28%) and/or wheelchair-bound (24%).

Not surprisingly, the majority of persons receiving care tend to be well over age 50, with 60 percent at least 75 years of age. (See Table 3, Appendix B.)

Caregiving requires a strong commitment on the part of the caregiver. On average, caregivers provide 12 hours of care per week. As shown below, eleven percent give constant care and 28 percent give care eight hours or less per week.

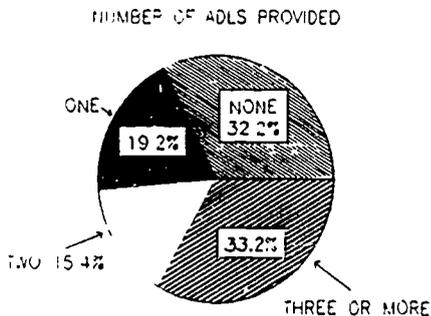
HOURS PER WEEK SPENT CAREGIVING



Caregivers typically have been providing care for the last two years and expect this to continue for an indefinite period of time. While about a fourth have been providing care for only one year or less, another fourth have been providing care for six or more years. Notably, more than one-third of constant caregivers have been providing care for six or more years.

For many caregivers, the time spent on caregiving has meant less time for other activities. One-in-two caregivers has spent less time on leisure activities since they took on these responsibilities (51%). About one-third have spent less time with their own families than before (34%) or paid less attention to their own health (33%). Another 28 percent have been unable to take a vacation. These changes are particularly pronounced for primary caregivers, 58 percent of whom have spent less time on leisure activities than before. (See Table 4, Appendix B.)

More often than not, caregivers provide personal services. Two-thirds (68%) of all caregivers provide one or more ADLs, with an average of two. As shown in the figure below, there are as many caregivers who provide no ADLs (32%) as three or more (33%). In order of frequency, caregivers assist individuals with walking (46%), dressing (41%), bathing (38%), toileting (29%), and feeding (27%).



Almost all caregivers assist with IADLs. Three-fourths or more help with grocery shopping (82%), transportation (79%) and housework (75%), and about two-thirds either prepare meals or manage finances. However, only 45 percent help administer medication.

In line with expectations, primary caregivers and those who spend more time each week caregiving face greater responsibility with respect to provision of ADLs and IADLs. Two-thirds (66%) of all persons providing constant care to the recipient help with at least three ADLs. The responsibility for providing IADLs also increases as the amount of time spent caregiving increases, and is greater for primary caregivers.

II. THE WORKING CAREGIVER

A. Working Caregiver Profile

One of the primary objectives of this survey was to look at the special problems, if any, faced by caregivers who work. This section of the report profiles these caregivers vis-a-vis other caregivers. The sample was divided into the currently employed, caregivers who were previously employed (that is, those who were employed at some point during the caregiving experience, but are no longer employed) and caregivers who were never employed. The results also compare working caregivers with not employed caregivers according to their employment status at the time of the interview. (See Tables 11 through 21, Appendix 8.)

Results indicate that employed caregivers do differ demographically from caregivers who are not employed. Full-time working caregivers are more likely than others to be men (36% vs. 20% or less) and college educated (29% vs. 17% or less). They live in more affluent households (median income of \$29,800 vs. \$25,800 or less) and have secondary, rather than primary caregiving responsibilities. (See Table 11, Appendix 8.)

Full-time employee caregivers probably care for "healthier" individuals. Recipients of their care tend to be more likely to live independently. The opposite holds true for caregivers who have previously worked. (See Table 13, Appendix 8.)

Not unexpectedly, employed caregivers tend to spend less time per week on caregiving activities. (See chart on next page.) Working caregivers spend about 10 hours weekly on caregiving. This compares to about 12 hours for those who have worked previously and 19 hours among those who have never worked. Consistent with expectations, full-time working caregivers are less likely to provide constant care than are other caregiver groups. Despite spending fewer hours per week on caregiving, working caregivers assist with ADLs and IADLs to approximately the same extent as not employed caregivers. (See Table 12, Appendix 8.)

Given the similarity in caregiving responsibilities between working and not employed caregivers, it is not surprising that service utilization is similar. (See Table 17, Appendix 8.)

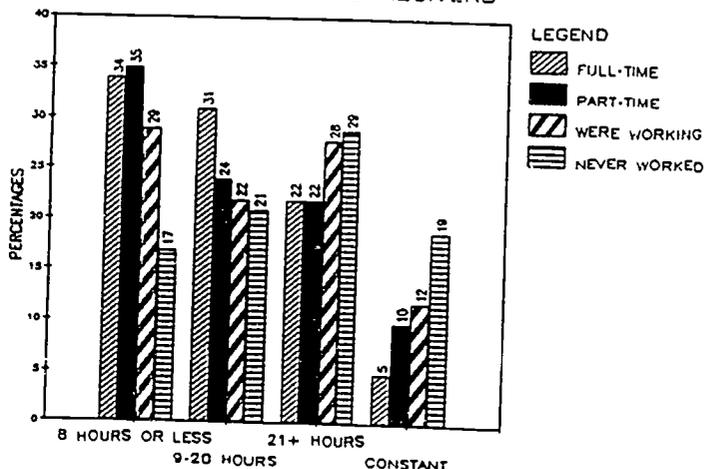
Employment status also makes little difference in the types of expenses that are reported.

However, the amount of expenditures incurred vary by employment status. When taking all monthly caregiving expenditures into consideration, previously employed caregivers have the greatest cash outlays, followed by never employed caregivers. These groups of caregivers, who have lower household incomes, pay a higher percentage of these incomes on expenses related to caregiving. On average, previously employed caregivers spend \$223 per month, or 15 percent of their income on expenses related to caregiving. Caregivers who have never worked spend \$133 per month, or eight percent of their income. (See Table 21, Appendix B.)

These high average monthly expenditures reflect the fact that previously employed caregivers pay far more than any other group for medical expenses such as hospital care (\$1400 vs. \$375 or less) or on special diets and medicines (\$110 vs. \$71 or less). Caregivers who have never worked pay the greatest amount for adult day care (\$518 vs. \$90 or less), special home adaptations, medical equipment and doctors fees. (See Table 20, Appendix B.)

Full-time employees bear one of the lightest financial burdens with an average monthly tab of only \$107. Part-time employees, however, when they do incur expenses, are harrer hit. They pay more than other caregivers for support services such as respite care (\$400 vs. \$140 or less), home health aides (\$138 vs. \$106 or less), and household utilities (\$275 vs. \$100 or less). (See Table 20, Appendix B.)

HOURS PER WEEK SPENT ON
CAREGIVING BY
WORKING CAREGIVERS



Despite all the similarities between working and non-working caregivers, providing caregiving assistance can be particularly stressful for the working caregiver and affect time spent at work. Fully one-third of employed caregivers report that they have lost time from work or have come in late as a result of their duties (34%).

To a lesser extent, employed caregivers have made more drastic changes in work activities. Nine percent of full-time employees and seven percent of part-time employees say they had to take a leave of absence. Among part-time workers, 14 percent say they had to go from working full-time to part-time. Perhaps the hardest hit are those who previously worked, 15 percent of whom chose early retirement and 12 percent of whom report that they had to give up working entirely. (See Table 15, Appendix B.)

There also is evidence that caregiving creates additional stresses in the workplace. A small number report either having had problems with their supervisor because of their outside responsibilities or having had to turn down a promotion. (See Table 15, Appendix B.)

Change in status at work as a result of caregiving responsibilities may have economic as well as emotional implications for the caregiver. All caregivers who reported that they had either lost time from work, had to go from full-time to part-time or had to take a leave of absence were asked what, if any, benefits they had lost as a result of their changed work status. Of the two-fifths of currently and previously employed caregivers who reported changes in their work status, 20 percent reported losing some benefits, primarily, vacation and health benefits. Given the small number of employee caregivers who reported losing any benefits, results must be viewed with caution, since reliable statistical inferences may not be drawn. Benefit loss varies from 12 percent among those who are currently working full-time to 43 percent among those who previously worked. (See Table 16, Appendix B.)

The degree to which caregivers sacrifice concerns about their personal health and leisure pursuits appears to be little affected by employment status. Caregivers who work either full-time or part-time are in fact among those least likely to have made changes to their personal life. About one-third of those who are currently employed say they have made no changes in leisure or other activities since becoming a caregiver. (See Table 15 Appendix B.)

Incidence and Population Estimates of Caregivers

Based solely on the survey definition of caregivers, approximately 7.8 percent of all households contacted contained a person who is currently a caregiver, or who has acted in that capacity within the past 12 months. Based on an estimated 89,479,000 households in the U.S. in 1987, there are almost seven million U.S. households containing caregivers (6,979,000).

For purposes of comparison, previous research has defined a caregiver as a person who provides two or more ADLS.

Interviewing

Interviews were conducted between December 11, 1987 and January 25, 1988 at ORC's WATS facility in Middlesex, New Jersey. Calls were conducted on weekday afternoons and evenings and on weekends to enable working caregivers an equal opportunity for participation. There were two versions of the questionnaire, nearly identical in content, with wording changes for current or past caregivers.

Analysis

Following completion of the interviewing, questionnaires were edited, keypunched and checked for consistency. The data was then tabulated and the resulting output is bound in separate companion volumes to this report.

Table 1
WHO ARE CAREGIVERS?

| (Base) | Total (754) | Primary Caregiver | | Hours Per Week Spent Caregiving | | |
|-------------------------------|----------------|-------------------|-------------|---------------------------------|-----------------------|------------------|
| | | Yes (475) | No (247) | 20 Hours or Less (404) | 21+ Hours (189) | Constant (84) |
| <u>Sex</u> | | | | | | |
| Male | 25% | 23% | 27% | 31% | 18% | 18% |
| Female | 75 | 77 | 72 | 69 | 82 | 82 |
| <u>Age</u> | | | | | | |
| Under 35 | 28% | 20% | 42% | 34% | 28% | 8% |
| 35-49 | 29 | 28 | 32 | 32 | 28 | 19 |
| 50-64 | 26 | 31 | 16 | 23 | 25 | 42 |
| 65+ | 15 | 20 | 9 | 10 | 18 | 30 |
| Median | 45 | 49 | 38 | 41 | 46 | 56 |
| <u>Marital Status</u> | | | | | | |
| Married | 66% | 66% | 66% | 69% | 57% | 64% |
| Not Married | 34 | 34 | 34 | 30 | 43 | 36 |
| <u>Education</u> | | | | | | |
| High School Incomplete | 17% | 19% | 11% | 12% | 13% | 29% |
| High School Degree | 38 | 38 | 39 | 39 | 38 | 35 |
| Some College | 21 | 21 | 20 | 21 | 24 | 19 |
| College Degree Plus | 21 | 19 | 26 | 24 | 21 | 17 |
| <u>Current Employment</u> | | | | | | |
| Employed Full-Time | 42% | 38% | 49% | 51% | 38% | 20% |
| Employed Part-Time | 13 | 12 | 17 | 15 | 12 | 12 |
| Retired | 16 | 20 | 11 | 13 | 18 | 25 |
| Not Employed | 28 | 30 | 24 | 22 | 33 | 43 |

(Continued)

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Table 1
(Continued)

WHO ARE CAREGIVERS?

| (Base) | Primary Caregiver | | | Hours Per Week Spent Caregiving | | |
|-----------------------------------------|-------------------|--------------|-------------|---------------------------------|-----------------------|------------------|
| | Total (754) | Yes (475) | No (247) | 20 Hours or Less (404) | 21+ Hours (189) | Constant (84) |
| <u>Previous Employment</u> ¹ | | | | | | |
| Yes | 29% | 25% | 37% | 36% | 28% | 21% |
| No | 71 | 75 | 62 | 64 | 71 | 79 |
| <u>Respondent Occupation</u> | | | | | | |
| White Collar Professional | 25% | 25% | 26% | 30% | 25% | 16% |
| Retired | 16 | 20 | 9 | 13 | 17 | 26 |
| Homemaker | 15 | 18 | 11 | 12 | 14 | 27 |
| White Collar Sales | 13 | 10 | 18 | 15 | 11 | 7 |
| Blue Collar | 13 | 11 | 17 | 15 | 12 | 6 |
| Service Worker | 6 | 5 | 9 | 5 | 4 | 6 |
| Not Employed | 11 | 11 | 11 | 8 | 17 | 12 |
| <u>1986 Household Income</u> | | | | | | |
| Under \$10,000 | 11% | 13% | 8% | 9% | 14% | 18% |
| \$10,000-\$19,999 | 17 | 17 | 18 | 17 | 21 | 13 |
| \$20,000-\$24,999 | 9 | 8 | 11 | 9 | 9 | 12 |
| \$25,000-\$34,999 | 19 | 18 | 20 | 21 | 20 | 14 |
| \$35,000-\$49,999 | 14 | 13 | 15 | 18 | 11 | 6 |
| \$50,000 or more | 10 | 10 | 11 | 11 | 9 | 10 |
| Don't Know/ Refused | 13 | 14 | 11 | 10 | 11 | 17 |
| Median | \$26,100 | \$25,700 | \$27,100 | \$28,500 | \$24,000 | \$22,100 |

¹Base = those not currently employed

Table 1
(Continued)

WHO ARE CAREGIVERS?

| (Base) | <u>Total</u> (754) | <u>Primary Caregiver</u> | | <u>Hours Per Week Spent Caregiving</u> | | |
|--------------------------|-----------------------|--------------------------|--------------------|----------------------------------------|-------------------------------|-------------------------|
| | | <u>Yes</u> (475) | <u>No</u> (247) | <u>20 Hours or less</u> (404) | <u>21+ Hours</u> (189) | <u>Constant</u> (84) |
| <u>Primary Caregiver</u> | | | | | | |
| Yes | 63% | 100% | 0% | 52% | 76% | 89% |
| No | 33 | 0 | 100 | 44 | 21 | 7 |
| <u>Caregiver Status</u> | | | | | | |
| Current | 65% | 67% | 62% | 70% | 56% | 60% |
| Past | 35 | 33 | 39 | 30 | 43 | 40 |

Table 2
CAREGIVING RESPONSIBILITIES

| (Base) | Total (754) | Primary Caregiver | | Hours Per Week Spent Caregiving | | |
|-------------------------------------------|----------------|-------------------|-------------|---------------------------------|-----------------------|------------------|
| | | Yes (475) | No (247) | 20 Hours or less (404) | 21+ Hours (189) | Constant (84) |
| <u>Length of Caregiving</u> | | | | | | |
| Mean Years | 5 | 5 | 4 | 4 | 4 | 6 |
| Median Years | 2 | 2 | 2 | 2 | 2 | 3 |
| <u>Hours Per Week</u> | | | | | | |
| 8 hours or less | 28% | 20% | 44% | 52% | 0% | 0% |
| 9-20 hours | 26 | 25 | 28 | 48 | 0 | 0 |
| 21 or more hours | 25 | 30 | 16 | 0 | 100 | 0 |
| Constant Care | 11 | 16 | 2 | 0 | 0 | 100 |
| Median | 12 | 18 | 9 | 9 | 35 | N/A |
| <u>Type of ADLs Provided</u> | | | | | | |
| | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> |
| Walk around inside using wheelchair, etc. | 46 | 44 | 51 | 41 | 57 | 60 |
| Dress/undress | 41 | 45 | 36 | 28 | 61 | 73 |
| Bathe | 38 | 44 | 30 | 23 | 57 | 76 |
| Use the toilet | 29 | 31 | 22 | 18 | 49 | 45 |
| Feeding | 27 | 26 | 30 | 20 | 40 | 45 |
| None | 32 | 33 | 30 | 41 | 19 | 14 |

(Continued)

Table 2
(Continued)

CAREGIVING RESPONSIBILITIES

| (Base) | <u>Total</u> (754) | <u>Primary Caregiver</u> | | <u>Hours Per Week Spent Caregiving</u> | | |
|--------------------------------|-----------------------|--------------------------|--------------------|----------------------------------------|-------------------------------|-------------------------|
| | | <u>Yes</u> (475) | <u>No</u> (247) | <u>20 Hours or less</u> (404) | <u>21+ Hours</u> (189) | <u>Constant</u> (84) |
| <u>Number of ADLs Provided</u> | | | | | | |
| None | 32% | 33% | 30% | 41% | 19% | 14% |
| One | 19 | 17 | 23 | 23 | 14 | 7 |
| Two | 15 | 14 | 17 | 16 | 15 | 13 |
| Three + | 33 | 36 | 31 | 20 | 52 | 66 |
| <u>IADLs Provided</u> | | | | | | |
| | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> |
| Grocery Shopping | 82 | 87 | 73 | 81 | 85 | 92 |
| Transportation | 79 | 82 | 73 | 79 | 78 | 77 |
| Housework | 75 | 78 | 72 | 78 | 86 | 89 |
| Preparing Meals | 68 | 74 | 58 | 74 | 87 | 94 |
| Managing Finances | 65 | 73 | 50 | 65 | 71 | 82 |
| Administering Medicine | 45 | 50 | 36 | 50 | 68 | 74 |
| None | 1 | * | 2 | 1 | 1 | 0 |

*Denotes less than 0.5%

Table 3

WHO ARE THE CARE RECEIVERS?

| (Base) | Total (1,54) | Primary Caregiver | | Hours Per Week Spent Caregiving | | |
|----------------------------------|-----------------|-------------------|-------------|---------------------------------|-----------------------|------------------|
| | | Yes (475) | No (247) | 20 Hours or Less (404) | 21+ Hours (189) | Constant (84) |
| <u>Relationship to Caregiver</u> | | | | | | |
| Mother | 28% | 34% | 17% | 28% | 21% | 36% |
| Father | 12 | 14 | 9 | 13 | 13 | 7 |
| Parent-In-Law | 13 | 10 | 13 | 13 | 13 | 10 |
| Spouse | 10 | 15 | 1 | 3 | 15 | 32 |
| Grandparent | 16 | 10 | 26 | 19 | 17 | 2 |
| Other Relative | 10 | 8 | 13 | 9 | 11 | 8 |
| Non-Relative | 15 | 11 | 24 | 19 | 12 | 5 |
| <u>Distance</u> | | | | | | |
| Same Household | 37% | 50% | 13% | 18% | 55% | 83% |
| Within 20 Minutes | 47 | 36 | 68 | 63 | 30 | 8 |
| 20 Minutes or More | 16 | 14 | 20 | 19 | 14 | 8 |
| <u>Living Arrangement</u> | | | | | | |
| Same Household | 37% | 50% | 13% | 18% | 55% | 83% |
| Own House/Apartment | 50 | 40 | 67 | 64 | 39 | 14 |
| Nursing Home | 5 | 4 | 6 | 7 | 1 | 1 |
| Other | 8 | 5 | 14 | 11 | 5 | 1 |
| <u>Type of Disability</u> | | | | | | |
| Physical | 70% | 68% | 75% | 71% | 76% | 58% |
| Mental | 5 | 5 | 4 | 4 | 4 | 6 |
| Both | 21 | 23 | 18 | 20 | 20 | 35 |

(Continued)

Table 3
(Continued)

WHO ARE THE CARE RECEIVERS?

| (Base) | Total (754) | Primary Caregiver | | Hours Per Week Spent Caregiving | | |
|-------------------------------------|----------------|-------------------|-------------|---------------------------------|-----------------------|------------------|
| | | Yes (475) | No (247) | 20 Hours or Less (404) | 21+ Hours (189) | Constant (84) |
| <u>Condition Severity</u> | | | | | | |
| Acute or short-term | 16% | 16% | 18% | 16% | 20% | 14% |
| Chronic or long-term | 70 | 70 | 68 | 70 | 70 | 73 |
| Both | 5 | 5 | 5 | 5 | 6 | 6 |
| <u>Housebound</u> | | | | | | |
| Yes | 58% | 57% | 61% | 51% | 70% | 73% |
| No | 42 | 43 | 39 | 49 | 30 | 27 |
| <u>Bedridden²</u> | | | | | | |
| Yes | 28% | 29% | 28% | 23% | 34% | 38% |
| No | 71 | 71 | 70 | 77 | 65 | 62 |
| <u>Wheelchair-Bound²</u> | | | | | | |
| Yes | 24% | 25% | 21% | 21% | 28% | 36% |
| No | 76 | 75 | 79 | 83 | 72 | 64 |
| <u>Age</u> | | | | | | |
| 50-64 | 13% | 15% | 11% | 11% | 17% | 15% |
| 65-74 | 26 | 26 | 26 | 27 | 23 | 25 |
| 75-84 | 36 | 34 | 38 | 36 | 37 | 30 |
| 85 or Older | 24 | 25 | 23 | 24 | 22 | 30 |
| Median Age | 77 | 77 | 77 | 77 | 77 | 79 |

²Base - those who are housebound

Table 11
WHO ARE WORKING CAREGIVERS?

| (Base) | Total (754) | Current Employment Status | | | |
|---------------------------|----------------|---------------------------|------------------------|-------------------------|--------------------------|
| | | Employed | | Not Employed | |
| | | Full- Time (318) | Part- Time (100) | Were Working (98) | Never Worked (238) |
| <u>Sex</u> | | | | | |
| Male | 25% | 36% | 19% | 20% | 14% |
| Female | 75 | 64 | 81 | 80 | 85 |
| <u>Age</u> | | | | | |
| Under 35 | 28% | 36% | 33% | 32% | 14% |
| 35-49 | 29 | 37 | 33 | 26 | 19 |
| 50-64 | 26 | 26 | 23 | 21 | 29 |
| 65+ | 15 | 1 | 8 | 20 | 35 |
| Median Years | 45 | 40 | 42 | 44 | 57 |
| <u>Marital Status</u> | | | | | |
| Married | 66% | 65% | 60% | 64% | 69% |
| Not Married | 34 | 34 | 39 | 35 | 31 |
| <u>Education</u> | | | | | |
| High School Incomplete | 17% | 7% | 25% | 16% | 26% |
| High School Degree | 38 | 41 | 29 | 44 | 36 |
| Some College | 21 | 21 | 27 | 25 | 16 |
| College Degree Plus | 21 | 29 | 17 | 13 | 10 |
| <u>Current Employment</u> | | | | | |
| Employed Full-Time | 42% | 100% | 0% | 0% | 0% |
| Employed Part-Time | 13 | 0 | 100 | 0 | 0 |
| Retired | 16 | 0 | 0 | 33 | 39 |
| Not Employed | 28 | 0 | 0 | 67 | 61 |

(Continued)

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Table 11
(Continued)

WHO ARE WORKING CAREGIVERS?

| (Base) | <u>Total</u> (754) | <u>Current Employment Status</u> | | | |
|------------------------------|-----------------------|----------------------------------|---------------------------|-----------------------------|------------------------------|
| | | <u>Employed</u> | | <u>Not Employed</u> | |
| | | <u>Full-Time</u> (318) | <u>Part-Time</u> (100) | <u>Were Working</u> (98) | <u>Never Worked</u> (238) |
| <u>Respondent Occupation</u> | | | | | |
| White Collar - Professional | 25% | 48% | 32% | 3% | 3% |
| Retired | 16 | 0 | 2 | 31 | 37 |
| Homemaker | 15 | 1 | 2 | 25 | 37 |
| White Collar - Sales | 13 | 20 | 25 | 5 | 1 |
| Blue Collar | 13 | 21 | 22 | 4 | 2 |
| Service Worker | 6 | 9 | 13 | 3 | * |
| Not Employed | 11 | 0 | 0 | 29 | 21 |
| <u>1986 Household Income</u> | | | | | |
| Under \$10,000 | 11% | 5% | 14% | 23% | 13% |
| \$10,000 - \$19,999 | 17 | 18 | 12 | 17 | 19 |
| \$20,000 - \$24,999 | 9 | 10 | 12 | 10 | 5 |
| \$25,000 - \$34,999 | 19 | 25 | 16 | 13 | 14 |
| \$35,000 - \$49,999 | 14 | 16 | 14 | 15 | 9 |
| \$50,000 or more | 10 | 14 | 12 | 4 | 7 |
| Don't Know/Refused | 13 | 7 | 14 | 7 | 23 |
| Median | \$26,100 | \$20,800 | \$25,800 | \$20,400 | \$20,900 |
| <u>Race</u> | | | | | |
| White | 85% | 79% | 86% | 90% | 89% |
| Black | 11 | 15 | 10 | 5 | 8 |
| Other | 5 | 6 | 4 | 5 | 3 |

*Denotes less than 0.5%

(Continued)

Table 11
(Continued)

WHO ARE WORKING CAREGIVERS?

| (Base) | <u>Total</u> (754) | <u>Current Employment Status</u> | | | |
|--------------------------|-----------------------|----------------------------------|--------------------------------|---------------------------------|----------------------------------|
| | | <u>Employed</u> | | <u>Not Employed</u> | |
| | | <u>Full- Time</u> (318) | <u>Part- Time</u> (100) | <u>Were Working</u> (98) | <u>Never Worked</u> (238) |
| <u>Primary Caregiver</u> | | | | | |
| Yes | 63% | 57% | 57% | 60% | 75% |
| No | 33 | 38 | 42 | 32 | 22 |
| <u>Caregiver Status</u> | | | | | |
| Current | 65% | 65% | 68% | 65% | 66% |
| Past | 35 | 35 | 32 | 35 | 34 |

Table 12
 CAREGIVING RESPONSIBILITIES OF THE WORKING CAREGIVER

| (Base) | Total (754) | Current Employment Status | | | |
|----------------------------------------------|----------------|---------------------------|------------------------|-------------------------|--------------------------|
| | | Employed | | Not Employed | |
| | | Full- Time (318) | Part- Time (100) | Were Working (98) | Never Worked (238) |
| <u>Length of Caregiving</u> | | | | | |
| Mean Years | 5 | 5 | 4 | 7 | 4 |
| Median Years | 2 | 2 | 2 | 4 | 2 |
| <u>Hours Per Week</u> | | | | | |
| 8 hours or less | 28% | 34% | 35% | 29% | 17% |
| 9-20 hours | 26 | 31 | 24 | 22 | 21 |
| 21 or more hours | 25 | 22 | 22 | 28 | 29 |
| Constant Care | 11 | 5 | 10 | 12 | 19 |
| Median Hours | 12 | 10 | 10 | 12 | 19 |
| <u>Type of ADLs Provided</u> | | | | | |
| Walk around inside using wheelchair, etc. | 46 | 44 | 52 | 46 | 48 |
| Dress/undress | 41 | 33 | 41 | 46 | 50 |
| Bathe | 38 | 34 | 36 | 38 | 45 |
| Use the toilet | 29 | 26 | 34 | 30 | 31 |
| Feeding | 27 | 24 | 29 | 29 | 29 |
| None | 32 | 36 | 32 | 31 | 28 |

(Continued)

Table 12
(Continued)

CAREGIVING RESPONSIBILITIES OF THE WORKING CAREGIVER

| (Base) | Total (754) | Current Employment Status | | | |
|--------------------------------|----------------|---------------------------|------------------------|-------------------------|--------------------------|
| | | Employed | | Not Employed | |
| | | Full- Time (318) | Part- Time (100) | Were Working (98) | Never Worked (238) |
| <u>Number of ADLs Provided</u> | | | | | |
| None | 32% | 36% | 32% | 31% | 28% |
| One | 19 | 21 | 20 | 17 | 16 |
| Two | 15 | 15 | 12 | 14 | 18 |
| Three + | 33 | 28 | 36 | 38 | 37 |
| <u>IADLs Provided</u> | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> |
| Grocery Shopping | 82 | 82 | 78 | 80 | 83 |
| Transportation | 79 | 81 | 78 | 84 | 74 |
| Housework | 75 | 75 | 72 | 75 | 77 |
| Preparing meals | 68 | 64 | 67 | 67 | 74 |
| Managing Finances | 65 | 66 | 58 | 66 | 64 |
| Administering Medicine | 45 | 42 | 38 | 43 | 52 |
| None | 1 | 1 | 3 | 1 | * |

* Denotes less than 0.5%

Table 12
(Continued)

CAREGIVING RESPONSIBILITIES OF THE WORKING CAREGIVER

| (Base) | Total (754) | Current Employment Status | | | |
|--------------------------------|----------------|---------------------------|------------------------|-------------------------|--------------------------|
| | | Employed | | Not Employed | |
| | | Full- Time (318) | Part- Time (100) | Were Working (98) | Never Worked (238) |
| <u>Number of ADLs Provided</u> | | | | | |
| None | 32% | 36% | 12% | 31% | 28% |
| One | 19 | 21 | 10 | 17 | 16 |
| Two | 15 | 15 | 12 | 14 | 18 |
| Three + | 33 | 28 | 36 | 38 | 37 |
| <u>IADLs Provided</u> | | | | | |
| | % | % | % | % | % |
| Grocery Shopping | 82 | 82 | 76 | 80 | 83 |
| Transportation | 79 | 81 | 78 | 84 | 74 |
| Housework | 75 | 75 | 72 | 75 | 77 |
| Preparing meals | 68 | 64 | 67 | 67 | 74 |
| Managing Finances | 65 | 66 | 58 | 66 | 64 |
| Administering Medicine | 45 | 42 | 38 | 43 | 52 |
| None | 1 | 1 | 3 | 1 | * |

* Denotes less than 0.5%

Table 13

WHO ARE CARE RECEIVERS OF WORKING CAREGIVERS?

| (Base) | Total (754) | Current Employment Status | | | |
|----------------------------------|----------------|---------------------------|------------------------|-------------------------|--------------------------|
| | | Employed | | Not Employed | |
| | | Full- Time (318) | Part- Time (100) | Were Working (98) | Never Worked (238) |
| <u>Relationship to Caregiver</u> | | | | | |
| Mother | 28% | 31% | 25% | 32% | 22% |
| Father | 12 | 14 | 13 | 13 | 9 |
| Parent - In Law | 13 | 14 | 8 | 6 | 17 |
| Spouse | 10 | 3 | 6 | 11 | 21 |
| Grandparent | 16 | 19 | 20 | 18 | 8 |
| Other Relative | 10 | 8 | 17 | 9 | 11 |
| Non - Relative | 15 | 13 | 21 | 14 | 16 |
| <u>Distance</u> | | | | | |
| Same Household | 37% | 29% | 35% | 38% | 47% |
| Within 20 minutes | 47 | 53 | 49 | 47 | 37 |
| 20 minutes or more | 16 | 13 | 16 | 11 | 16 |
| <u>Living Arrangement</u> | | | | | |
| Same Household | 37% | 29% | 35% | 38% | 47% |
| Own House/Apartment | 50 | 55 | 51 | 47 | 44 |
| Nursing Home | 5 | 6 | 4 | 6 | 4 |
| Other | 8 | 10 | 10 | 7 | 5 |
| <u>Type of Disability</u> | | | | | |
| Physical | 70% | 71% | 74% | 62% | 71% |
| Mental | 5 | 3 | 4 | 6 | 7 |
| Both | 21 | 21 | 21 | 27 | 19 |
| <u>Condition Severity</u> | | | | | |
| Acute or short-term | 16% | 17% | 15% | 7% | 18% |
| Chronic or long-term | 70 | 68 | 69 | 80 | 67 |
| Both | 5 | 6 | 3 | 5 | 5 |

(Continued)

Table 13
WHO ARE CARE RECEIVERS OF WORKING CAREGIVERS?

| (Base) | Total (754) | Current Employment Status | | | |
|----------------------------------|----------------|---------------------------|------------------------|-------------------------|--------------------------|
| | | Employed | | Not Employed | |
| | | Full- Time (318) | Part- Time (100) | Were Working (98) | Never Worked (238) |
| <u>Relationship to Caregiver</u> | | | | | |
| Mother | 28% | 31% | 25% | 32% | 22% |
| Father | 12 | 14 | 13 | 13 | 9 |
| Parent - In Law | 13 | 14 | 8 | 6 | 17 |
| Spouse | 10 | 3 | 6 | 11 | 21 |
| Grandparent | 16 | 19 | 20 | 18 | 8 |
| Other Relative | 10 | 8 | 17 | 9 | 11 |
| Non - Relative | 15 | 13 | 21 | 14 | 16 |
| <u>Distance</u> | | | | | |
| Same Household | 37% | 29% | 35% | 38% | 47% |
| Within 20 minutes | 47 | 53 | 49 | 47 | 37 |
| 20 minutes or more | 16 | 13 | 16 | 11 | 16 |
| <u>Living Arrangement</u> | | | | | |
| Same Household | 37% | 29% | 35% | 38% | 47% |
| Own House/Apartment | 50 | 55 | 51 | 47 | 44 |
| Nursing Home | 5 | 6 | 4 | 6 | 4 |
| Other | 8 | 10 | 10 | 7 | 5 |
| <u>Type of Disability</u> | | | | | |
| Physical | 70% | 71% | 74% | 62% | 71% |
| Mental | 5 | 3 | 4 | 6 | 7 |
| Both | 21 | 21 | 21 | 27 | 19 |
| <u>Condition Severity</u> | | | | | |
| Acute or short-term | 16% | 17% | 15% | 7% | 18% |
| Chronic or long-term | 70 | 68 | 69 | 80 | 67 |
| Both | 5 | 6 | 3 | 5 | 5 |

(Continued)

Table 13
(Continued)

WHO ARE CARE RECEIVERS OF WORKING CAREGIVERS?

| (Base) | Total (754) | Current Employment Status | | | |
|-------------------------------------|----------------|---------------------------|------------------------|-------------------------|--------------------------|
| | | Employed | | Not Employed | |
| | | Full- Time (318) | Part- Time (100) | Were Working (98) | Never Worked (238) |
| <u>Housebound</u> | | | | | |
| Yes | 58% | 52% | 65% | 61% | 62% |
| No | 42 | 48 | 35 | 39 | 38 |
| <u>Bedridden⁷</u> | | | | | |
| Yes | 28% | 29% | 28% | 15% | 32% |
| No | 71 | 70 | 72 | 85 | 67 |
| <u>Wheelchair-Bound⁷</u> | | | | | |
| Yes | 24% | 21% | 28% | 17% | 28% |
| No | 76 | 79 | 72 | 83 | 72 |
| <u>Age</u> | | | | | |
| 50-64 | 13% | 12% | 12% | 21% | 11% |
| 65-74 | 26 | 26 | 31 | 18 | 27 |
| 75-84 | 36 | 40 | 28 | 73 | 29 |
| 85 or Older | 24 | 20 | 26 | 25 | 28 |
| Median Years | 77 | 77 | 78 | 76 | 78 |

⁷Base = those who are housebound

TABLE 16
 BENEFIT LOSS AS A RESULT OF CHANGE IN STATUS AT WORK
 AMONG WORKING CAREGIVERS

| | Total | Current Employment Status | | |
|------------------------------------------------------|---------------------|---------------------------|--------------------|--------------------|
| | | Full-Time | Part-Time | Previously Worked |
| <u>Percent Who Had Changes in Work Status (Base)</u> | <u>38%</u> (198) | <u>36%</u> (116) | <u>42%</u> (42) | <u>43%</u> (40) |
| <u>Percent Who Lost Benefits (Net)</u> | <u>20%</u> | <u>12%</u> | <u>19%</u> | <u>43%</u> |
| <u>Benefits Lost</u> | | | | |
| (Base)** | (39) | (14) | (8) | (17) |
| | <u>%</u> | <u>%</u> | <u>%</u> | <u>%</u> |
| Vacation | 41 | 64 | 25 | 29 |
| Health | 39 | 7 | 25 | 71 |
| Dental | 18 | 0 | 13 | 35 |
| Other insurance | 13 | 7 | 13 | 18 |
| Sick pay | 10 | 7 | 13 | 12 |
| Retirement/Pension | 5 | 0 | 0 | 12 |
| Have to pay higher amount for same benefits | 3 | 0 | 0 | 6 |
| Other | 23 | 14 | 63 | 12 |

** Caution; small bases

Base = those who lost time from work, had to go from full-time to part-time, or had to take a leave of absence

NOTE: Multiple responses accepted to Q.20/24
 Excludes "Don't Know/No Response"

Q.19/22: "You said that you (_____). As a result of your change in status at work, did you lose any benefits, such as health coverage, vacation pay, or anything else?"

Q.20/24: "What kind of benefits did you lose?"

Table 25
WHO ARE THE CAREGIVER GROUPS?

| (Base) | Total (754) | Caregiver Group | | | | |
|-------------------------------|----------------|-----------------|-----------------|-----------------|-----------------|----------------|
| | | A 1 (182) | B 2 (179) | C 4 (173) | D 5 (142) | E 3 (78) |
| <u>Sex</u> | | | | | | |
| Male | 25% | 26% | 34% | 28% | 14% | 15% |
| Female | 75 | 74 | 65 | 72 | 86 | 83 |
| <u>Age</u> | | | | | | |
| Under 35 | 28% | 24% | 38% | 28% | 23% | 23% |
| 35-49 | 29 | 28 | 24 | 29 | 37 | 35 |
| 50-64 | 26 | 28 | 22 | 27 | 23 | 32 |
| 65+ | 15 | 18 | 15 | 16 | 16 | 9 |
| Median Years | 45 | 49 | 42 | 46 | 45 | 46 |
| <u>Marital Status</u> | | | | | | |
| Married | 66% | 76% | 65% | 67% | 59% | 53% |
| Not Married | 34 | 23 | 35 | 33 | 40 | 47 |
| <u>Education</u> | | | | | | |
| High School Incomplete | 17% | 13% | 16% | 16% | 20% | 21% |
| High School Degree | 38 | 45 | 36 | 39 | 32 | 33 |
| Some College | 21 | 17 | 24 | 19 | 25 | 23 |
| College Degree Plus | 21 | 20 | 20 | 27 | 19 | 19 |
| <u>Current Employment</u> | | | | | | |
| Employed Full-Time | 42% | 40% | 43% | 46% | 41% | 40% |
| Employed Part-Time | 13 | 15 | 15 | 8 | 13 | 19 |
| Retired | 16 | 20 | 15 | 17 | 13 | 14 |
| Not Employed | 28 | 25 | 28 | 29 | 32 | 27 |

(Continued)

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Table 25
(Continued)

WHO ARE THE CAREGIVER GROUPS?

| (Base) | Total (754) | Caregiver Group | | | | |
|-----------------------------------------|----------------|-----------------|-----------------|-----------------|-----------------|----------------|
| | | A 1 (182) | B 2 (179) | C 4 (173) | D 5 (142) | E 3 (78) |
| <u>Previous Employment</u> ¹ | | | | | | |
| Yes | 29% | 23% | 27% | 38% | 28% | 31% |
| No | 71 | 77 | 73 | 61 | 72 | 69 |
| <u>Respondent Occupation</u> | | | | | | |
| White Collar Professional | 25% | 19% | 26% | 30% | 26% | 27% |
| Retired | 16 | 20 | 13 | 17 | 14 | 14 |
| Homemaker | 15 | 17 | 15 | 14 | 16 | 15 |
| White Collar Sales | 13 | 15 | 13 | 12 | 12 | 9 |
| Blue Collar | 13 | 13 | 17 | 11 | 9 | 17 |
| Service Worker | 6 | 7 | 3 | 5 | 9 | 9 |
| Not Employed | 11 | 8 | 12 | 12 | 13 | 9 |
| <u>1986 Household Income</u> | | | | | | |
| Median | \$26,100 | \$27,800 | \$28,200 | \$25,100 | \$24,700 | \$19,400 |
| <u>Race</u> | | | | | | |
| White | 85% | 92% | 88% | 83% | 83% | 69% |
| Black | 11 | 7 | 12 | 13 | 11 | 19 |
| Other | 5 | 2 | 5 | 4 | 6 | 10 |
| <u>Primary Caregiver</u> | | | | | | |
| Yes | 63% | 59% | 60% | 63% | 68% | 69% |
| No | 33 | 34 | 36 | 32 | 31 | 28 |
| <u>Caregiver Status</u> | | | | | | |
| Current | 65% | 67% | 65% | 72% | 59% | 60% |
| Past | 35 | 33 | 35 | 28 | 41 | 40 |

¹Base = those not currently employed



AMERICAN BAR ASSOCIATION

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Statement of

CLIFFORD D. STROMBERG, CHAIR
SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

of the

AMERICAN BAR ASSOCIATION

submitted to the

SUBCOMMITTEE ON LABOR--MANAGEMENT RELATIONS
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

concerning the proposed

FAMILY AND MEDICAL LEAVE ACT

February 7, 1989

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Dear Mr. Chairman and Members of the Subcommittee:

I am Clifford D. Stromberg, Chair of the ABA's Section of Individual Rights and Responsibilities. I appreciate this opportunity to present the views of the American Bar Association on the proposed "Family and Medical Leave Act."

The American Bar Association strongly supports enactment of the proposed "Family and Medical Leave Act." The legislation is consistent with the following resolution adopted by the House of Delegates, the Association's principal policy-making body, in February 1988.

BE IT RESOLVED, that the American Bar Association supports federal and state legislation establishing minimum requirements for reasonable, unpaid, job-protected family and medical leave for employees, consisting of:

- (a) temporary medical leave, to allow employees to take job-protected leave for medically necessary time for childbirth and pregnancy-related health conditions and for other temporary health conditions;
- (b) family leave, to allow employees to take leave on a full- or part-time basis to provide care for family members other than their children (e.g., the employee's own parents or spouse) who have serious health conditions; and
- (c) continuation of health benefits during such periods of temporary medical and family leave.

BE IT FURTHER RESOLVED, that such legislation should only apply to organizations which have more than a reasonable threshold number of employees; and

BE IT FURTHER RESOLVED, that the Association supports federal legislation mandating a study of means for providing salary replacement during all or part of such temporary medical and family leave, and also supports the establishment of federal minimum requirements for job-protected, unpaid temporary medical and family leave pending the outcome of this study.

This policy is an extension of the Association's 1987 resolution endorsing parental leave for a reasonable period of time following the birth or adoption of a child or to care for a seriously ill child, and the continuation of health benefits during the period of such leave. (See Appendix A)

These ABA policies recognize that our nation must develop policies to accommodate the dual obligations of work and family. Particularly when budget expenditures are limited and families face increased burdens to care for their own members, they must be supported by flexible policies. These policies should further the goals of equality between the sexes and non-discrimination in the workplace on the basis of sex.

Today, women are the fastest growing segment of the labor force and continue to enter the work force in record numbers. Over 61% of all married women with children are working outside the home, as are almost 68% of single mothers. If employees--female or male--are not permitted leave at a time of medical necessity to care for a child or a frail elderly parent, the result will be an increasing shift to high-cost care in professional institutions, much of it at taxpayer expense.

Clearly, one of the worst economic hardships that can befall a family is for a breadwinner, whether a man or a woman, to lose

a job because of absence due to a temporary medical necessity or the temporary care of another family member. The adoption of the Family and Medical Leave Act will acknowledge not only the need to protect and strengthen families, but also the deleterious effects of failing to provide such leave. Failing to provide such leave results in major costs to society, such as: increased claims for unemployment compensation, AFDC and Medicaid benefits; increased disruption and training costs for employers; job loss due to employees' serious health conditions or urgent family responsibilities; economic hardship for families when the wage earner loses his or her job; and the emotional suffering of children who do not have an adequate opportunity for early bonding with their parents.

By limiting the coverage of the proposed "Family and Medical Leave Act" to organizations which have more than a reasonable threshold number of employees, the legislation minimizes the impact on small business and strikes a balance between many competing concerns.

The American Bar Association urges enactment of the proposed "Family and Medical Leave Act." On behalf of the Association, I thank the Chairman and the Subcommittee for permitting us to present these views. Our reasons for supporting this Act are

elaborated in the report accompanying our 1988 resolution, which is attached as Appendix B.

0334Q

Attachments

-4-

RESOLUTION ADOPTED
BY THE
AMERICAN BAR ASSOCIATION

August, 1987

The resolution reads as follows:

BE IT RESOLVED, that the American Bar Association supports the establishment of a reasonable Federal minimum requirement for job-protected parental leave to allow parents to take unpaid leave on a full- or part-time basis to provide child care for newborn infants, newly-adopted children, and seriously ill children.

BE IT FURTHER RESOLVED, that such requirement only apply to organizations which have more than a reasonable threshold number of employees.

BE IT FURTHER RESOLVED, that such federal requirement include the continuation of existing health benefits during such periods of leave.

0334Q

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NOTE: The purpose of this report is to provide background information. It does not constitute official ABA policy.

APPENDIX B

ABA BACKGROUND REPORT TO
FAMILY AND MEDICAL, LEAVE RESOLUTION

FEBRUARY 1988

REPORT

In August 1987 The House of Delegates passed a resolution¹ endorsing a public policy of parental leave for a reasonable time following the birth or adoption of a child or to care for a seriously ill child and the continuation of health benefits during the period of such leave. This resolution builds upon these provisions but goes beyond them to endorse a broader public policy which would provide job protection for leave related to workers' own disabilities, for leave to care for other seriously ill family members, and which would set up a process for exploring alternative public policy approaches to providing salary replacement during periods of family or medical leave.

This was but the most recent in a long series of related Association policies. The Association has long recognized the importance of equal rights for women and the need to protect women against employment discrimination because of their childbearing role. The Association also has a longstanding interest in the well-being of children and in the quality of life afforded to our elderly citizens.

In February 1972 the House of Delegates passed a resolution supporting constitutional equality for women and urging the extension of legal rights, privileges and responsibilities to all persons regardless of sex. The ABA has urged law schools and law firms to refrain from discriminating against women and has favored enactment of legislation to insure that employers are prohibited from discriminating against applicants or employees on the basis of sex. The ABA has supported federal and state legislation assuring that prohibitions against sex discrimination in employment would also prohibit discrimination because of pregnancy.

¹ The resolution reads as follows:

BE IT RESOLVED, That the American Bar Association supports the establishment of a reasonable Federal minimum requirement for job-protected parental leave to allow parents to take unpaid leave on a full or part-time basis to provide child care for newborn infants, newly-adopted children, and seriously ill children.

BE IT FURTHER RESOLVED, That such requirement only apply to organizations which have more than a reasonable threshold number of employees.

BE IT FURTHER RESOLVED, That such federal requirement include the continuation of existing health benefits during such periods of leave.

In 1978 the ABA established its National Legal Resource Center for Child Advocacy and Protection to work on legal and policy issues affecting children. The ABA has passed numerous resolutions regarding the well-being of children including a 1983 resolution supporting the increased availability of child care resources to families at all income levels as well as resolutions on foster care, corporal punishment in the schools, child abductions, child support and a number of other issues. In 1978 the ABA established the Commission on the Legal Problems of the Elderly and in 1981 passed a resolution endorsing re-authorization of the Older Americans Act of 1965, as amended, which is concerned with the quality of life of our older citizens.

The current resolution is necessary to clarify the position of the Association and to provide the full protection needed to cover all medical conditions related to pregnancy and childbirth. In particular, a public policy of providing parental leave, as previously endorsed by the Association, would not provide job protection when a woman must take leave because of prenatal health problems requiring her to be bedridden before her baby is born or when a woman must take leave because of temporary disability caused by miscarriage, stillbirth, or complications of abortion. This resolution addresses the question of how to do so in a manner which would not offend the principle of treating pregnancy related medical conditions like all other serious health conditions.

The current resolution suggests that our nation should begin the process of developing a policy of accommodating families and work and of doing so in a way that furthers the goals of equality between the sexes and nondiscrimination in the workplace on the basis of sex.

In the past the greater part of childrearing and care of the ill and the elderly was performed by family members, usually women, who typically did not work outside of the home. Today, however, while many families prefer to have both parents work because of the satisfaction they experience from their jobs, most families find it necessary to have both parents work in order to assure a satisfactory standard of living for the family. It is no longer feasible for most mothers to stay home with their children. Today, 61.3% of all married women with children are in the labor force.² Most mothers of young children also are in the work force: 67% of married women with children under the age

² Bureau of Labor Statistics, Half of Mothers with Children Under Three Now In Labor Force (August 20, 1986).

of three and 50% of all mothers with children under the age of one were in the labor force in 1985.³ In the 8.7 million families headed by women the income of the mother is essential; 67.6% of these single-parent mothers are in the labor force.⁴

While most of these families use some form of child care to care for their children while parents work, it is extremely important to the well-being of the child and to the bonding of parents and children that parents themselves be physically present to care for children during certain essential periods in a child's life such as following the child's birth or adoption or placement in foster care and during a child's serious illness. Dr. Berry Brazelton recommends four months as a minimum time for newborns and new parents to adjust to one another.⁵ The Yale Bush Center recommends six months as the minimum.⁶ There are similar time periods required for the adjustment of a newly adopted child and his or her new family to each other.⁷ Similarly, according to the American Academy of Pediatrics, children have increased dependency needs when they are ill and require the unique warmth and security only their parents can offer. According to the Academy, it is sound pediatric practice to encourage the parents to care for and comfort the seriously ill child.⁸

Families also remain a primary resource for the care of the elderly in their own homes or the homes of family members. According to a Department of Health and Human Services estimate, 2.2 million people, predominantly women, cared for 1.2 million frail elderly people in 1982; approximately one million of these caretakers were employed for some time during the care-giving

³ Staff of Representative Patricia Schroeder, Parental and Medical Leave, H.R. 4300, Briefing Paper, 99th Cong., 2d Sess. 3 (July 17, 1986).

⁴ Bureau of Labor Statistics, unpublished data (1986).

⁵ Brazelton, Testimony at the Hearing on Parental Leave, H.R. 2020, before the Subcommittees on Labor Management Relations and Civil Service 1, 8 (October 17, 1985).

⁶ Recommendations of the Yale Bush Center Advisory Committee on Infant Care Leave 3 (November 26, 1985).

⁷ D. Smith and L. Sherwen, Mothers and Their Adoptive Children: The Bonding Process (1983).

⁸ Statement of the American Academy of Pediatrics (February 3, 1987).

experience.⁹ Reliance on healthier family members is often the most cost-efficient and desirable way to care for the elderly. But if no accommodation to this need is made on the job, the result will almost surely be an increasing shift of care to high-cost, professional institutions, much of it at the taxpayers' expense.

Clearly, one of the worst economic hardships that can befall a family is for a breadwinner, whether mother or father, to lose a job because of absence due to temporary disability. Workers are unlikely to need to use temporary medical leave for extended periods of time: the current average is 5.0 days per year.¹⁰ But when the situation arises it is devastating to family income for a parent to lose a job on top of the difficulties inherent in having a serious medical condition.

While outright workplace discrimination because of pregnancy was outlawed by Congress by enactment of the Pregnancy Discrimination Act of 1978, some employers in the United States are still reluctant to accommodate their workplaces to the reality that their employees have family responsibilities as well as employment responsibilities. Title VII of the Civil Rights Act of 1964, amended by the Pregnancy Discrimination Act, requires employers to treat pregnancy and childbirth like any other medically disabling condition: insofar as leave, paid or unpaid, is provided for other temporary disabilities, they must be provided for pregnancy and childbirth related medical conditions, also. Similarly, Title VII's prohibition of discrimination on the basis of sex requires that if leave is provided to mothers to allow them to care for their newborn infants beyond the mother's own period of disability, then child care leave for a similar period must be provided for fathers. However, there is at present no federal minimum standard providing that any leave must be provided for any temporary disability, whether related to pregnancy and childbirth or not. And there is no federal minimum standard providing that any leave must be provided for caring for a newborn, newly adopted or seriously ill child or for other seriously ill family members.

Today, only the United States and South Africa among the world's industrial countries do not have any nationally mandated maternity benefits. Several European countries, including France,

⁹ U.S. Department of Health and Human Services, National Center for Health Services Research, Caregivers of the Frail Elderly (1987).

¹⁰ National Center for Health Statistics, Disability Days, United States, 1980 (C. Wilder, ed. 1983).

Italy, and Britain, instituted some form of national maternity insurance for working women prior to World War I; they and many other countries have maintained and expanded these policies through the economic vicissitudes of this century. Today over 75 countries have enacted laws providing for maternity benefits--including paid leave before and after childbirth and free health and medical care for pregnancy and childbirth; some provide for paid paternity leave as well. Many have explicit family policies that go far beyond maternity leave and encompass child care provision, housing, and health services to support families.¹¹ Sweden provides new mothers with 38 weeks of 90% paid leave--with up to 12 more unpaid weeks; fathers are also entitled to parental leave. Italy provides 20 weeks of maternity leave at 80% of earnings. Japan provides 16 weeks at 60% of earnings. The Philippines provides 45 days at 100%.¹² Surely the United States can afford an appropriate minimum level of unpaid leave and begin work on determining how paid leave could be provided.

From the standpoint of employers, providing job protected leave in these circumstances would not be a substantial burden. A careful review of current employer practices casts doubt on many of the concerns about burden that some employers have expressed. A 1984 study of a sample of the nation's largest 1500 companies conducted by Catalyst, an independent research firm, showed that 95% of the companies surveyed grant short-term disability leave (38.9% fully paid, 57.3% partially paid, and 3.8% unpaid); 90.2% of them continue full benefits during the period; 80.6% of them guarantee the same or a comparable job. Unpaid parental leave was provided by 53.8% of the companies; of these, 24.3% offer such leave of three months duration, while 28.2% offer such unpaid parental leave of four to six months duration.¹³ While smaller firms often permit temporary disability or parental leave, their decisions tend to be more ad hoc and tend not to be based on clearly established personnel guidelines employees can rely on.

Similarly, most employers' health insurance policies already continue health insurance coverage during employees' leaves. In fact, according to a comprehensive study published in 1984 by the

¹¹ S. Kammerman, et al., *Maternity Policies and Working Women* (1983).

¹² International Labor Organization, *Women at Work: ILO Global Survey* (1984).

¹³ Catalyst, *Report on a National Study of Parental Leaves* (1986).

Employee Benefit Research Institute, 98.6% of health insurance plan participants in establishments of 100 or more employees have coverage that continues for some period when they become disabled.¹⁴ A Columbia University study found that 55% of employers continue health insurance coverage during "maternity leave" (apparently referring to some combination of temporary medical and parental leave).¹⁵ It thus appears that many employers will not have to alter their health insurance policies significantly, if at all, to insure continuation of health insurance coverage during periods of leave.

It is important that national policies providing for the accommodation of work and families be developed in a way that discourages discrimination against women in the workplace and that encourages the full participation of men in caring for their young children and for elderly and ill family members. Historically, denial or curtailment of women's employment opportunities has been traceable directly to the pervasive presumption that women are mothers first, and workers second. This prevailing ideology about women's roles has in turn justified discrimination against women when they are mothers or mothers-to-be.

Current employment practices, because of sex discrimination against men, may in some cases, make it even more difficult for men than for women to accommodate family responsibilities without suffering adverse employment consequences. In the Catalyst study cited above, 51.8% of companies surveyed reported that they give parental leave to mothers, but only 37.0% reported that they provide such leave to fathers¹⁶--even though such a sex-based differential clearly violates existing law. And while it is a grave hardship on most families to risk the mother's losing her job because of child bearing, it is usually literally impossible for them to risk loss of the father's job in order for him to care for a new or seriously ill child.

In California Federal Savings and Loan Association v. Guerra _____ U.S. _____ (1987) the Supreme Court upheld, for the first time, state legislation which provided job protection following

¹⁴ Chollet, Employer-Provided Health Benefits: Coverage, Provisions and Policy Issues (1984).

¹⁵ S. Kammerman et al., Maternity Policies and Working women 61 (1983).

¹⁶ Catalyst, Report on a National Study of Parental Leaves 30,37 (1986).

maternity disability leave only and did not provide job protection following leaves for other kinds of temporary disabilities. This decision marks the first time in recent history that employers (in states with laws like California's) can argue that there is a "special burden" attached to hiring women - that they must provide something for women affected by pregnancy that they are not required to provide for other employees. While Title VII as amended by the Pregnancy Discrimination Act, continues to forbid discrimination against women in hiring, firing or other terms and conditions of employment because of pregnancy and childbearing, this additional "burden" could bring subtle pressure to bear on employers not to hire women of childbearing age or to limit their advancement. Proving discrimination in the best of circumstances is difficult for the plaintiff, who must bear not only the legal burden of proof but also the enormous practical barriers to hiring a lawyer and bringing suit. And even if she succeeds in overcoming these barriers and wins, her relief will necessarily be delayed substantially.

It is far preferable that the same job protection be provided for all workers who are temporarily disabled in order to remove any incentive to discriminate against women. And perhaps the only practical way of insuring that both men and women are able to be present to parent their newborn and newly adopted children or seriously ill children or other family members is to provide job protection for family leave for all workers.¹⁷

Additionally, it is clear that no policy of family and temporary medical leave is complete without provision for salary replacement. Without salary replacement, most workers will not be able to take advantage of the leave available except for limited time periods. While it is possible to provide job protection now for workers taking temporary medical or family leave, it is also desirable to begin at once to formulate a national scheme for full or partial salary replacement during these periods of leave as most industrial countries now provide.

Currently, over sixteen states have some form of fair employment practice laws or regulations that require employers to provide unpaid pregnancy disability leave or parental leave. Legislation also has been introduced in a number of other states in the wake of the decision in California Federal Savings and Loan v. Guerra, supra. This pending legislation takes a variety of forms

¹⁷ In Sweden, where parental leave has been available to both parents since 1974, the percentage of men taking such leave rose from 3% to 22% in seven years. Bureau of National Affairs, Work and Family: A Changing Dynamic 174 (1986).

ranging from maternity disability leave through "maternity" leave through "parental" leave and "medical" leave and includes various combinations of these forms of leave.

Prior to the decision in California Federal Savings and Loan v. Guerra, supra, legislation had already been introduced in the 99th Congress to provide for job-protected, unpaid temporary disability and parental leave. Passage was not secured by the end of the 99th Congress. A Family and Medical Leave Act has again been introduced in both House and Senate in the 100th Congress (H.R. 925, S. 249). Hearings have been held in both the House and Senate. The Senate bill, S.249, covers employers of 15 or more employees and provides for unpaid, job protected leave of up to 26 workweeks during any 12-month period for temporary medical leave for an employee's own serious health condition (including pregnancy and childbirth). It also provides for unpaid, job protected leave of up to 18 workweeks during any 24-month period because of the birth of the employee's child, because of the placement of a foster or adoptive child with the employee, or in order for the employee to care for the employee's child who has a serious health condition. The 18 weeks of family leave may be taken on a part-time basis, rather than a full-time basis, over a period not exceeding 36 consecutive weeks. Leave may be taken intermittently, as necessary, within these time limits to care for a parent or child with a serious health condition or for treatment of the employee. When the leave is foreseeable, the employee must provide the employer with reasonable advance notice and must make a reasonable effort to schedule treatments so as to not unduly disrupt the employer's operations subject to approval of the health care provider. Other kinds of leave accruing to the employee may be substituted for any part of the time periods specified. Employers may limit the combined number of workweeks of family leave and temporary medical leave to 36 during any 12 month period. Employers must maintain coverage for employees taking these forms of leave under their group health plans, if any. On return, employees are to be placed in their former or an equivalent position.

The Act would also establish a Commission on Paid Family and Medical Leave to study methods of providing workers taking family or temporary medical leave with full or partial salary replacement and to make recommendations to Congress concerning a system of salary replacement for these kinds of leave. Enforcement responsibility would be lodged in the United States Department of Labor, with an additional private right of action in the federal courts for aggrieved employees.

A bipartisan compromise reached in the House Education and Labor Committee would amend H.R.925, which originally was almost identical to S.249, to provide coverage only for employees of employers with 50 or more employees during the first three years after enactment and those with thirty-five or more employees after

the first three years. Family leave would be available to care for a parent with a serious health condition as well as for children; family leave would be guaranteed for only ten weeks in a two year period. Medical leave guarantees would be limited to fifteen weeks. Employees in the top ten percent of the workforce can be exempted from coverage if the employer shows business necessity. Other provisions are similar to those in the Senate bill.

To date, the primary objections to the legislation have been financial as well as objections, on principle, to further federal regulation of employment. The Chamber of Commerce originally charged that this legislation would cost employers \$23.8 billion annually, but has reduced its estimate several times.

The General Accounting Office has concluded a study of the likely costs of this legislation. The GAO's estimate of the costs for H.R. 925, as currently amended, is \$188 million per year primarily for continuation of health care benefits.¹⁸ The GAO study concluded that there would be no additional cost for replacing workers during leave, finding that replacement costs would not exceed savings from not paying salaries and benefits to absent workers.

In short, the claimed expenses appear to be greatly exaggerated. In addition, they fail to count the cost to society from increased claims for unemployment compensation and AFDC and Medicaid benefits because of job loss due to employees' serious health conditions or urgent family responsibilities. Nor do they count the economic suffering families experience because of job loss for these reasons. But, very importantly, they fail to count the cost to society of the emotional suffering or poor adjustment of children who never had an adequate opportunity for early bonding with their parents or who are not able to have their parents with them when they are seriously ill or injured.

¹⁸ The GAO's precise cost estimates for the different elements of the legislation are:

Birth or adoption \$90 million Seriously ill child \$10 million
 Seriously ill parent \$35 million Temporary medical leave \$53 million

General Accounting Office, Report to the Subcommittee on Labor Management Relations, Committee on Education and Labor: Parental Leave - Estimated Costs of H.R. 925, The Family and Medical Leave Act of 1987 (November 1987).

It is expected that the Commission on Paid Family and Medical Leave will focus on social insurance schemes for payment for family and medical leave rather than on direct payment by individual employers. Most Western European countries provide payment for family and medical leave through a social insurance program of some sort.

The policies proposed by this resolution will begin the important task of establishing a national policy of accommodating work and family responsibilities in this era when the work of both men and women is essential to ensure adequate economic support for their families.

Respectfully submitted,

William L. Robinson, Chairman
Section of Individual Rights and
Responsibilities

February 1988



ALBERT SHANKER
President

February 7, 1989

Honorable William L. Clay
Chairman, Labor-Management Relations Committee
2451 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed is the statement of the American Federation of Teachers in support of The Family and Medical Leave Act of 1993. I would very much appreciate your including this statement in the official proceedings of the February 7, 1989 hearing on this legislation.

I would also like to convey the AFT's appreciation to you for your leadership on this issue over the past several years.

We look forward to working with you to ensure the swift passage of this legislation.

Sincerely,


Gregory A. Humphrey
Director of Legislation

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enclosure

25.

Mr. Chairman and Members of the Subcommittee:

I am Gregory Humphrey, director of legislation for the American Federation of Teachers. On behalf of the 680,000 members of the AFT, I want to thank you for this opportunity to reiterate our views in support of enacting the Family and Medical Leave Act as soon as possible.

We would also like to convey our union's appreciation to the Chairman for his leadership on this issue over the past several years. This Committee came very close to insuring that working Americans can care for their families without losing their jobs in 1988. 1989 is the time to take the final step and enact this legislation.

The need for a national policy to address the changing demographics of our work force can no longer be ignored. The United States is one of the few industrial countries without a national policy and working adults are forced to make the intolerable choice between financial security and parenting.

The Family and Medical Leave Act is a modest piece of legislation. It simply provides job-protected unpaid time-off for families to meet their parental responsibilities and to deal with serious health conditions for themselves and their family members.

AFT strongly opposes efforts by the National School Boards Association and others to exclude school employees from the protections of this legislation. AFT represents more than 600,000 teachers and other school-related personnel in primary

and secondary education. Our members have had significant experience with the effects of medical and parental leave policies and the lack thereof.

Contrary to the allegations of critics of this legislation, family and medical leave programs do not create disruptions in the classroom. Schools already must cope with finding substitutes and temporary replacements for teachers in many situations. For example, if a teacher is having a baby, or has a seriously ill child, or becomes temporarily disabled, he or she will take time off from work, with or without the bill. What this legislation mandates is not leave, but job protection for those who must take leave to meet family responsibilities. In addition, this bill only allows job protection for family emergencies and for intermittent non-emergency situations.

Public school employers have made the claim that interruption of education occurs when a new person takes over the class. This is true, yet, schools have always realigned classes to balance pupil load during the school year. Schools commonly require that teachers be released from classes to participate in evaluations related to teacher pay plans, inservice education, and related school activities. In Pittsburgh, the entire faculty at the secondary level was rotated every six weeks for evaluation. The school district showed no ill effects from this program; in fact, the image of the district was improved.

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A teacher returning to class from leave in the middle of a semester is not necessarily disruptive to the educational process. Teachers currently return to work and take classes back from substitutes. The bill allows an employer, including a school, to place the employee returning from leave back in their old job or "an equivalent one". Thus, a teacher is not required to be placed back in the exact same classroom in the middle of the semester, but could fill in where needed in other classes, or perform other duties temporarily, such as curriculum review and development, training of new teachers, or administrative duties.

Any potential disruption will also be reduced by the bill's provisions requiring employees to provide advance notice of their leave when possible; to make a reasonable effort to schedule medical treatment so as not to disrupt the operations of the employer; and in the case of parental leave prohibiting intermittent leave or reduced leave without the consent of the employer.

This legislation will not place a financial burden on schools. The GAO has calculated that the cost to employers will be only \$3.50 per covered employee, or about \$110 per employee actually taking leave. GAO further found only about 1 in every 300 employees would be taking leave under the bill at a given time. These figures are in sharp contrast to the exaggerated lost figures used by opponents of this bill.

Finally, school employees, whether teachers, bus drivers, secretaries or administrators need parental and medical leave as much as any other workers. They have babies, get sick

and suffer family emergencies the same as other employees. Schools should not be treated differently than all other employees.

Teachers and school employees deserve the same protections as any other workers covered by the bill, and should not be forced to choose between their job and their family responsibilities. The AFT believes the Family and Medical Leave Act is in the best interest of parents, children and our country and we urge you to support it, without exemptions, and to seek swift passage of this legislation.

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Managing Human Resources

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FACT SHEET

REPLACEMENT COSTS AND OPERATIONAL DIFFICULTY OF IMPLEMENTING

FAMILY/PARENTAL AND MEDICAL LEAVE LEGISLATION

I. Background

Family and medical leave legislation (H.R. 770/S. 345) is currently pending before the Congress. This legislation would require employers to provide disability and family leave to their employees upon the birth, adoption or serious illness of a child or to care for a dependent parent. The following studies have addressed the cost implications of this legislation:

A. The General Accounting Office estimated that H.R. 770 could cost American business between \$188 million (exempting employers with 50 or fewer employees) and \$212 million annually (exempting employers with 35 or fewer employees).¹ This analysis only covered the employer's cost of continuing health coverage for the absent employee.

B. The General Accounting Office estimated that S. 345 will cost American business as much as \$236 million.² Again, GAO found that the entire cost of the legislation to result from the continuation of health insurance.

Note: In both of the 1989 studies, GAO states that: "To facilitate comparison between the different earlier proposals, we did not modify certain cost related factors that have changed since our original estimate, notably employer health insurance costs, the number of births occurring and the size of the workforce."

C. Robert R. Nathan Associates, Inc. estimated the cost to employers for continuing health coverage to be anywhere from \$188 million to \$573 million annually.³

None of these studies analyzed significant costs employers would incur which are likely to be far larger than the costs of maintaining health insurance alone.



American Society For Personnel Administration

National Headquarters • 606 N. Washington Street • Alexandria, Virginia 22314 • Phone 703.548.3440

The Nathan study acknowledged these non-quantifiables by noting that:

These direct and indirect costs of the proposal . . . defy dollar quantification, but they should be taken into account with the unquantifiable benefits in a full evaluation of the proposed legislation.

This fact sheet addresses the operational difficulties and costs of implementing this legislation which have not been addressed to date.

II. What is Involved in Hiring a Temporary Substitute Employee?

Under the bill, employers would be required to find substitute workers for employees absent while on family and medical leave. The operational effects of this legislation on training and day-to-day operations are difficult to quantify but nevertheless significant. Training and lost productivity costs incurred to hire a substitute employee to replace an employee on leave generally include the following:

- A. new hire orientation, including the employee's and trainer's time;
- B. formal job training, including both employees' and trainer's time;
- C. on the job training, including the supervisor's and non-supervisory helper's time;
- D. substandard performance/higher error rate by new employee;
- E. extra work/overtime for others to offset substandard performance;
- F. costly reorganization of personnel ("robbing Peter to pay Paul"); and
- G. misuse of human resources and unnecessary duplication of work.

III. Hiring Costs are Not the Same as Recruiting Costs

According to an article in the March, 1988 issue of the Xukorian newsletter, entitled, "Hiring Costs are Not the Same Thing as Recruiting Costs":

A recent survey published by the Employment Management Association (Raleigh, NC) determined that the average cost of hiring an executive in 1986 was \$6,175.00. The survey, which concerns itself with direct recruiting costs, covers exempt hires earning between \$30,000 and \$100,000.

There is, of course, an important difference between the cost per hire in E.M.A.'s survey and the cost of recruitment actually experienced by the same companies who responded to the survey. The cost per hire is basically restricted to the financial outlay expended in order to get the recruited employee into work on the first morning of his new job. The cost of recruitment is the financial investment expended by the employer in order that the new employee becomes an effective and contributory member of the staff. The difference between these two sets of costs will typically include training, familiarization, and orientation and lasts for a period of at least 3 months.

In the 1986 survey, E.M.A. was able to obtain responses from employers covering non-exempt (hourly/production/clerical employees). The cost per hire was reported to be approximately \$700.00. Given that in 1985, Thomas Cook and Sons calculated that the expenditure involved in replacing an administrative secretary was \$7,600, it is clear that the perceptions many employers have regarding the true cost of recruitment are simplistic and grossly undervalued. The costs of getting the new employee through the front door on this first day of work is only the tip of the iceberg of recruitment investment.⁴

IV. Typical Costs for New Hires

According to Lyle Spencer of McBer & Company, the cost of recruitment for a new employee is usually about one-third of the new hire's first year salary; and new employee training costs are about 10 percent of the first year's salary. Productivity down time, or the time lost while the employee learns the job, is often 50 percent of the first year's salary.⁵ Using these guidelines, replacing an employee earning \$12,000 annually would cost about \$4000 in recruitment expense; \$1,200 in training costs; and \$6,000 in lost productivity, for a total cost of \$11,200. GAO estimated that 1,675,000 people would take advantage of H.R. 770 in the first year of enactment. Based on these cost estimates for new hires, and according to the House of Representatives, Education and Labor Committee Report on H.R. 925 (Minority views): "If only 30 percent of these employees were replaced during their absence, we could conservatively estimate the cost to employers would be an additional \$56,280,000 just for temporary replacement employees."⁶

V. Impact on Unemployment Insurance Costs

If a temporary substitute employee is hired to replace the employee on leave and then dismissed when the permanent employee returns, this has implications with respect to the unemployment insurance program. According to the National Federation of Independent Business:

Payroll taxes, which include unemployment insurance (U.I.), are generally the largest tax bite incurred by a small firm. According to the GAO, additional burdens on the unemployment insurance trust funds will jeopardize their fiscal integrity because many do not have adequate reserves (GAO testimony on July 7, 1987 before the House Subcommittee on Employment and Housing, Committee on Government Operations). . .

Unless the temporary employee has U.I. coverage through an employment agency, the U.I. coverage is the responsibility of the employer. Should an employer dismiss the temporary employee, that employer would, under state U.I. laws, become a "base period" employer. Unemployment benefits are charged to base period employers. Benefit charges determine an employer's future tax rate.

Even if, while substituting for someone taking parental leave, the temporary employee did not acquire enough wage credits to qualify for U.C. benefits, he or she may have accumulated additional wage credits from other employment sufficient to meet state qualifying requirements, again putting the onus on the current employer.⁷

VI. A Case Study

In testimony presented before the Senate Subcommittee on Children, Family, Drugs and Alcoholism, Patricia Ashley, Benefits Manager for Methodist Hospital of Indiana, Inc. Indianapolis notes that:

Proponents of mandated leave assert that an employer's cost in offering this benefit is minimal since the leave is unpaid. It appears on the surface that an employer's only additional costs would be overtime for existing staff, or benefits provided to the temporary substitute worker. This ignores the fact that many hospitals already pay a great deal in overtime due to staffing shortages. It also doesn't consider that the staff being paid overtime are tired people. And perhaps most importantly, these cost estimates ignore the costs of recruiting and training qualified replacements.

Registered nurse openings in my hospital remain vacant an average of 2-3 months before they are filled. Some jobs in very specialized areas or certain shifts have remained open for as long as 3 years. If, as a result of this bill, my employer were forced to increase its "help wanted" ads in the newspapers every weekend, it would cost roughly \$100.00 per insertion. Advertising alone therefore could minimally cost \$1,200.00 for a 3 months period.

If my employer were lucky enough to find a replacement nurse, we would then have to train him/her in the techniques of giving care in my hospital. It costs us \$28,000.00 to train one RN to work in our Operating Room, \$18,000.00 to train a Critical Care RN, and \$13,000.00 to train an RN to work on a medical or surgical floor.

We employ in excess of 1,000 RN's. We could easily experience additional training costs of \$1,625,000.00 if 100, or just less than 10% of our RN's -- 15 Operating Rooms, 25 Critical Care, 65 Medical/Surgical -- were on parental leave required by a new federal mandate. And of course, I have not even attempted to calculate the costs and difficulties associated with gaps in care while these individuals are in training.⁸

VII. Operational Difficulties

The impact of this legislation will be felt throughout the economy. The several examples shown below represent the magnitude and broad implications of this legislation.

A. Service Intensive Industries

The use of substitute employees could lead to compromising the quality of service-intensive professions from registered nurses to emergency workers. According to Brody Smith, FHR, Associate Director of Human Resources for Southern Baptist Hospital (New Orleans, Louisiana):

The ramifications of this legislation have not been considered at the grass roots level. The implications are risky from a patient care perspective. The use of untrained substitute employees often leads to an increased margin of error (for example, staffing an emergency room with temporary substitutes unfamiliar with particular physicians and the location of equipment).

Mr. Brody Smith, points to other ramifications for the health care profession as well, which include:

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1. less orientation to a particular hospital's philosophy of care by the substitute employees
2. difficulty in establishing and maintaining patient-provider relationships
3. resentment from permanent "more dedicated" employees
4. a potential decline in a hospital's reputation (which would be impossible to quantify)

Ms. Patricia Ashley, with Methodist Hospital of Indiana, Inc. also warns that federally mandated benefits will have a devastating effect on the hospital's ability to provide adequate patient care:

I work for a large hospital which must face patient care issues on a daily basis. We can't be in a situation of not knowing if or when an employee will show up on any given day.

Patricia goes on to discuss that these concerns are not limited to the nursing profession:

Unfortunately, there are numerous health care professions that are undergoing the same supply and demand crisis — professions that are vital in providing care in today's incredibly technical and complex medical environment. Respiratory Therapy, Pharmacy and Physical Therapy are but a few. The shortage appears to be nation wide though some geographic areas are harder hit than others.

B. Other Examples of Difficulties in Jobs Requiring Special Expertise or Certification

Imagine the difficulty in recruiting a substitute employee in jobs requiring special expertise or certification such as:

1. highly scientific or technical work (e.g. a researcher whose past experience with a specific project is essential to further work);
2. work requiring security clearances (e.g. DOE and NRC "Q" clearances and DOD top secret, requiring an excess of 12 months to process);
3. health care professionals (e.g. radiologic technologists, registered nurses, drug and psychological counselors, and respiratory therapists).

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4. traveling regional sales managers;
5. tool and die makers (require years of training);
6. expertise or continuity on a particular project that requires a corporate memory (e.g. development of sophisticated software packages); and
7. legislative work.

C. Security Problems and Conflicts of Interest

Additionally, conflicts of interest and breaches of security are a major concern for many employers. A lawyer or temporary manager could be working for your company one week and your competitor the next. Even word processors typing marketing letters are a potential threat. Temporary workers have even less reason to feel loyalty to a company than the regular employees which are often made to sign noncompete or confidentiality statements as a condition of employment. Is it reasonable to ask substitute workers to sign a confidentiality statement? Most temporary agencies use a computerized system to keep track of a substitute worker's history and skills — is it reasonable to ask the agency not to send such a substitute worker to a competitor? What is the agency's liability?

D. A Case Study

One state government employee in a state department of 7,000, who was specially trained in video production, accrued three months maternity leave with full pay. No one else in the department could do her job (e.g. graphic artists, free lance artists, photographers).

The state merit system prevented the employer from requiring other employees to cross-train. The state government did not have the resources to hire a substitute employee (even if one could have been found on such a temporary basis). The employee would not consider suggestions of flexible part-time work, 10 hour work weeks, or even bringing the new child into the office with her.

As a result, video production was shut down for one-third of the year. Training films were not shot, public service announcements were not produced and the video for the state's annual conference was not presented.

VIII. Conclusion

While any number of examples could be given in any number of work situations, the above illustrations exemplify that all aspects of employment will be effected, from government to health care.

The cost of these mandates will be borne by employers, reducing their overall ability to compete in today's competitive global economy. To adjust to these mandates, employers will either:

- A. reduce output;
- B. reduce quality; or
- C. develop an increased reliance on temporary employment services, which may become cost prohibitive (Congress is also considering the "Part-time and Temporary Workers Protection Act" which would require employers to provide health and pension benefits for part-time and temporary workers.)

In addition, there is a growing concern that working women of child bearing age could pay the price in hidden discrimination.

Flexibility is necessary in the near future and beyond to respond to competition in the marketplace. Legislation such as this will lead to added rigidity to our labor market, and will result in fewer job opportunities, lower product quality, decreased productivity and loss of market share to foreign competition. It is not in the best interest of workers, employers or their families to stifle the current trend toward flexible benefits. Rather than continuing to increase the cost of employment, we need to tailor benefits to the individual needs and circumstances of workers and their families.

ENDNOTES

1. U.S. General Accounting Office, Cost Estimate of the Family and Medical Leave Act of 1989, Presented to the House Committee on Education and Labor, Subcommittee on Labor-Management Relations (February 7, 1989)
2. U.S. General Accounting Office, Cost Estimate of the Family and Medical Leave Act Proposal, Presented to the Senate Committee on Labor and Human Resources, Subcommittee on Children, Family, Drugs, and Alcoholism (February 2, 1989)
3. Nathan Associates, Robert R., The Private and Public Sector Cost of Proposed Legislation Calling for Additional Benefits for Employers (February 3, 1988)
4. Xukorian, "Hiring Costs are not the Same Thing as Recruiting Costs," p. 1 (March 1988)
5. Farish, Philip, Ed., Recruiting Trends (September 1984)
6. U.S. House of Representatives, Report No. 100-511, 100th Cong., 2nd Session (March 9, 1988) p. 63
7. Statement of John Motley III, National Federation of Independent Business before the Senate Subcommittee on Children, Family, Drugs and Alcoholism (February 2, 1989)
8. Testimony of Patricia Ashley, Benefits Manager, Methodist Hospital of Indiana, Inc. (on behalf of the American Society for Personnel Administration) before the Subcommittee on Children, Family, Drugs and Alcoholism, U.S. Senate (February 2, 1989)

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February 16, 1989

The Honorable William L. Clay
 Chairman
 Subcommittee on Labor-Management Relations
 Committee on Education and Labor
 United States House of Representatives
 2451 Rayburn House Office Building
 Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf of the Coalition of Automotive Associations (CAA) concerning the issue of parental leave legislation, specifically the "Family and Medical Leave Act of 1989" (H.R. 770) which your Subcommittee is considering. CAA is an industry association comprised of over 2,200 manufacturers and distributors of aftermarket parts and accessories for motor vehicles. We submit this letter expressing our opposition to this legislation and request that it be included as part of the record of the hearing that was held on February 7th.

While the goal of providing greater protection to the family is laudable, the method of achieving this goal as set out in this bill would prove very costly and could threaten the viability of many businesses such as those within CAA. We include within this category many of our businesses which have more than 50 employees but for practical purposes could still be considered small businesses in terms of their operations and cash flow.

In spite of there being no requirement that an employer pay employees while on parental or medical leave, the employer will still incur substantial costs. To maintain the same level of productivity while an employee is on leave, an employer must hire a replacement. Not only does the employer increase his costs and lose valuable time in screening applicants, he must then pay the expense of training the new employee. All of this expense is wasted 15 weeks later when the temporary employee is terminated and the original employee returns. If the temporary remains, the employer faces a doubled labor cost without a corresponding increase in sales.

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The Honorable William L. Clay
February 16, 1989
Page Two

It appears to the small businessman that the goals of this bill may never be reached. The temporary worker who must be hired and trained faces no job security and will not be able to provide the economic stability to his family that this bill purports to seek. The costs of allowing employees up to four months leave may force some employers to invest in other enterprises which do not have this burden. The jobs sought to be protected by these bills may be put in greater jeopardy by the high costs of the program.

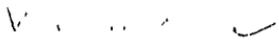
The members of CAA believe that questions of maternity and medical leave are best left to the people who must deal with them first hand. A small business is better able to reach creative solutions to the problems facing an employee's family. The small employer faces a high cost when it loses a trusted, experienced, and well-trained employee. It must hire and retrain a replacement who has uncertain knowledge and experience. The employer already has many incentives to protect an employee's job without Congress mandating a rigid program.

CAA particularly opposes any future proposals which would require an employer to pay an employee while he is on leave. This additional cost would be too great for most small employers to bear, and would eventually force them out-of-business, leaving fewer jobs available to employees.

In summary, the Coalition of Automotive Associations opposes H.R. 770. The high cost of implementing these programs will not achieve the employee protection that is envisioned in the legislation. The goals are best achieved by allowing small employers the discretion to find creative solutions to an employee's family demands which are also the most cost effective to the employer.

Thank you very much for allowing me to submit this testimony. I would be happy to provide you with additional information upon your request.

Sincerely,


JOHN RUSSELL DEANE III

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

1725 K STREET, SUITE 710, N W WASHINGTON, D C • (202) 872-0885

STATEMENT
OF
THE CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS
BEFORE THE
SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS
OF THE
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
FEBRUARY 7, 1989

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STATEMENT
OF
THE CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

INTRODUCTION

The Concerned Alliance of Responsible Employers (the Alliance) appreciates this opportunity to submit testimony on proposed legislation mandating that employers provide leave to employees for family and medical reasons.

The Alliance is a coalition of over 170 trade associations, professional societies, individual corporations and citizens groups. Its members represent manufacturers, wholesaler-distributors, retailers, restaurateurs, grocers, builders and all other sectors of the business economy. Overall, the Alliance consists of hundreds of thousands of individuals and over one million businesses, as well as the personnel administrators who oversee business' benefit plans and the school boards which administer the education of our children. A list of our members is attached.

The Alliance's mission is to support the rights of employers and employees to decide the work and family benefits which are best suited to their individual and mutual needs. The members of the Alliance believe that the private sector is best equipped and provides the most flexible and efficient response to the changing demands and requirements of its workforce.

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EMPLOYERS ARE RESPONDING TO FAMILY NEEDS

In response to the growing number of workers with family responsibilities, employers have instituted a variety of programs to assist workers meet dual work-family demands. According to recent reliable statistics:

- o Flexible scheduling has doubled in the past ten years;
- o More than eighty percent of companies provide pregnancy leave;
- o Unpaid maternity leave is granted to public employees in 44 states and unpaid paternity leave in 31 states;
- o Forty-one percent of companies of 2,500 or more employees provide some kind of eldercare assistance and another 17 percent are considering such help;
- o Although few firms currently provide child care benefits, 58 percent of respondents to a 1988 survey said their organizations are thinking about offering child care benefits;
- o Fully 60 percent of all employers have work schedule policies that can aid parents in caring for their children.

Other private sector family and medical benefit initiatives include short and long term disability, employee assistance programs, flexible benefit accounts and adoption assistance.

Due to the changing demographics of the American workforce, employers have undergone an evolution in their benefit policies. Twenty-five years ago, maternity leave was a rarity; today it is a standard benefit. Flexitime is a concept which became a reality for many workers within a very short period of time.

Additionally, employers are expanding their benefits to include a greater number of older workers. Those benefits include prescription drug benefits, retiree health plans and long-term health care policies.

EMPLOYERS AND WORKERS HAVE UNIQUE NEEDS

Retention of experienced, trained workers is critical to a business' economic viability and its ability to compete in a global marketplace. Employers must be given the opportunity to change with changing times in order to respond to the ever-changing needs of their individual workforces. Those benefits are as unique as each company is itself. Some firms may employ workers who prefer a comprehensive catastrophic health benefit. Others may find that a cafeteria-style benefits plan best suits a wide variety of benefit needs, while still others may wish to implement a flexible time schedule in order to meet varied business cycles and the scheduling requirements of workers. The Alliance encourages employers to explore all avenues of accommodation and change to that end.

The Alliance does not support across-the-board government mandates which undeniably neglect to take into consideration the individual circumstances of each employer and the particular needs of the individuals in his or her workforce. While the intention of family and medical leave legislation may be, on its surface, an honorable one, the Alliance is convinced that mandating leave across-the-board will place much more at risk than any additional benefit it may bestow upon the American workforce.

WHAT'S AT RISK

In all businesses, benefit packaging is a zero-sum game. There are only so many dollars to distribute to all employees in a particular workforce. The types and feasibility of benefit packages differ for each employer based on a variety of factors, such as type of business or industry, size and skill of workforce, individual needs, competing standards in the industry by geographic location and the ability to absorb or pass on costs. It is simply impossible for government policy to decide for each of America's 112 million employees which benefit is the most important. When one particular benefit is mandated, other, perhaps more important benefits may be eliminated to accommodate the one mandated. For example, it is patently unfair to mandate that a benefit plan for a 55-year-old woman, for example, contain a parental leave provision when such a mandate might well preclude the offering of a benefit such as paid prescriptions, which is much more important for this particular employee. Concurrently, as mentioned earlier, many employers are exploring the implementation of day care assistance for workers with dependent children. An employer would be much less likely to voluntarily provide that benefit if he or she is forced to factor a mandatory leave element into a benefit package.

Further, one of the most important benefit problems for small to mid-level companies is the rising cost of basic health insurance. Legislating new benefits and requiring benefit coverage at employer cost during extended leave periods will

only exacerbate that problem. Moreover, mandating benefits with continued coverage during the leave period will undoubtedly act as a disincentive for employers to offer health insurance.

COSTS AND PRACTICAL PROBLEMS

The cost of the proposed mandated leave is one which is difficult, if not impossible, to accurately estimate. The cost of an absent employee for an extended period of time would vary from employer to employer. For example, the absence of a top producing salesperson may be apparent to a company's bottom line; what may not be as apparent, but could be equally important, is the cost of the absence of an efficient and pleasant receptionist, from whom clients and customers receive their first impression of a company, or a skilled word processor operator who is essential to the smooth operation of a business.

Some employers face a unique problem relating to the terms of their collective bargaining agreements. To protect the security of current union employees, the maximum time any temporary may stay within the craft classification is 60 days. In other words, a temporary could actually become a "temporary replacement," such that more than one temporary would be required to cover the leave period.

The alternative solution -- covering for the missing employee with overtime from other workers -- presents another set of problems. If an employer foregoes a replacement and asks existing employees to fill in, he faces overtime costs at time-and-a-half or double time, less productivity, and employee

morale problems.

Due to the competitive nature of today's business, necessary bid figures for contracts are usually quite precise and the margin for error slight. The concept of using overtime would require the employee, in order for the job to come in on time and within budget, to produce 150 percent of the normal hourly work. Practical reality indicates that this is not likely to happen. Overtime costs must then be absorbed by the business, reducing or eliminating profits.

Thus, not only are the problems inherent with leave mandates as varied as the different industries which make up the American economy, it is naive at best to assume that the value of each individual employee's contribution to the success or failure of an enterprise is inconsequential.

CONCLUSION

It is the Alliance's strongly-held position that the best public policy provides the most flexibility within the private sector. Our society is still exploring ways to adjust to the changing demographics of the workforce and there is a need to develop a new balance between the demands of work and the needs of family. Indeed, employers are and will continue to be part of the answer and those who are most flexible will certainly gain a competitive business edge. We strongly urge Congress to preserve that flexibility and oppose mandates which will jeopardize it.

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

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CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

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American Association of Nurserymen
 American Bakers Association
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 American Feed Industry Association
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 American Institute of Architects
 American Machine Tool Distributors Association
 American Meat Institute
 American Retail Federation
 American Society for Personnel Administration
 American Subcontractors Association
 Amway Corporation
 Associated Builders & Contractors
 Associated General Contractors
 Association of the Wall & Ceiling Industries
 BP America, Inc.
 Bowling Proprietors' Association of America, Inc.
 CF Industries, Inc.
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 Family Research Council
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 International Ice Cream Association
 International Mass Retailing Association
 International Sanitary Supply Association
 Marriott Corporation
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 National American Wholesale Grocers Association
 National Association of Chain Drug Stores
 National Association of Chemical Distributors
 National Association of Convenience Stores
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 National Association of Tobacco Distributors
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 National Automobile Dealers Association

National Candy Wholesalers Association
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National Grocers Association
National Intergroup Inc.
National Lumber & Building Material Dealers Association
National Restaurant Association
National Retail Merchants Association
National School Boards Association
National School Transportation Association
National Wholesale Druggists' Association
PepsiCo
Philips Petroleum Company
Printing Industries of America
Revco
Sears Roebuck & Company
Small Business Legislative Council
Snack Food Association
Society of American Florists
United Fresh Fruit & Vegetable Association
Wholesale Florists & Florist Suppliers of America
Wine and Spirits Wholesalers of America

January 25, 1989

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CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

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 American Supply Association
 American Traffic Safety Services Association, Inc.
 American Veterinary Distributors Association
 Appliance Parts Distributors Association, Inc.
 Associated Equipment Distributors
 Association of Steel Distributors
 Automotive Service Industry Association
 Aviation Distributors & Manufacturers Association
 Bearing Specialists Association
 Beauty & Barber Supply Institute
 Bicycle Wholesale Distributors Association
 Biscuit & Cracker Distributors Association
 Ceramic Tile Distributors Association
 Columbia Steel Casting Company
 Copper & Brass Servicer Association
 Council for Periodical Distributors Association
 Council of Wholesale Distributors (NKBA)
 Door & Hardware Institute
 Explosives Distributors Association
 Farm Equipment Wholesalers Association
 Fire Suppression Systems Association
 Fluid Power Distributors Association, Inc.
 Food Industries Suppliers Association
 Foodservice Equipment Distributors Association
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 Health Industry Distributors Association
 Hobby Industry Association of America
 Independent Bakers Association
 Independent Medical Distributors Association
 Industrial Distributors Association
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 International Sanitary Supply Association
 International Truck Parts Association
 Irrigation Association
 Jewelry Industry Distributors Association
 Machinery Dealers National Association
 Motorcycle Industry Council
 Music Distributors Association
 National Appliance Parts Suppliers Association
 National Association for Hose & Accessories Distributors

National Association of Aluminum Distributors
 National Association of Container Distributors
 National Association of Decorative Fabric Distributors
 National Association of Electrical Distributors
 National Association of Floor Covering Distributors
 National Association of Marine Services
 National Association of Meat Purveyors
 National Association of Manufacturing Opticians
 National Association of Plastics Distributors
 National Association of Service Merchandise Distributors
 National Association of Sporting Goods Wholesalers
 National Association of Writing Instruments Distributors
 National Beer Wholesalers Association
 National Building Materials Distributors Association
 National Business Forms Association
 National Commercial Refrigeration Sales Association
 National Electronic Distributors Association
 National Food Distributors Association
 National Frozen Food Association
 National Independent Poultry & Food Association
 National Industrial Glove Distributors Association
 National Industrial Belting Association
 National Lawn and Garden Distributors Association
 National Locksmiths' Suppliers Association
 National Marine Distributors Association
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 National Plastercraft Association
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 National Sash & Door Jobbers Association
 National School Supply and Equipment Association
 National Solid Wastes Management Association
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 National Truck Equipment Association
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 National Wheel & Rim Association
 National Wholesale Furniture Association
 National Wholesale Hardware Association
 North American Heating & Airconditioning Wholesalers
 North American Wholesale Lumber Association
 Optical Laboratories Association
 Outdoor Power Equipment Distributors Association
 Pet Industry Distributors Association
 Petroleum Marketers Association of America
 Power Transmission Distributors Association
 Safety Equipment Distributors Association
 Scaffold Industry Association
 Security Equipment Industry Association
 Spring Service Association

Steel Service Center Institute
Textile Care Allied Trades Association
Toy Wholesalers' Association of America
United Pesticide Formulators & Distributors Association
Video Software Dealers Association
Wallcovering Distributors Association
Warehouse Distributors Association
Water and Sewer Distributors of America
Wholesale Florists & Florist Suppliers of America
Wholesale Stationers' Association, Inc.
WISE Incorporated
Woodworking Machinery Distributors Association
Woodworking Machinery Importers Association

January 5, 1989



WRITTEN TESTIMONY

of
Gary L. Bauer

before the
Subcommittee on Labor Management Relations
of the House Education and Labor Committee

MR. CHAIRMAN, I WANT TO THANK YOU FOR THE OPPORTUNITY TO PRESENT WRITTEN TESTIMONY BEFORE YOUR SUBCOMMITTEE ON THE SUBJECT OF PARENTAL LEAVE LEGISLATION.

MR. CHAIRMAN, I WANT YOU AND THE MEMBERS OF YOUR COMMITTEE TO KNOW AT THE OUTSET THAT I STRONGLY ENDORSE MANY OF THE UNDERLYING PRINCIPLES BEHIND PARENTAL LEAVE LEGISLATION. I BELIEVE THERE IS MERIT TO ENCOURAGING PARENTS TO SPEND TIME WITH THEIR CHILDREN, PARTICULARLY WHEN THEIR CHILDREN ARE AT VULNERABLE STAGES IN THEIR DEVELOPMENT. MOREOVER, I BELIEVE THERE IS MERIT TO URGING EMPLOYERS TO RECOGNIZE THAT THERE ARE TIMES WHEN FAMILY RESPONSIBILITIES SHOULD TAKE PRECEDENCE OVER WORK OBLIGATIONS.

SO, THE CONCEPT OF PARENTAL LEAVE, THE CONCEPT OF GIVING EMPLOYEES A BREAK FROM WORK SO THEY CAN DEVOTE THEMSELVES TO MORE IMPORTANT FAMILY RESPONSIBILITIES IS BOTH SOUND AND PRAISEWORTHY.

MR. CHAIRMAN, AS I HAVE EXAMINED SOME OF THE PARENTAL LEAVE PROPOSALS NOW BEING CONSIDERED BY THE CONGRESS, I MUST TELL YOU THAT I HAVE SOME VERY SERIOUS CONCERNS ABOUT THE DIRECTION FEDERAL LEGISLATION IS TAKING. INDEED, I AM FEARFUL THAT MEMBERS OF YOUR COMMITTEE AND OTHER LEGISLATORS IN BOTH HOUSES MAY BE OVERLOOKING FOUR FUNDAMENTAL FLAWS IN THE CURRENT LEGISLATION.

1. NO MONEY

RATHER THAN PUSHING FOR A POLICY WHICH PROVIDES ECONOMIC ASSISTANCE TO THE PARENTS OF YOUNG CHILDREN, BOTH THE HOUSE AND SENATE VERSIONS OF THE FAMILY AND MEDICAL LEAVE ACT PROPOSE UNPAID LEAVE. ACCORDINGLY, PARENTAL LEAVE LEGISLATION WOULD NOT SIGNIFICANTLY HELP FINANCIALLY STRAPPED PARENTS WHO CANNOT EASILY AFFORD TO GO WITHOUT A PAYCHECK FOR AN EXTENDED PERIOD OF TIME. INSTEAD, THE CHIEF BENEFICIARIES OF THIS LEGISLATION WOULD BE RELATIVELY WELL-TO-DO PARENTS, A FACT WHICH HAS PROMPTED SOME CRITICS TO CALL UNPAID PARENTAL LEAVE "A WINDFALL FOR YUPPIES."

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CLEARLY, PARENTAL LEAVE MUST BE ACCOMPANIED BY SOME TYPE OF ECONOMIC ASSISTANCE SO THAT FINANCIALLY-STRAPPED PARENTS CAN BETTER AFFORD TO TAKE TIME OFF TO BE WITH THEIR CHILDREN. WHILE REQUIRING THAT LEAVE BE PAID MIGHT APPEAR TO BE THE MOST LOGICAL MEANS OF OFFERING PARENTS SUCH SUPPORT, MANDATORY PAID LEAVE WOULD SIGNIFICANTLY INCREASE LABOR COSTS AND INVARIABLY CAUSE HIGHER UNEMPLOYMENT.

THUS, OTHER WAYS OF OFFERING ECONOMIC ASSISTANCE TO PARENTS -- INCLUDING THE CREATIVE USE OF TAX CREDITS -- MUST BE EXPLORED OTHERWISE, PARENTAL LEAVE LEGISLATION WILL PROVE TO BE A BOON ONLY FOR UPPER-INCOME TWO-EARNER FAMILIES.

2. NO SIGNIFICANT VALUE

PARENTAL LEAVE'S PRIMARY OBJECTIVE IS TO GIVE FAMILY-ORIENTED EMPLOYEES TIME OFF FROM WORK TO ATTEND TO MORE IMPORTANT MATTERS AT HOME. ACCORDINGLY, ITS VALUE IS DIRECTLY TIED TO THE EXTENT OF LEAVE ALLOTTED, FOR IF THE TIME PERMITTED IS NOT SUFFICIENT TO MEET NEEDS AT HOME, THE LEAVE FAILS TO SERVE ITS INTENDED PURPOSE.

UNFORTUNATELY, THE EXISTING BILLS DO NOT OFFER A SUFFICIENT LEAVE PERIOD FOR PARENTS TO SPEND WITH YOUNG CHILDREN. BOTH THE 10-WEEK MAXIMUM CURRENTLY BEING PROPOSED AND THE 18-WEEK STANDARD THAT WAS ORIGINALLY OFFERED FALL WELL SHORT OF WHAT LEADING CHILD DEVELOPMENT EXPERTS SAY CHILDREN NEED. SOME EXPERTS, LIKE DR. T. BERRY BRAZELTON AND EDWARD ZIGLER, SAY MOTHERS SHOULD DELAY WORK FORCE RE-ENTRY AT LEAST SIX TO TWELVE MONTHS AFTER THE BIRTH OF A CHILD. OTHERS, LIKE DR. BURTON WHITE AND BYRNA SEGAL, SAY CHILDREN NEED PRIMARY CARE BY A MOTHER FOR AT LEAST TWO AND ONE-HALF TO THREE YEARS. STILL OTHERS, LIKE DR. JAMES DOBSON AND RAYMOND MOORE, ARGUE THAT THE IDEAL SITUATION IS ONE WHERE CHILDREN RECEIVE PRIMARY MATERNAL CARE UNTIL THEY ENROLL IN SCHOOL.

WHILE THERE MAY BE SOME DISAGREEMENT AMONG PROFESSIONALS ABOUT HOW LONG CHILDREN NEED PRIMARY PARENTAL CARE, THERE IS AN OVERWHELMING CONSENSUS AMONG CHILD DEVELOPMENT EXPERTS THAT 10 TO 18 WEEKS IS NOT ENOUGH. INDEED, IT IS NOT EVEN CLOSE.

RECENT RESEARCH SHOWS THAT MATERNAL BONDING IS INHIBITED WHEN THE MOTHER KNOWS SHE WILL NOT BE STAYING HOME WITH HER BABY FOR AN EXTENDED PERIOD OF TIME. ACCORDING TO PSYCHOLOGIST JAMES DOBSON, "THE KNOWLEDGE THAT SHE WILL SUBMIT HER INFANT TO A CARETAKER SHORTLY AFTER BIRTH APPARENTLY CAUSES HER TO DISTANCE HERSELF FROM THE CHILD, EVEN PRENATALLY."

DESPITE SUCH FINDINGS, CURRENT LEGISLATION DOES ENJOY SUPPORT FROM SOME CHILD DEVELOPMENT EXPERTS AND CHILD ADVOCATES. THEIR THINKING IS, "HALF A LOAF IS BETTER THAN NONE." WHILE THIS RATIONALE CERTAINLY HAS SOME MERIT, I WONDER WHAT WOULD HAPPEN IF THIS LOGIC WERE APPLIED TO OTHER AREAS OF CHILD CARE. FOR EXAMPLE, WOULD ANYONE DARE SAY HALF A CRIB IS BETTER THAN NONE OR THAT HALF A DIAPER IS BETTER THAN NONE? I THINK NOT.

CLEARLY, A CHILD'S NEED FOR TIME WITH HIS PARENTS IS NOT GOING TO BE MET A "HALF A LOAF" LEAVE POLICY. INDEED, A PARENTAL LEAVE POLICY WHICH CALLS FOR ONLY 10 TO 18 WEEKS OF INTENSE PARENT-CHILD INTERACTION IS NOT REALLY MEETING CHILDREN'S NEEDS; IT IS MERELY ENGAGING IN DAMAGE CONTROL.

I HAVE A HARD TIME UNDERSTANDING WHY PARENTAL LEAVE SUPPORTERS ARE SO TIMID ABOUT CALLING FOR MORE EXTENSIVE LEAVE PERIODS. AFTER ALL, SOME INDUSTRIALIZED COUNTRIES, LIKE AUSTRIA AND SWEDEN, PERMIT UP TO ONE YEAR OF PARTIALLY-PAID PARENTAL LEAVE. AND THE U.S. GOVERNMENT OFFERS FIVE YEARS OF JOB-PROTECTED LEAVE TO ANYONE WHO ENLISTS IN THE ARMED SERVICES OR SERVES ON ACTIVE DUTY IN THE RESERVES. IF PARENTAL LEAVE CHAMPION CHRIS DODD REALLY BELIEVES IT IS TIME TO "FOLLOW THE EXAMPLE OF THE ARMED FORCES," WHY ARE HE AND HIS COLLEAGUES DEFINING LEAVE PERIODS IN TERMS OF WEEKS INSTEAD OF YEARS? WHY ISN'T HE PUSHING FOR A FIVE-YEAR LEAVE FOR PARENTS AS WELL?

PERHAPS PART OF THE REASON PARENTAL LEAVE ADVOCATES HAVE NOT PUSHED FOR LONGER LEAVES IS BECAUSE THEY FEAR EXTENDED TIME OFF FROM WORK WOULD HINDER CAREER ADVANCEMENT FOR WOMEN (WHO ARE CONSIDERED MORE LIKELY TO TAKE LEAVE THAN MEN). BUT RECENT RESEARCH SUGGESTS THIS FEAR IS LARGELY UNFOUNDED.

"MANY OF TODAY'S MOST SUCCESSFUL WOMEN HAD A SEQUENCING PATTERN TO THEIR LIVES," NOTES EDITH FIERST, A WASHINGTON LAWYER WHO HAS DONE RESEARCH ON SUCCESSFUL CAREER WOMEN. RATHER THAN TRYING TO JUGGLE CAREER AND FAMILY RESPONSIBILITIES SIMULTANEOUSLY, THESE "SEQUENCERS" TEMPORARILY INTERRUPTED THEIR PROFESSIONAL LIVES TO BE HOME WITH YOUNG CHILDREN.

AUTHOR ARLENE ROSSEN CARDOZO SAYS SEQUENCERS, "DO IT ALL, BUT NOT ALL AT ONCE -- THEY INTEGRATE IN ALL INTO A WHOLE LIFETIME." AMONG THE MOST PROMINENT SEQUENCERS ARE U.S. SUPREME COURT JUSTICE SANDRA DAY O'CONNOR (WHO TOOK OFF FROM WORK FIVE YEARS TO BE WITH HER CHILDREN) AND FORMER U.N. AMBASSADOR JEANE KIRKPATRICK (WHO DEVOTED NINE YEARS TO RAISING CHILDREN FULL-TIME).

3. NO RECIPROCITY

APART FROM FAMILY TO PROVIDE ON FINANCIAL ASSISTANCE OR AN ADEQUATE LEAVE TIME , CURRENT LEGISLATIVE PROPOSALS FAIL TO OFFER BENEFITS TO ANYONE BUT PARENTS.

ON THE FACE OF IT, THIS DOES NOT SEEM LIKE A SERIOUS CONCERN. AFTER ALL, SINCE THE GOAL OF PARENTAL LEAVE LEGISLATION IS TO ENCOURAGE PARENT-CHILD BONDING, WHY SHOULD ANYONE BE TERRIBLY INTERESTED IN THE BILL'S IMPACT ON NON-PARENTS?

THE REASON IS SIMPLE. SINCE NON-PARENTS ARE IN DAILY COMPETITION WITH PARENTS IN THE WORK WORLD, GOVERNMENT-MANDATED BENEFITS DESIGNED TO HELP EMPLOYED PARENTS WILL ACTUALLY DO MORE HARM THAN GOOD UNLESS RECIPROCAL BENEFITS ARE OFFERED TO OTHER EMPLOYEES. AS ALLAN CARLSON OF THE ROCKFORD INSTITUTE EXPLAINS, "SO LONG AS THERE ARE WORKERS WHO DO NOT VALUE THESE [PARENTAL LEAVE] BENEFITS, THE GAINS WON BY PARENTS SERVE ONLY TO HIGHLIGHT THEIR GREATER COST TO EMPLOYERS."

ACCORDINGLY, A MANDATED LEAVE POLICY WHICH DOES NOT OFFER RECIPROCAL BENEFITS TO OTHER EMPLOYEES CAN BE EXPECTED TO HAVE A CHILLING EFFECT ON THE HIRING AND PROMOTION OF FAMILY-ORIENTED WORKERS -- PARTICULARLY WOMEN OF CHILDBEARING AGE.

PERHAPS THE BEST MEANS OF OFFERING RECIPROCAL BENEFITS IS THROUGH A FLEXIBLE (OR CAFETERIA) BENEFITS PLAN. THESE PLANS GIVE EMPLOYEES THE OPPORTUNITY TO CHOOSE FROM A MENU OF BENEFIT OPTIONS, THEREBY ENABLING THE COMPANY'S BENEFIT PACKAGE TO BE TAILORED TO THE PARTICULAR NEEDS OF EACH EMPLOYEE. UNDER SUCH A PLAN, EMPLOYEES WHO DESIRE PARENTAL LEAVE CAN OPT FOR IT, WHILE THOSE WHO PREFER OTHER OPTIONS CAN CHOOSE SUCH BENEFITS.

4. NO FLEXIBILITY

ACCORDING TO LEAVE PROPONENT SYLVIA HEWLETT, PARENTAL LEAVE AND OTHER FAMILY-SENSITIVE WORK POLICIES (FLEX-TIME, CHILD CARE, JOB SHARING, PART-TIME WORK, HOME-BASED EMPLOYMENT, ETC.) CAN PAY SIGNIFICANT DIVIDENDS TO BUSINESSES IN IMPROVED MORALE, GREATER PRODUCTIVITY, AND HIGHER EMPLOYEE RETENTION.

WHILE THIS IS NO DOUBT TRUE IN SOME CASES THERE ARE MANY BUSINESSES WHICH PERCEIVE THE COSTS OF PARENTAL LEAVE TO BE SIGNIFICANTLY GREATER THAN ITS BENEFITS. INDEED, MOST ORGANIZED OPPOSITION TO THE EXISTING PARENTAL LEAVE BILLS HAS BEEN GENERATED BY BUSINESS GROUPS CONCERNED ABOUT THE SHORT- AND LONG-TERM COSTS OF MANDATORY LEAVE ON EMPLOYERS -- COSTS WHICH INVARIABLY WOULD BE PASSED ON TO OTHERS.

FOR EXAMPLE, ONE OF THE GREATEST DRAWBACKS OF A GOVERNMENT-MANDATED LEAVE POLICY IS THAT IT COULD CAUSE SOME FAMILY-ORIENTED WORKERS TO LOSE OTHER, MORE DESIRABLE, EMPLOYEE BENEFITS (SUCH AS HEALTH INSURANCE) IF THEIR EMPLOYERS COULD NOT AFFORD TO OFFER BOTH.

IT SEEMS TO ME THE MOST APPROPRIATE PUBLIC POLICY RESPONSE TO THIS DILEMMA WOULD BE TO HELP BUSINESSES BEAR SOME OF THE COSTS OF PARENTAL LEAVE (AND THEREBY MAKE IT A MORE ATTRACTIVE AND AFFORDABLE EMPLOYEE BENEFIT). UNFORTUNATELY, THIS IS NOT THE TACK LEAVE PROPONENTS HAVE TAKEN.

RATHER THAN OFFERING INCENTIVES FOR EMPLOYERS TO ADOPT RESPONSIBLE WORK POLICIES, CURRENT LEGISLATIVE PROPOSALS ATTEMPT TO CRAM A LEAVE POLICY DOWN THEIR THROATS. RATHER THAN PUSHING FOR FLEXIBLE BUSINESS POLICIES, CURRENT PROPOSALS ATTEMPT TO FORCE EMPLOYERS TO ACCEPT A WATERED-DOWN LEAVE POLICY.

CLEARLY, AMERICAN'S FAMILY-ORIENTED WORKERS WOULD BE BETTER SERVED IF PARENTAL LEAVE ADVOCATES WOULD TRADE IN THEIR STICKS FOR SOME CARROTS. I SAY THIS BECAUSE FLEXIBILITY IS THE KEY TO MAKING THE WORK-PLACE MORE RESPONSIBLE TO THE NEEDS OF AMERICA'S FAMILIES. AND THE NEED FOR FLEXIBILITY SUGGESTS THAT THE FEDERAL GOVERNMENT'S ROLE IN PARENTAL LEAVE SHOULD BE ONE OF OFFERING INCENTIVES -- NOT ULTIMATUMS.

GOING AFTER THE WHOLE LOAF

ALLEVIATING ECONOMIC PRESSURE ON FINANCIALLY-STRAPPED FAMILIES IS THE MOST APPROPRIATE PLACE TO BEGINNING A QUEST FOR A "WHOLE LOAF" PARENTAL LEAVE POLICY. AS IT WAS NOTED EARLIER, UNLESS SOME TYPE OF FINANCIAL ASSISTANCE TO FAMILIES IS OFFERED, MANY PARENTS WILL FIND AN EXTENDED JOB LEAVE UNAFFORDABLE.

THE SIMPLEST AND MOST EQUITABLE WAY FOR THE FEDERAL GOVERNMENT TO ALLEVIATE ECONOMIC PRESSURE ON FAMILIES WITH CHILDREN IS TO SUBSTANTIALLY REDUCE THEIR TAX LIABILITY. INDEED, PART OF THE REASON PARENTS TODAY FACE SIGNIFICANT ECONOMIC CONSTRAINTS IS BECAUSE FAMILIES WITH CHILDREN HAVE BEEN FORCED TO BEAR AN INCREASING SHARE OF THE FEDERAL INCOME TAX BURDEN DURING THE LAST FOUR DECADES. IN 1950, A MEDIAN-INCOME FAMILY OF FOUR PAID TWO PERCENT OF ITS GROSS EARNINGS TO THE FEDERAL GOVERNMENT IN INCOME AND PAYROLL TAXES. TODAY, A MEDIAN-INCOME FAMILY OF FOUR PAYS 24 PERCENT OF ITS EARNINGS TO THE FEDERAL GOVERNMENT.

THERE ARE A NUMBER OF WAYS TO REDUCE THE TAX LIABILITY OF AMERICA'S PARENTS, BUT THERE IS PERHAPS NONE MORE PROMISING THAN UNIVERSALIZING THE CURRENT CHILD CARE TAX CREDIT. INDEED, SEVERAL DYNAMIC PROPOSALS TO UNIVERSALIZE THE CHILD CARE TAX CREDIT HAVE BEEN RECENTLY INTRODUCED.

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THE GREAT VIRTUE OF THESE PROPOSALS IS THAT THEY DO NOT DISCRIMINATE AGAINST FAMILIES THAT CARE FOR THEIR OWN CHILDREN (AS THE CURRENT CHILD CARE TAX CREDIT DOES). AS SUCH, PROPOSALS TO UNIVERSALIZE THE CHILD CARE TAX CREDIT HELP ALL PARENTS OF YOUNG CHILDREN -- INCLUDING THOSE WHO TAKE LEAVE FROM THEIR JOBS TO CARE FOR YOUNG CHILDREN.

ADOPTING A UNIVERSAL CHILD CARE TAX CREDIT WOULD NOT ONLY FACILITATE PARENTAL CARE OF YOUNG CHILDREN, BUT IT WOULD ALSO PREVENT FEDERAL PRESCHOOL POLICY FROM BECOMING SCHIZOPHRENIC. IF CURRENT PARENTAL LEAVE LEGISLATION PASSED AND NO CHANGES WERE MADE IN THE EXISTING CHILD CARE TAX CREDIT, THE FEDERAL GOVERNMENT WOULD BE SIMULTANEOUSLY URGING PARENTS TO TAKE LEAVE FROM THEIR JOBS TO CARE FOR THEIR NEWBORNS WHILE OFFERING A TAX CREDIT ONLY TO THOSE WHO REFUSED SUCH LEAVE AND PAID FOR SUBSTITUTE CHILD CARE.

OFFERING JOB PROTECTION

WHILE TAX RELIEF TO FAMILIES WITH CHILDREN MAKES IT MORE AFFORDABLE FOR FINANCIALLY-STRAPPED PARENTS TO CARE FOR THEIR OWN CHILDREN, A UNIVERSAL CHILD CARE TAX CREDIT DOES NOT ADDRESS THE ISSUE OF JOB REINSTATEMENT OF PARENTS WHO TAKE OFF FROM WORK TO CARE FOR CHILDREN. TO ADDRESS THIS CONCERN, THE FEDERAL GOVERNMENT SHOULD OFFER TAX INCENTIVES TO BUSINESSES THAT OFFER FLEXIBLE BENEFIT PLANS WHICH INCLUDE PARENTAL LEAVE AND OTHER FAMILY-SENSITIVE EMPLOYEE BENEFITS.

GIVING TAX BREAKS TO BUSINESSES WHICH OFFER FLEXIBLE BENEFIT PLANS WOULD PROTECT THE COMPETITIVE POSITION OF EMPLOYED PARENTS AND ENSURE THAT PARENTAL LEAVE POLICIES DO NOT HAVE A CHILLING EFFECT ON THE HIRING AND PROMOTION OF FAMILY-ORIENTED WORKERS. IN ADDITION, CORPORATE TAX BREAKS WOULD HELP OFFSET SOME OF THE BUSINESS COST OF OFFERING FAMILY-SENSITIVE BENEFITS, THEREBY ENCOURAGING A PROLIFERATION OF THESE POLICIES.

TO ENCOURAGE BUSINESSES TO MAKE JOB-PROTECTED LEAVE PERIODS AS LONG AS POSSIBLE, THE GOVERNMENT COULD LINK THE SIZE OF CORPORATE TAX BREAKS TO THE LENGTH OF TIME GRANTED IN LEAVE. THE GREATER THE LEAVE PERIOD, THE GREATER THE TAX BREAK. AND SINCE ACTUAL PRACTICE IS MORE IMPORTANT THAN WRITTEN POLICY, TAX RELIEF WOULD NEED TO BE TIED TO THE AVERAGE LEAVE TAKEN RATHER THAN THE MAXIMUM ALLOWED.

AS FAR AS HEALTH BENEFIT CONTINUANCE IS CONCERNED, IT MAY BE APPROPRIATE TO MAKE THIS AN OPTIONAL BENEFIT. THOSE EMPLOYEES WANTING LEAVE WITH HEALTH COVERAGE WOULD FORFEIT SOME OTHER PERK AVAILABLE TO THOSE WANTING LEAVE WITHOUT HEALTH COVERAGE.

CORPORATE TAX BREAKS FOR ESTABLISHING FLEXIBLE BENEFIT PLANS WOULD NO DOUBT HELP MANY FAMILY-ORIENTED WORKERS. NOT ONLY WOULD CORPORATIONS BE MORE LIKELY TO OFFER SUBSTANTIAL JOB-PROTECTED LEAVE, BUT THEY WOULD ALSO BE MORE INCLINED TO EXPAND PART-TIME AND HOME-BASED WORK OPPORTUNITIES. THESE ARRANGEMENTS ENABLE PARENTS TO SIMULTANEOUSLY COMBINE EMPLOYMENT WITH CHILD-REARING, AND THEY OFTEN SERVE AS A CONSTRUCTIVE TRANSITORY ARRANGEMENT FOR PARENTS PURSUING A SEQUENCING STRATEGY TO CAREER AND FAMILY GOALS.

THE QUESTION OF AFFORDABILITY

NATURALLY, AN INCENTIVE-BASED PARENTAL LEAVE POLICY WOULD REDUCE FEDERAL REVENUES. CONSEQUENTLY, SOME TIGHT-FISTED LEGISLATORS WOULD UNDOUBTEDLY VIEW THIS PROPOSAL AS UNAFFORDABLE IN LIGHT OF THE CURRENT BUDGET DEFICIT.

WHILE CONCERN FOR THE DEFICIT IS WHOLLY APPROPRIATE, THERE IS NOTHING WHICH SAYS THAT TAX CREDITS FOR PARENTS AND TAX BREAKS FOR FAMILY-SENSITIVE EMPLOYERS COULD NOT BE OFFSET BY CONCOMITANT REDUCTIONS IN GOVERNMENT SPENDING. SURELY EVEN THE MOST ARDENT DEFENDER OF BIG GOVERNMENT WOULD ACKNOWLEDGE THAT THERE ARE FEDERAL SPENDING PROGRAMS THAT COULD WITHSTAND SOME REDUCTION.

THUS, WHEN LEGISLATORS SAY TAX RELIEF FOR FAMILIES CANNOT BE AFFORDED, WHAT THEY ARE REALLY SAYING IS THAT HELPING FAMILIES IS NOT HIGH ON THEIR LIST OF PRIORITIES.

THE BOTTOM LINE

PERMITTING PARENTS TO TAKE OFF FROM WORK TO BE WITH THEIR YOUNG CHILDREN IS TOO IMPORTANT AN IDEA TO HAVE RUINED BY A MANDATORY PARENTAL LEAVE POLICY. IF FEDERAL LEGISLATORS REALLY WANT TO MAKE IT POSSIBLE FOR FAMILIES TO CARE FOR THEIR OWN CHILDREN DURING THE CRITICAL EARLY STAGES OF LIFE, THEY SHOULD PROVIDE TAX RELIEF TO PARENTS OF YOUNG CHILDREN AND TAX INCENTIVES TO BUSINESSES THAT ADOPT RESPONSIBLE WORK POLICIES.

STATEMENT
OF
THE INTERNATIONAL SANITARY SUPPLY ASSOCIATION
BEFORE THE
HOUSE SUBCOMMITTEE ON LABOR - MANAGEMENT RELATIONS
OF THE
EDUCATION AND LABOR COMMITTEE
FEBRUARY 7, 1982

Mr. Chairman: My name is E. Allen James, and I am President of the International Sanitary Supply Association (ISSA). We appreciate the opportunity to submit this statement as part of the official hearing record on the Family and Medical Leave Act of 1989 (HR 770), which is before the House Subcommittee on Labor Management Relations of the Education and Labor Committee. We commend you and your colleagues for considering the status of employee benefits in this country.

ISSA is a voluntary non-profit membership association consisting of about 3400 companies, located in every state, that are engaged in the manufacture, formulating distribution and sale of antimicrobial and general cleaning and maintenance products used in institutional and industrial establishments such as hospitals, nursing homes, schools, restaurants, hotels and food processing plants. Our products include disinfectants, sanitizers, germicides and other products utilized to protect public health and safety. As such, our industry is heavily regulated under the authority of the Environmental Protection Agency and the Occupational Safety & Health Administration. Chemical products must be scientifically formulated and applied according to specific directions to avoid misuse.

ISSA members also produce brooms, brushes, plastic bags, deodorants, floor finishes and seals, floor maintenance pads, soap, mopping equipment, mops, rug and carpet shampoos, toilet bowl and drain cleaners, and paper products such as hand towels and toilet tissue. Collectively, we manufacture, produce and distribute almost \$19 billion in goods and services.

By its very nature, the cleaning and maintenance industry is very competitive and labor intensive. The industry is essentially composed of small businesses (65% of ISSA's membership have sales under \$2 million) employing less than 30 employees. These

producers and formulators sell a wide variety of low volume, low profit products. As such, employee wages and benefits constitute a significant portion of the cost of doing business, and must be tailored to each company. Efficient management is a key to success.

Many of our members' customers provide cleaning and maintenance services and frequently employ less than 10 people. Neither we nor they operate on a high profit margin, and find ourselves constantly affected by the whims of the marketplace. Therefore, we must tightly control our costs, especially our benefits package.

Most companies offer a fair package of benefits depending on the size and nature of their operations. Currently, Federal law requires all employers to provide three types of worker benefits: Social Security, unemployment compensation, and workers' compensation. Other benefits, such as health care or pensions, are almost universally offered by large employers, primarily to attract and retain productive employees. Many small firms voluntarily offer benefits too, however, these benefits program may differ from those offered by larger employers reflecting the limited resources of small business and the different employee preferences. Small businesses strive to offer benefits which are most attractive to employees, otherwise they are at a competitive disadvantage if they are unable to offer these benefits.

ISSA members are not opposed to the granting of benefits, such as maternity leave or disability absence. We are opposed to a governmental program which mandates a benefit package. ISSA is a member of the Concerned Alliance of Responsible Employers (CARE) a coalition of trade associations, corporation and individuals which support the rights of employers and employees to decide the work and family benefits which are best.

suited to their individual and mutual needs

Small employers strongly oppose any additions to the mandated benefits list. The recommendation to reject any type of mandated benefits was ranked second by delegates to the 1986 White House Conference on Small Business. Family leave was specifically mentioned as a benefit that small employers want to maintain as voluntary. The recommendation acknowledged the importance of balancing employees' family and workplace responsibilities, but supported creative alternatives developed by the private sector to address this issue. Employers across the Nation clearly favor maintaining a flexible fringe benefits system.

We at ISSA are opposed to a government mandated program which would impose across the board benefit requirements upon small business, for the following reasons

1. Private Sector is Best Equipped In an ever changing, fast paced, complex marketplace, the private sector is best equipped to provide a flexible and efficient response to a changing workplace environment. Cafeteria style plans, which allow employees to select specific benefits from a "menu" of choices, are an example of how the private sector has developed innovative approaches to provide benefit programs to meet the specific needs of its employee population.

Because it is necessary to keep highly qualified individuals in this business, each company must provide an attractive benefits package. However, this requires employers to tailor their benefit programs to fit the particular needs of their employees. Consequently, benefits differ from company to company reflecting the different needs of workers. Indeed, the job marketplace itself dictates the type of benefits a company must

offer in order to attract the best employees. It is not necessary for the Government to intervene and mandate a new series of costly benefits.

2 Highly Technical Employees are Difficult to Replace by Temporary Workers.

Many aspects of the cleaning and maintenance products industry cannot be efficiently run by "temporary" workers who have not been properly trained. When regular employees are forced by circumstances to take maternity leave or disability absence, our companies want them to have the privilege of taking the time they need and returning to their jobs, knowing that their employers care. While they are gone, the employer suffers a burden by having to train someone else for the interim, or reshuffling the workload to their employees. If this situation was mandated by law, the burdens would be greater because additional time would be mandated for such absences and additional employees, e.g. spouses, would be granted time by law to be absent from their job. Small business simply could not function in this manner.

Of particular importance is the fact that the manufacture and formulation of disinfectants, sanitizers, germicides and other antimicrobial products is a highly technical business, and the production must be conducted according to strict quality control criteria, subject to government scrutiny and enforcement. The employee is highly trained by each company and all attempts are made to keep good personnel. The use of temporary replacements is limited due to the need for training and education. When these employees are absent, the companies incur a significant loss of production.

3 A Mandated Leave Program Affects Other Benefits. It is also inevitable that a mandated leave program would have an adverse effect on the other benefits offered by small business. Many employers offer medical and dental insurance, disability payments,

sick leave, paid vacations, profit sharing and retirement plans. These benefits cost a company up to 37 percent of wages for each employee. These have been voluntarily provided without mandate from the government.

If mandated leave legislation is enacted, many employers would have to reduce or end some of these other benefits that in fact employees may prefer. Under these circumstances, mandated leave legislation would be detrimental to employee benefit programs.

4 Mandated Leave Policies Makes Us Less Competitive If parental and disability leave (unpaid or paid) were mandated, our segment of the American economy could no longer be competitive. If we were unable to absorb or pass on the additional cost, then it would be inevitable that many companies would either curtail or cease their operations. The European economy is an example of such an economic malaise. Burdened by mandated benefits, European businesses have lagged far behind the US in terms of job growth and general economic health.

5 Low Income Workers Would Not Be Benefited In many cases low income workers can not afford to take unpaid leave, whether for maternity or disability. This segment of the work force depends on a steady income and can not afford extended unpaid leave whether it be for parental reasons or any of the other reasons provided for in the legislation. A more efficient solution would be for Congress to consider a new social welfare program, paid for by the government, not by business. Congress should also consider methods of encouraging business to provide such socially desirable benefits rather than forcing business to allocate their benefit program dollars elsewhere.

6 Mandated Benefits Will Curtail Employment Opportunities With the passage of this type of legislation, we could not afford to offer the same type of employment opportunities to the widest segments of the population. We believe that employers would have to reassess the type of person it needs for producing or formulating sanitary products. The number of opportunities would necessarily decrease as employers would attempt to curtail anticipated expenses for certain types of workers. Business would have no incentive to expand and create new jobs. The hiring of younger workers, especially women, may be discouraged by such laws. Small firms hire more younger workers and nearly 60 percent of all working women. Overall, the U.S. economy would suffer because the vast number of jobs provided by small business in this country would be diminished.

7 Mandated Benefits Affects Small Businesses The inability of an employer to replace a worker on extended leave is especially damaging to a small business. The absence of even one employee in a small business can disrupt a company's operation. It is not implausible that more than one employee could be on leave at any time, given the multiple types of leave proposed. In addition to disrupting business operations, the costs and administrative burdens of continuing health benefits, as well as financing and training temporary replacements, would disproportionately affect small employers who typically operate on a low-profit margin. Any mandate that increases payroll costs will inhibit a small business' ability to survive.

8 Federal Mandated Benefit Legislation is Not Necessary. In addition to voluntary employer provided benefits, states have taken an ever increasing role in enacting mandated benefits legislation making Federal action unnecessary. In this past legislative session alone, a number of states have enacted some form of job protected

leave and many more are likely to consider such legislation during the current session. By virtue of such local action, states are in a better position to implement such programs so that they reflect the needs of workers. While we firmly believe employers are the best judge of such decisions, we also believe that state legislatures are in a better position than the federal government in evaluating the needs of workers which vary significantly from region to region. Federal action in this area can only result in confusion created by conflicting state and federal laws.

CONCLUSION

In conclusion, we at ISSA do not oppose providing benefits to our employees, but we do strongly reject the motion that the Federal government should intervene into the marketplace to specifically require a mandated benefits program.

Small business, which is the greatest generator of new jobs and opportunities, needs the flexibility to offer a series of employee benefits, not a series of mandated responsibilities. If we as a society want to encourage job creation, increase competition, and stimulate productivity, we need to provide the needed benefits to take care of our employees without adversely impairing small business.

On behalf of ISSA and its member, I thank you for considering our position on this issue, and for appreciating that small business needs encouragement, not mandates, for taking care of its workers.



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U S HOUSE OF REPRESENTATIVES

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February 13, 1989

Ms. Cynthia Simpler
c/o Ms. Deanna Hodge
Government Affairs
American Society for Personnel Administrators
606 North Washington Street
Alexandria, Virginia 22314

Dear Ms. Simpler:

I would like to personally thank you for appearing before the Subcommittee on Labor-Management Relations on February 7 and testifying on the Family and Medical Leave Act. Your time and effort was appreciated by all the members of the subcommittee.

Unfortunately, as you know, the questioning of the business panel was somewhat abbreviated because of the House floor vote on the pay raise issue. I have, therefore, attached a few questions which I would appreciate you responding to. Because the legislation is expected to move quickly, I will need to receive your responses, which will be included in the hearing record, by February 17.

Again, thank you for your questions, please feel free to contact Randy Johnson at 225-3725.

Should you have any questions, please contact Cathy Johnson at 225-7101 or

Sincerely,

Marge Roukema
Ranking Republican Member
Labor-Management Relations
Subcommittee

MR:rkj
Enclosure

1. The proposed legislation implicitly assumes that the costs and problems associated with its implementation will be relatively minimal in that work normally done by an employee taking leave can be spread out over other employees remaining on the job or that, in any case, a temporary worker can be hired to fill in with little or no loss in productivity. Indeed the GAO study makes these assumptions in that it focuses almost exclusively on the costs of continued health insurance coverage alone.

You are a personnel manager of a company who represented, at the hearing, an association of personnel managers who presumably have a great deal of experience in managing work forces. Do you think these assumptions are valid?

2. You stated in your testimony that most companies offer unpaid maternity leave for more than eight weeks.

Do you have any data available as to what companies are voluntarily doing in other areas addressed by the bill, such as leave for care of a sick child or parent?

The bill allows 15 weeks over a 12-month period for medical leave. Is such leave, or similar period, common in industry now?

Does the fact that you did not significantly address the 15-week temporary medical leave provisions (Sec. 104) in your testimony mean that your organization has no problem with this section of the bill?



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February 17, 1989

The Honorable Marge Roukema
U.S. House of Representatives
Washington, D.C. 20510

Dear Congresswoman Roukema:

Thank you for your inquiry regarding my testimony on the Parental/Medical Leave Bill. It is encouraging to know that you are considering views on both sides of this difficult issue.

My responses are attached. Please contact either Deanna Hodge or myself if you need additional information or clarification.

Kind Regards, .

Cynthia D. Simpler

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1. No.

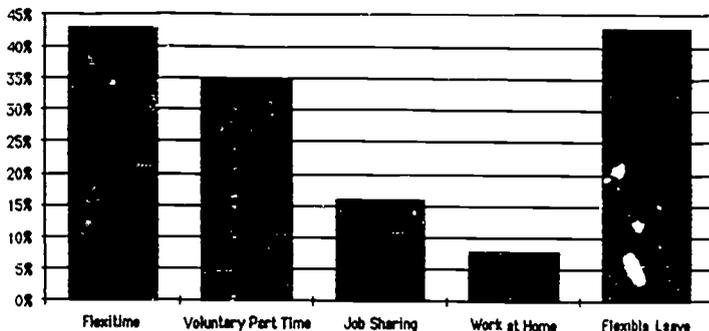
The assumptions with regard to covering for an employee on leave are wrong. The costs of overtime, temporary labor, recruiting, interviewing/hiring and training are clearly costs incurred in addition to benefits' costs. Of equal concern are the costs resulting from lost productivity and reduced quality when temporary replacement employees are developing required skills to perform the job properly. The paper which I inserted into the hearing record, titled, Replacement Costs and Operational Difficulty of Implementing Family and Medical Leave Legislation presents a detailed discussion and specific examples of costs associated with this legislation.

2.

A. According to ASPA's 1988 Survey titled, Employers and Child Care: The Human Resource Professional's View, 70% of respondents stated that parents are granted time off to care for sick children, with 19.2% providing the leave according to circumstances.

The following graph shows the other types of creative policies which companies offer:

Percentage of Firms Offering Family Friendly Programs



Source: Bureau of Labor Statistics, 1987

B. Most companies voluntarily offer short-term disability benefits to regular, full-time employees. Under current federal law, if a company offers a disability benefit, it must include pregnancy as a disability. According to ASPA's 1989 survey, titled "Employers and Child Care: The Human Resource Professional's View", pregnancy disability leave is offered most frequently among the various types of leaves. Paid

disability is provided by 68% of all companies. One out of two small companies (less than 100 employees) have paid disability, compared to three fourths of larger companies (more than 500 employees).

It is interesting to note that while most of our members voluntarily provide leaves as required by H.R. 770, they still strongly oppose a federal mandate. They need to be able to retain the flexibility to tailor benefits to the needs and circumstances of their employees.

C. I specifically stated in my testimony that I oppose "federally mandated leave" as required by The Family and Medical Leave Act (H.R. 770) so I assumed that members of the subcommittee would understand that we oppose government imposition of disability leave as well. The disability leave required by the bill is especially onerous. Under the Family and Medical Leave Act, disability leave is loosely defined and could be taken under a whole range of circumstances from dermatologist appointments to allergies, etc. A federal mandate of this nature is unworkable and invites abuse.

February 14, 1989

Honorable Bill Clay
House Subcommittee on Labor-Management
2451 Rayburn
Washington, D.C. 20515

Dear Representative Clay,

It has come to our attention that, in his testimony before your subcommittee on February 7 in opposition to the Family and Medical Leave Act, John Motley of the NFIB stated that we have repudiated the way 9to5, National Association of Working Women has interpreted the findings of the study we researched, "New Workforce Policies and the Small Business Sector: Is Family Leave Good for Business?"

Mr. Motley said, "when we contacted the researchers to talk about [the 9to5 study], they said that they would not stand behind some of the conclusions reached by the organization."

This is completely false. Neither Mr. Motley nor any representative of his organization ever spoke to us. We are outraged that he fabricated the conversation.

This outright lie impugns our reputation as researchers.

We are outraged that, in his efforts to lobby against the bill, Mr. Motley lied about contacting us -- he never did -- and has maligned us by inferring that we do not stand by the 9to5 study -- we absolutely do.

We ask that you please enter this letter into the written record of the hearing to allow us to answer this assault on our professional reputations.

To clarify the record, we are in complete support of the findings in the 9to5 study and stand behind the organization's use of those findings.

Sincerely,

John Willoughby, PhD
Associate Professor of
Economics
American University

Roberta Spalter Roth, PhD
Adjunct Assistant Professor of
Women's Studies and Sociology
George Washington University and
Deputy Director of Research
Institute for Women's Policy
Research

JW & RSR/DM



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New Workforce Policies and the Small Business Sector:

Is Family Leave Good for Business?

Response to the Critique

In October 1988, six members of Congress circulated a "Dear Colleague" letter which claimed that a September 1988 study of parental and medical leave was "invalid." The study in question, New Workforce Policies and the Small Business Sector: Is Family Leave Good for Business?, was produced by 9to5, National Association of Working Women. Since that time, the arguments have surfaced in hearings on the Family and Medical Leave Act.

In arguing for the "fundamentally flawed" and "invalid" character of the 9to5 study, the unattributed analysis attached to the Dear Colleague letter makes a number of assertions which demonstrate a thorough misreading of the study's major finding.

Let's set the record straight.

Unsupported Criticism

First, the Dear Colleague analysis claims that the 9to5 study "draws a cause and effect relationship when there is none...." The study does no such thing.

The purpose of the 9to5 study was to determine if family leave policies were demonstrably harmful to small business job growth. The study utilized a sophisticated multivariate, two-stage least squares regression analysis to compare small business job growth on a state-by-state basis.

The study found that parental leave policies "did not hurt job growth in the small business sector." This finding is important because it refutes the claim of many Family and Medical Leave Act opponents that regulations will inhibit small business sector job growth.

9to5 Findings Unrefuted

The unattributed analysis then goes on to accuse 9to5 of not conducting a different study an examination of the "actual effects that can be expected from parental/disability mandates."

The 9to5 study was not designed to determine the presence or absence of every item on a long list of purportedly negative effects -- on employers and employees -- of mandated parental leave policies. We asked one simple question Does the presence of state-mandated parental leave policies inhibit job growth in the small business sector of the U.S. economy? And we found a simple answer No.

The Dear Colleague analysis is unable to refute this finding.

In addition, the Dear Colleague analysis presents no data in support of these alleged "actual expected effects." And it fails to take into account recent research demonstrating the high costs to taxpayers and employees of not providing parental or medical leave. (See Unnecessary Losses, Institute for Women's Policy Research, Washington, D.C., 1988.)

Sound Economic Methodology

The unattributed analysis then offers a list of four factors which it claims are responsible for state economic growth (1) population growth and labor force growth, "the key factor in job growth...ignored by the [9to5] study", (2) increased defense spending; (3) depression in the agricultural sector, and (4) restructuring of the steel industry

The 9to5 regression model did include (1) changes in and average levels of women's labor force participation -- the most dynamic element of recent labor force growth, (2) regional proxy variables for the depressed agricultural sector (this had a major effect in reducing small business employment growth in agricultural states) and the restructuring steel and other heavy manufacturing sector, and (3) percentage change in manufacturing employment. The regression results were so robust that including

point (4) -- differential defense spending among the states -- as an additional variable would not have affected the study's principal finding: parental leave policies have no negative effects on small business sector job growth.

The unattributed analysis observes that the provisions of the proposed federal Family and Medical Leave Act had a broader scope than the state parental leave policies examined in the 9to5 study. On the sole basis of this observation, with no supporting evidence, and in contradiction to the unrefuted basic finding of the 9to5 study, the unattributed analysis claims that the broader mandate of the federal bill "would have a much greater adverse effect on employers and employees alike." If the unattributed analysis cannot show any evidence for adverse effects of state parental leave policies, how can it claim that the proposed federal statute would generate even worse adverse affects?

Study's Critics Level Unsupported Raw Assertions

The unattributed analysis concludes with an appeal to lawmakers to see beyond 9to5's allegedly flawed arguments and to make decisions on the basis of "valid facts." The "valid facts" of the analysis turn out to be unsupported raw assertions of varying degrees of relevance. Following is a response to these "valid points":

310

"Valid Fact 1": Companies are already voluntarily offering various leave and flexible work policies to accommodate changing work-family needs of employees.

Response: We agree that some large corporations are developing such policies, but it is by no means a universal phenomenon among large corporations, where leave depends mostly on supervisory discretion. These policies are extremely rare among smaller businesses. In fact, a recent study of corporate parental leave policies in the state of Connecticut found that less than 15 percent of large corporations and less than 4 percent of small business offered parental leave as an employee benefit.

"Valid Fact 2": "Parental leave is an excellent employee benefit. The question is whether a federal mandate is appropriate."

Response: We agree it is an excellent benefit. However, it is not a widely available benefit, and many businesses actively resist it. Under those circumstances a federal minimum labor standard is precisely what is needed.

"Valid Fact 3": Flexible benefit plans are the wave of the future and federally mandated parental leave policies will inhibit this flexibility.

Response. Unemployment compensation and worker's compensation are federally mandated benefits and they have not prevented or interfered with companies wishing to offer additional benefits --

flexible or otherwise. A federal minimum labor standard on family leave should have virtually the same effect as unemployment compensation and worker's compensation.

"Valid Fact 4": "Mandated federal leave jeopardizes the rights of employees and employers to decide the work and family benefits best suited to their individual and mutual needs."

Response: See response to "Valid Fact 3" above. Additionally it is important to remember that the employer and employee often are not equal bargaining partners. In the absence of trade union representation or an extremely tight labor market, the employee generally will have no option but to accept the employer's benefit package -- however limited it might be. This inimical inequality is reduced by state or federal employment policies such as family leave. Federal action has been taken many times when an unresolved crisis in working conditions persists, as in the case of child labor laws, OSHA regulations, and the 40-hour work week.

"Valid Fact 5": Federally mandated family leave policies result in (a) "measurable net costs to business," and (b) "extremely significant operational effects on training and day to day operations."

Response: Both claims are refuted by a U.S. General Accounting Office (GAO) study based on a survey of 80 employers. The GAO study found negligible business costs and minimal operational

effects. The Dear Colleague analysis presents no evidence to contradict the GAO findings

"Valid Fact 6". Federally mandated family leave policies will add "rigidity to [the U.S.] labor market" resulting in "fewer job opportunities, lower product quality, decreased productivity and loss of market share to foreign competition."

Response: The major finding of the 9to5 study is precisely that parental leave policies do not result in fewer job opportunities. The unattributed analysis presents no evidence that product quality and productivity will decline. The 9to5 study shows that virtually every developed nation (including Japan and West Germany) which is now out-competing the U.S. has nationally-mandated parental leave, while the U.S. does not.

Conclusion

The findings of the 9to5 report, New Workforce Policies and the Small Business Sector Is Family Leave Good for Business?, are sound and unrefuted

To order copies of the report, contact 9to5 at 614 Superior Ave.,
NW, Cleveland, OH 44113, (216) 566-9308.

New Workforce Policies
and the
**SMALL
BUSINESS
SECTOR:
IS FAMILY LEAVE
GOOD FOR BUSINESS?**

A Multivariate Analysis of Business Employment Growth

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New Workforce Policies and the Small Business Sector:
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A Multivariate Analysis of Business Employment Growth

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Copies of the full report can be ordered for \$12 (members) and \$22 (nonmembers) from 9to5.

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September 1988

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FOREWORD

9to5 has grown over fifteen years as a reflection of the new workforce -- the millions of women entering the paid workforce in service sector jobs, working for low pay, few benefits, and little job security. Our job has been to help identify the problems for working women and to work for the solutions.

Over the years I have spoken to a variety of groups on the solutions for this new workforce. I talk to working women and their bosses, union locals, and management associations. When I testify before Congress, especially on the Family and Medical Leave Act (FMLA), I repeatedly hear the overriding fear of small business people -- that policies such as the FMLA would put such a burden on small businesses that they would be driven out of business.

We suspected that family leave would not hurt small business. We decided to find out, by analyzing job growth data at the state level for states which had implemented family leave policies long enough to show results.

Our findings surprised us -- family leave states experienced better job growth in the small business sector than all states, better even than comparable states deemed to be "pro-business" by virtue of their anti-regulation stance.

We hope this study informs the debate on the best way to protect working families and promote the health of American businesses.

Karen Nussbaum
Executive Director
9to5, National Association of Working Women

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EXECUTIVE SUMMARY

The entrance of women into the workforce in the last twenty years has been one of the most dramatic demographic changes of the century. Women make up nearly half of the paid workforce; over half of all women work; and over half of mothers with young children, including mothers of infants under one year, work outside the home.

In 1988, women are only paid 70 cents for every \$1 men earn. Almost 60% of working women make less than \$10,000 a year, and 84% make less than \$19,000 annually.

With fewer women at home to take care of the children and nurse sick family members, there has been an increasing demand for family and medical leave policies. The small business community has resisted fiercely, convinced that such public policies will put an unbearable burden on small businesses, leading to their failures.

To analyze this concern, we studied the effect of state level family leave policies on the growth of jobs in the small business sector, with startling results: minimum family leave policies did not hurt job growth in the small business sector. In fact, family leave policies are strongly associated with small business job growth at rates that are higher than that of all states, and higher than equivalent states that are considered anti-regulation in their policies.

Small Business Concerns

The business community is concerned that policies for the new workforce; including family leave, child care, minimum wage, minimum health insurance, and parity for part-time workers will put an undue burden on small businesses, leading to their failure.

Legislation on family and medical leave is a case in point

Even though the legislation that is most likely to pass Congress (The Family and Medical Leave Act) will exempt most small businesses from its coverage, the 1986 White House Conference on Small Business made opposition to any family leave legislation a priority issue.

The U.S. Chamber of Commerce and the National Association of Manufacturers remain unalterably opposed to government action on these issues. Revising proposed legislation would be futile, they say, and "openly could be viewed as 'rearranging the deck chairs on board the Titanic' to most of our members," according

to Frances Shane, Chairman of the U.S. Chamber of Commerce Council on Small Business.

Business opposition to legislative efforts to regulate the work place is not new. The National Association of Manufacturers and the U.S. Chamber of Commerce lobbied against the passage of the Fair Labor Standards Act in 1937 arguing that "the small company will be given an additional competing handicap."

Will policies such as family leave hurt the small business sector? We don't have to guess. In many cases, family leave policies have been pioneered at the state level. We have a body of state-level experience which can be analyzed to determine whether specific reforms have led to declines in the small business sector and we can apply this knowledge to proposed national policy making.

This report studies the effect of state-level family leave policies on the growth of small business jobs. It provides an answer to a specific empirical question: Have small businesses grown more slowly or declined in those states which have mandated this type of leave policy?

Family Leave Is Good For Job Growth

In the states which have implemented them, family leave policies have had no negative effect on job growth in the small business sector. In fact, family leave policies are associated with high job growth in the small business sector.

The parental leave states did better than did the anti-regulation states -- especially in terms of employment growth in small business.

We utilized data from the Small Business Administration on private sector employment between 1976 and 1986. Our multivariate analysis compared seven of twenty-one states which currently have some form of parental leave policy with the seven top-ranked "pro-business" states. The seven states are California, Colorado, Connecticut, Kansas, Massachusetts, Montana, and Washington.¹

The top-ranked "pro-business" or anti-regulation states were, in order: Indiana, Tennessee, North Carolina, South Dakota,

¹These states had leave policies in place by 1984, two years before the last year the Small Business Administration has complete employment data.

Florida, Missouri, and Nebraska.²

Of the seven parental leave states, five (California, Colorado, Connecticut, Kansas, and Washington) had higher growth ranges for total employment than did the U.S. as a whole between 1976 and 1986, the study years.

In contrast, only four anti-regulation states (North Carolina, South Dakota, Florida and Nebraska) had higher than average growth rates.

Although the rate of small business growth was lower than the rate of general employment growth in both the parental leave and the anti-regulation states, small business employment did considerably better in the parental leave states. Employment growth was higher in all categories in the parental leave states.

Total employment in parental leave states grew by 46% compared to 38% in the anti-regulation states, employment in firms with fewer than 20 employees grew by 32% compared to 22%; and employment in firms with fewer than 50 employees grew by 36% compared to 27%.

Key Findings

Finding 1: There is a strong positive association between the presence of parental leave policies and small business employment growth.

Our regression results indicate that a state parental leave policy is associated with a significant expansion in small business employment. We estimate that both very small businesses (having zero to twenty workers) and relatively small businesses (employing zero to fifty workers) will hire approximately 21% more employees if these enterprises are located in a parental leave state.

²These states are ranked as having the best general climate for manufacturing by Grant Thornton, Inc., an international accounting and management consulting firm. To order states, Grant Thornton uses a multi-staged method including interviews with manufacturing associations, governors, state economic development directors and state Chambers of Commerce. States are positively ranked on the basis of a number of factors including lack of unionization, low wage and cost factors, availability of skilled workforce, tight fiscal and tax policies and low state-regulated employment costs (i.e. average weekly payment for temporary total disability and workers' compensation insurance, unemployment compensation payments, and welfare expenditures.

The states in our sample implemented a leave policy during the 1970s and early 1980s. If there were any significant negative effects resulting from this policy, we should have observed them in our study.

Finding 2: There is a positive association between a high rate of women's labor force participation and employment growth in all size firms.

For every 1% increase in the average labor force participation rate of women, there is a 3% increase in employment growth. An important implication of this result is that the participation of women in the paid labor market is not just specifically associated with small business employment growth. Women's entrance into the labor force has promoted American economic expansion. This suggests that labor standards which facilitate entry into the labor force, such as the FMLA, will have positive effects on the American economy.

Finding 3: There is a positive association between anti-regulationist fiscal and workers' compensation policies and employment growth for all firms.

Our results indicate that it is also possible to encourage growth in employment by offering a package of low taxes and local government expenditures on welfare and social compensation to unemployed and disabled workers. As we might expect, anti-regulation policies may also promote employment. This is accomplished by providing low wage jobs with a reduced benefit package, often diverting these costs to the public.

Finding 4: Different state-level manufacturing wage rates are not significantly associated with differences in state employment growth.

We could find little support for the anti-regulation proposition that higher wages will lead to slower employment growth. This result provides support to the regulation model of business development. Significant growth can occur in a high wage economy.

There Are Two Routes to Economic Expansion

The political economic environment of the United States is vastly different than it was before World War II. The manufacturing based economy, with its relatively high wage, male, blue collar workforce has shifted to a services based economy relying on a new workforce -- dominated by women, characterized

by low pay, few benefits, and no job security, and increasingly using part-time and temporary workers.

During the 1950s and 1960s, the conservative and liberal debate about appropriate economic and social policy was less pressing. The general economic expansion of that era, while not improving income distribution, did benefit most sectors of the population. We are now in an era where expansion seems linked to painful transformations in the American workforce, making the resolution of the regulation/anti-regulation debate much more urgent.

As in the past, small business is at the center of the regulatory debate. Small business provides about 25% of all private jobs and is the least regulated part of the American economy. As a result of its job generating potential, there is great resistance to regulating this sphere of the economy. Anti-regulationists argue that new minimum labor standards will raise economic costs and cause the death of more small businesses. Regulationists argue, in contrast, that policies such as family and medical leave, subsidized child care, and extending traditional employment benefits such as unemployment and health insurance to previously uncovered workers will actually increase productivity and economic expansion.

The policy question is clear: will the passage of legislation which enacts new labor standards such as family and medical leave actually harm small business growth?

Our findings are surprisingly strong: There is no evidence that parental leave mandates have any negative effects on small business employment. In fact, our results establish a positive relationship between parental leave regulations and small business expansion.

Our results also show that anti-regulation policies are related to small business job growth. We are faced with two diametrically opposed policy approaches that are both associated with small business expansion.

Social Costs of Anti-Regulation are Substantially Higher Than Social Costs of Regulation

Taxpayers and business itself bear much of the burden of an unregulated economy.

Low Wage Jobs

Our findings show that higher wages do not result in the decline of small business growth, but rising taxes and higher public transfer payments do.

A study of home-health care workers in California by the Service Employees International Union, found that "businesses which compete by forcing their workers to labor on the cheap often rely on hidden taxpayer subsidies."

Eighty-nine percent of these workers were women and 20% were heads of families with children. More than half qualified for and used public support programs. The study estimated that if Congress raises the minimum wage to \$5.05 by 1992, California taxpayers would save \$5.9 million annually in 1988 dollars.

Lack of Elder Care

A study by the National Association of Area Agencies on Aging finds that 77% of the employed women they surveyed experienced work and caregiving conflicts that resulted both in costs to themselves and in productivity losses to employers.

In a recent study on the costs of not having a federal family and medical leave policy, the Institute for Women's Policy Research (IWPR) estimated that the foregone income costs to workers giving elder care amounted to almost \$5 million in 1986 dollars annually. The hidden costs to taxpayers in additional public support programs in the absence of social policy for elder care leave were \$380 million in 1986 dollars.

Lack of Family Leave

According to the study by the IWPR, employed women who have had children in the past three years have earned \$31 billion less than those who did not give birth. Of these losses, \$715 million are the result of the lack of parental leave policy.

Lack of Health Insurance

Thirty seven million Americans do not have health insurance. Three-quarters of those are workers and their families. Costs of hospital care for those without health insurance are passed on to privately insured patients, patients affluent enough to afford their own care and, in the case of government hospitals, increased public subsidies.

The American Hospital Association estimated that in 1986 uncompensated care for uninsured patients in private hospitals increased the costs of hospital care to private payers to 10%.

Regulation Need Not Impede Economic Growth and Competitiveness in the World Economy

Our study results indicate that parental leave legislation does not affect big business, the sector of the economy which

participates significantly in international trade. Small business, which does not significantly participate in international trade, is positively affected by family leave policy. Other traditional and new regulatory policies (such as the minimum wage) have a similarly positive impact on workers in this sector of the economy, while not dramatically changing American competitiveness. Thus, there is no reason to expect any adverse competitive effects from legislative benefits which focus their efforts on managing the adverse consequences of the more marginal workforce.

When we examine the relationship of fringe benefits to the trade balance of the U.S.A. and major European nations, we find that there is no clear relationship between the amount of fringe benefits as a percentage of wages and salaries and a nation's competitive position.

It is in the social interest to support policies which guarantee family and medical leave, child care, health insurance and wages that can support a family. These policies have the least costs to workers, to taxpayers, to society and to business in general when they are implemented on the federal level.

Summary of Findings

1. Job growth is 21% higher in states with leave policies, when other factors are held constant, although total employment growth is neither helped nor hindered by these policies. Moreover, when the percentage change in employment growth is compared, states with parental leave programs did better than those states which both provided low welfare and other worker compensation expenditures and do not tax heavily.
2. Employment growth is significantly associated with a high rate of women's labor force participation.
3. Employment growth is significantly connected with policies of low government compensation expenditures and low taxation.
4. The rise in jobs is not significantly associated with low manufacturing wage rates.
5. The rise in jobs is related to declines in family income.
6. There is no clear relationship between the amount of fringe benefits which workers receive as a percentage of wages and salaries and a nation's competitive position.

We conclude on the basis of these findings that public policies which permit the easier integration of household and work place responsibilities will not only help women to participate in the labor force, but will also have a positive impact on small business employment growth. For this reason, it is critical for federal, state and local governments to mandate labor standards which take account of the needs of the new American workforce.

A state by state strategy is not the best way to enact this minimum labor standard. In the absence of a federal policy, workers, taxpayers and businesses in unregulated states will bear disproportionate costs. A national leave policy would cut these losses.

Data Sources and Methodology

This study relies on a variety of sources, including:

Employment

The Small Business Administration's small business data base. More specifically, we use the United States Longitudinal Microdata File (USELM). The USELM data file has been created from the United States Establishment and Enterprise Microdata file (USEEM). These files are, in turn, constructed from the Dun and Bradstreet data base.

Parental and Maternity Leave

Parental leave states were limited to those which had a parental or maternity leave law or regulation in place by 1984. Most of the seven states in our sample had laws or regulations on the books during the 1970s.

State Rankings on Pro-Business Climate

This ranking was constructed from the General Manufacturing Climates Study of the Forty-Eight Contiguous States issued annually by Grant Thornton International, an accounting and management consulting firm.

Regression Analysis

To determine the effects of parental leave on employment growth, we ran three general, two-stage, least square regressions.

INTRODUCTION

The small business community is concerned about the potential effects on employment of a group of policies for the new workforce, including family leave, child care, minimum wage, minimum health insurance, and parity for part-time workers. They assert that such policies will put an undue burden on small businesses, leading to their failure.

In many cases, such policies have been pioneered at the state level. We have a body of state-level experience which we can analyze to determine whether specific reforms have led to declines in the small business sector and can apply such knowledge to proposed national policy making.

This report studies the effect of state-level family leave policies on the growth of small business jobs. It provides an answer to a specific empirical question: Have small businesses grown more slowly or declined in those states which have mandated this type of leave policy? We hypothesize that family leave policies do not have a negative effect on job growth in the small business sector.

In fact we show that state-level policies, in the context of women's increasing labor force participation, may have a positive effect on small business job growth. We find that small-business job growth is 21% higher in states that have some form of family leave policy than in all other states. We suggest that, by helping women stay in the labor force in the face of family responsibilities, these policies in turn help small business. We conclude that state-level experiences provide evidence in support of the proposed national Family and Medical Leave Act (FMLA).

Family and medical leave should not be a divisive policy issue. Because state policies as well as the proposed federal policy only provide unpaid leave, the costs of this measure, despite the claims of its opponents, are relatively small.³ Yet, the FMLA serves as a lightning rod for an acrimonious policy debate in Washington, D.C. and in our state capitals. The Act symbolizes the renewed efforts of trade union representatives, women's groups and others to mold policies that are responsive to the new workforce, which is now nearly half women.

³According to a report by the U.S. General Accounting Office, Parental Leave: Estimated Costs of HR 925, The Family and Medical Leave Act of 1987, November 1987, the total cost of a Family and Medical Leave Policy that covered workers in all firms with more than 35 employees would be \$212 million.

Promoting Economic Growth: The Policy Debate

How can we promote economic growth? Is it possible to develop an economic environment which allows all sectors of the population to benefit from increases in production? No two questions are more central to economic and social policymakers. In the present environment of global competition, economic security depends on the ability to raise labor productivity and thus expand exports. But this is not enough. Prosperity also depends on developing mechanisms which distribute the gains from economic expansion to all those who actively participate in the economy. How can public policies best facilitate these goals?

The Anti-Regulation Model

Posing this question raises an old policy debate. On one side is the anti-regulation school. This perspective draws on neoclassical economic theory and conservative political doctrine to argue that wages, taxes and social expenditures should be kept low. The anti-regulationists believe that business owners should have a free hand to set the conditions of employment in a manner that they think will be most efficient. In this model, the government's major role is to guarantee the autonomy of the entrepreneur who must have the freedom to respond to the changing pressures of economic markets. The anti-regulationists acknowledge that some workers and owners will be harmed by competition. But, in the long run, they believe, society benefits from the creation of an efficient, dynamic and unregulated 'job machine'.

The Regulation Model

On the other side of this debate are the regulationists. This perspective draws on Keynesian and institutionalist economic theory and takes much of its political inspiration from the New Deal liberal and European Social Democratic traditions. The regulationists see labor as a human resource entitled to protection against exploitative hours and wages, autocratic management demands, job insecurity and unhealthful work conditions.⁴ In this model, it is appropriate for the government to mandate rights and benefits which private enterprises are then required to grant. This approach suggests that firms have a social responsibility to their work force.

⁴Jack Barbash, "A Department to Protect Worker's Equity," Monthly Labor Review (Washington U.S. Department of Labor), vol. 111, no. 2 (February 1988).

According to this tradition, the establishment of cooperative relations between labor and management also promotes economic growth. Entrepreneurs and workers can use the greater economic stability promoted by government policy to invest in long-term research and development and worker training. Workers can devote more time to improving production because they know that they can be junior partners in economic growth. In order for these increases in productivity to occur, the regulationists argue, the government must intervene to limit the more exploitative and destructive aspects of cut-throat competition.

The New Political Economy of the Debate

While this debate is not a new one, the political economic environment of the United States is. After World War II, large numbers of workers, for the first time in American history, were able to enjoy some of the goods and services associated with a middle class life. But, since the early 1970s, we have seen the end of U.S. economic predominance in the world economy. The American economy often seems unable to compete in economic sectors which it had led throughout most of the twentieth century. The steel, automobile, machine tools, rubber and consumer appliance industries have all suffered enormously from the economic turbulence of the last 20 years. Between 1966 and 1986, manufacturing jobs declined from 30% to 19% of all employment.⁵ During the first few years of the Reagan Administration, there was a net loss to U.S. workers of more than one million manufacturing jobs. Much of this devastation occurred in the industrial heartland: Pennsylvania, Ohio, Michigan, Indiana and Illinois.⁶ This work force was largely male, highly unionized, and enjoyed relatively high wages and benefits.

The other side of this economic transformation has been the growth of the service sector. finance, real estate and insurance, health; and business and professional services. Since 1950, employment in this part of the economy has increased from 59% to 74% of all jobs.⁷ Within this growing sector a large tier of more marginalized, part-time, low-paid, and low-benefit jobs has emerged. The workers filling these occupations are

⁵Milton J. Esman, Steven I. Jackson and R.F. King, Growth with Fairness (Cabin John, Maryland Seven Locks Press, 1988).

⁶Ibid.

⁷Service Employees International Union and 9to5, National Association of Working Women, The Decline in U.S. Work and Living Standards Require Solutions for the New Workforce, "Solutions for a New Workforce" conference handout, September 28-29, 1987.

disproportionately female.⁸ Thus, these economic transformations have been neither gender- nor race-neutral. White and black women have become a major part of the new clerical and service workforce, while black men in particular have suffered enormously as a result of the decline in central city manufacturing production.⁹

The Urgency of the Debate

These divergent trends of expansion and impoverishment make the resolution of the traditional regulation/anti-regulation debate much more urgent. During the 1950s and 1960s, the conservative and liberal arguments about appropriate economic and social policy were less pressing. The general economic expansion of this era, while not improving income distribution, did benefit most sectors of the population. We are now in an era where expansion seems linked to painful transformations in the American workforce.

As with regulatory policy debates of the past, small business is at the center of this regulatory debate. This sector of the American economy provides about 25% of all private jobs and is the least regulated part of the American economy. In recent years, moreover, some economic researchers have claimed that it is the small owner who provides the American economy with much of its dynamism.¹⁰ As a result of this job generating potential, there is great resistance to regulating this sphere of the economy. Anti-regulationists argue that new minimum labor standards will raise economic costs and cause the death of more small businesses. Regulationists argue, in contrast that policies such as family and medical leave, subsidized child care, and extending traditional employment benefits such as

⁸9to5, National Association of Working Women, Working at the Margins: Part Time and Temporary Workers in the United States. (Cleveland: 9to5, National Association of Working Women, September 1986).

⁹According to Daniel Fusfeld and Timothy Bates in The Political Economy of the Urban Ghetto (Carbondale, Ill.: Southern Illinois University Press, 1984) manufacturing production jobs in cities declined from 64% to 37% of all manufacturing jobs. According to Alphonso Pickney in The Myth of Black Progress (New York: Cambridge University Press, 1984) the percentage of black male workers of all blue collar workers had already dropped from 4.5% to 4.0% from 1970 to 1980 prior to some of the heaviest layoffs in the early 1980s.

¹⁰David Birch, Job Creation in America (New York: The Free Press, Macmillan, 1987).

unemployment and health insurance to previously uncovered workers will actually increase productivity and economic expansion.

The policy question is clear: Will the passage of legislation which enacts new labor standards such as family and medical leave actually harm small business growth? This study will answer this specific question, and thus provide a general framework for studying the economic impact of other regulatory policies.

Overview of the Report

We have divided our report into three sections. The first part examines the social and political context of the debate over parental leave regulations. We briefly review demographic data on the growth of the new, feminized American workforce and then review the Family and Medical Leave Act. We examine the small business community's arguments against the new labor standards movement. We focus on this part of the debate because it is here where opposition to regulation is strongest and most effective.¹¹

The second part of our report presents our results. We use a variety of statistical techniques and evidence to test our hypothesis that family leave policies do not have a negative effect on small business job growth. The core of our methodology is to compare the experiences of those states which have already implemented maternity or parental leave regulations to those which have not introduced these protective measures. Our findings are clear and surprisingly strong: There is no evidence that parental leave mandates have any negative effects on small business employment. In fact, our results establish a positive relationship between parental leave regulations and small business expansion. Our results, however, also show that anti-regulation policies are related to small business job growth. We are faced with two diametrically opposed policy approaches that are both associated with small business expansion.

The third part of our report provides evidence to resolve this dilemma. To do this we examine the excessive and often hidden social costs associated with an anti-regulation model of economic growth. We find that both taxpayers and business itself bear much of the burden of an unregulated economy. We also show that regulation need not impede economic growth and competitiveness in the world economy. We conclude that it is in the social interest to support policies which guarantee family and medical leave, child care, health insurance and wages that can support a family. These policies have the least cost to workers, to tax-

¹¹In fact, small business lobbyists have largely succeeded in exempting small business from the proposed FMLA.

payers, to society and to business in general when they are implemented on the federal level.

CHAPTER I

ECONOMIC AND POLITICAL CONTEXTS OF THE NEW DEMANDS FOR
LABOR MARKET REGULATIONThe Economic Context

This section examines two interrelated facets of the transformation of the U.S. economy: the increase in women's labor force participation and the increase in secondary, marginalized jobs.

Growth of Women's Labor Force Participation

Women's labor force participation rate has risen steadily from 33% of all adult women in the paid labor force in 1948 to 56% in 1987. Much of this increase is due to the rising labor force participation of women with children. Between 1973 and 1985 the number of mothers in the labor force increased by half (from 44% to 62%). Two-thirds of mothers who are single heads of household and more than three-fifths of women in two-parent households are now in the labor force. Between 1973 and 1985 the labor force participation rate of women with children under age three rose from 29% to more than 50%.¹²

Growth of the Marginal Workforce

The growth of women's labor force participation is a response to the relative decline in manufacturing and the increase in service sector jobs. Women contributed over three-fourths of the employment expansion in financial, real estate and insurance firms and more than 60% in both the service producing and retail food store industries. Many of these jobs are temporary, dead-end and without benefits. Paradoxically, this secondary workforce with its marginalized jobs has been the major source of current U.S. economic growth.¹³ Many of these jobs are found in small businesses while others occur in large conglomerates within the service sector, such as McDonald's or

¹²Data from Joint Economic Committee, "Working Mothers are Preserving Family Living Standards", Congress of the United States, May 9, 1986.

¹³Joan Smith, "The Paradox of Women's Poverty: Wage Earning Women and Economic Transformation," in Women and Poverty, ed. Barbara C. Gelphi et al. (Chicago: University of Chicago Press, 1986) p. 130.

Beverly Nursing Homes.¹⁴

The Growth of Part-Time Work

The growth of this secondary tier of jobs would not have been possible unless a substantial supply of women workers existed. As of 1984, 22% of U.S. workers were working part time (up from 14% in 1954). Two-thirds of these part-time workers were women. Although many women reportedly choose part-time work, taking these occupations is strongly related to labor market conditions and the availability of child or elder care.¹⁵ Twenty-five percent of these employees work part-time hours because full-time work is not available, and nearly 35% of those who are working part-time or looking for work say that they would work more hours if child care were available.¹⁶

Not only do part-time workers earn about 58% of the pay of full-time workers, but they are much less likely to have benefits. It is estimated that fewer than one in six of part-time workers have direct health coverage. Fewer than one in three part-time workers are covered by employer-provided retirement plans in contrast to half of all full-time workers. Part-time workers have more difficulty qualifying for unemployment benefits even though their jobs are less likely to be permanent.¹⁷

The Growth of Temporary Work

Temporary work is one of the fastest growing sectors of the economy. In 1977, there were 300,000 temporary workers. Today, there are more than one million.¹⁸ Women hold two out of three temporary jobs.

However, temporary jobs pay significantly less per hour than full-time jobs. The average hourly earnings for temporary help

¹⁴SEIU and 9to5, Solutions for the New Workforce.

¹⁵9to5, Working at the Margins. Also see Thomas J. Nardone, "Part-time Workers Who are They?" Monthly Labor Review, February 1986.

¹⁶9to5, Working at the Margins

¹⁷Ibid.

¹⁸Employment and Earnings, Bureau of Labor Statistics, U.S. Department of Labor, July 1988.

agency workers in September 1987 was only \$6.42,¹⁹ compared to \$9.26 for all non-supervisory workers.²⁰

Few temporary workers receive fringe benefits from the agency or the employer which leases their services. Less than one-fourth of temporary workers hired through agencies receive even partial coverage of health insurance.²¹

Marginalization Not Limited to Part-Time and Temporary Work

The marginalization of the workforce is not limited to part-time and temporary workers. It is estimated that 44% of new jobs created from 1979 to 1988 paid an annual income of \$7,400 or less. Many of these jobs do not have the benefits associated with a living wage. Most workers in service industries do not have pensions -- only 19% of retail trade workers and 10% of personal service workers enjoy this benefit.²² In addition, the number of U.S. workers not covered by health insurance has increased from 20 to 25 million in the heyday of the "Great Society," to approximately 35 million workers today.²³ Being without health care coverage is especially debilitating during the current period of sky-rocketing health care costs. By 1986, 10% of the GNP was spent on health care as opposed to 4.5% in 1950.²⁴ For those workers who have benefits, medical-related expenditures have increased as a portion of personal income from 8% to 12%.²⁵ For those who do not, health care costs have increased more than four times since 1967.

Women's Increasing Economic Independence

Despite the low wages, lack of benefits, involuntary part-

¹⁹BLS News, press release from the Bureau of Labor Statistics, U.S. Department of Labor, May 1988.

²⁰Monthly Labor Review, Bureau of Labor Statistics, U.S. Department of Labor, May 1988.

²¹BLS News, May 1988.

²²SEIU and 9to5, Solutions for the New Work Force.

²³Uwe Reinhardt, Health Affairs, December, 1986.

²⁴Testimony of Frederic M. Rohm for the U.S. Chamber of Commerce before the Committee on Small Business, U.S. House of Representatives, May 6, 1987.

²⁵Robert C. Williams, Trends in Family Income, 1970-1986. (Washington: Congress of the United States, Congressional Budget Office, February 1988).

time hours and lack of mobility that characterize many women's jobs, women have taken advantage of their availability and have, as a result, increased their economic autonomy. As a result of the enormous increase in labor force participation, American women have gained an unprecedented measure of economic independence.²⁶ The increasing tendency of women to head their own households for longer periods of time rather than living with relatives is a manifestation of this autonomy.²⁷

The growth of female-headed households is not the only manifestation of this revolutionary social transformation. The earnings of married women with children grew from 30% to 40% of their husbands' earnings from 1973 to 1985. Not only are increasing numbers of women responsible for themselves and their children, but they are also largely responsible for preventing major declines in family income in married couple households. Between 1973 and 1983 family income dropped by 3%, but it would have dropped by 10% without the additional paid work of married women.²⁸ As a result women have a greater say in family decision making.²⁹

During the past two decades the pay gap between women and

²⁶This perspective is forcefully argued by Heidi I. Hartmann in "Changes in Women's Economic and Family Roles in Post-World War II United States," Women, Household and the Economy, eds. Lourdes Beneria and Catherine M. Stimpson (New Jersey: Rutgers University Press, 1986). In claiming that women have gained economic independence from men, Hartmann does not discount the reality of economic dislocation and female poverty.

²⁷Others would argue that the increase of female-headed households from 21% to 28% from 1970 to 1987 is a manifestation of social breakdown, especially in the black community where black men are seen as increasingly unable to support families as a result of the loss of decently paying manufacturing jobs. See William J. Wilson, The Truly Disadvantaged (Chicago: University of Chicago Press, 1987). While we do not wish to minimize the employment losses and lack of opportunities for many black men, we regard the argument that female-headed families are social problems as retrogressive. Women's as well men's wages should be able to support families.

²⁸Joint Economic Committee, Working Mothers are Preserving Family Living Standards.

²⁹Jane C. Hood's research shows that when women earn more than one-third of household income, the balance of power in decision making changes and the married couple's relationship becomes more egalitarian. See Becoming a Two-Job Family (New York: Praeger Publishers, 1983).

men has even decreased slightly. The earnings ratio of women's to men's wages increased from 59.7 cents for every \$1.00 to 64.3 cents for every \$1.00. Although 25% of this increase represents a decline in men's earnings as a result of the erosion of primary tier jobs, 75% does not.³⁰ Women are doing paid work for longer parts of their lifetimes. The average women's work life is now 76% as long as the average man's -- up from 32% in 1940.³¹ These statistics indicate that women are no longer a reserve labor force able to be pulled in and pushed out of the work force because they only work for "pin money".

The Price of Economic Independence

Although the unprecedented rise in women's labor force participation has resulted in greater economic independence, women pay a heavy price for this social transformation. The number of female-headed households with below poverty income, despite their participation in the work force, has also grown. In 40% of the poor, single-mother headed families with children, the mother worked at least part time.³² Women of color are proportionally most likely to be among the working poor.

And despite their increasingly high rates of labor force participation and their greater role in family decision making, women still do the primary work of caring for new-born babies, sick children, husbands, elderly parents and in-laws. This responsibility has led to the increased reliance on day care centers in the absence of family members such as grandmothers, sisters, and aunts to care for children. Child care costs are usually considered the woman's responsibility, and these costs now consume nearly 10% of a household's budget and 20% of a poor household's budget.³³ Caring for elderly parents, especially likely task for women between the ages of 45 to 64, has

³⁰National Committee on Pay Equity, "Briefing Paper on the Wage Gap," September 18, 1987. This trend has especially hurt black men.

³¹Heidi I. Hartmann, "Women's Work, Economic Trends, and Policy Issues." Paper presented at "Organizing and Representing Professional Technical and Salaried Women" at the George Meany Labor Studies Center, May 2, 1938.

³²As cited in "Children and Families in Poverty: A Fact Sheet." Select Committee on Children, Youth and Families, U.S. House of Representatives, n.d.

³³U.S. Bureau of the Census, Who's Minding the Kids, Current Population Reports, Household Economic Studies, series P-70, no. 9 (Washington: U.S. Department of Commerce, 1987).

increasingly become a burden borne by working women.³⁴

Like unionized male workers before them, working women have begun to challenge their secondary position in the labor force. Women have increased their share of union membership from 19% in 1956 to 36% in 1984.³⁵ They have begun to organize politically for policies that not only extend the more traditional wage and hours benefits, but also for new standards such as child care, health benefits for part-time workers and family leave policies. This is the social context for the new, increasingly powerful movement for labor market regulations that recognizes the central role of women in the new American economy.

Political Contexts

The Family and Medical Leave Act

The proposed Family and Medical Leave Act mandates job-protected leave for dependent care such as parental leave or for a worker's own illness. Like the now more widely accepted labor standards such as child-labor regulations, unemployment insurance, worker's compensation, and wages and hours legislation, the FMLA is designed to address a social problem through federal regulation. It is a minimum labor standard that begins the process of helping workers to find ways of balancing work and family responsibilities.

Although it is a relatively inexpensive federal policy, the FMLA has become a paradigm case of a policy supported by regulationists and opposed by anti-regulationists. It is strongly supported by a broad coalition of women's, labor, civil rights, religious, disability, professional and elder groups and strongly opposed by a coalition of business groups including the U.S. Chamber of Commerce, the primary advocacy organization for small business firms.

The original versions of the bill (HR 925 and S 249) would have required employers with 15 or more employees to allow workers to take unpaid but job-protected leave of up to 18 weeks upon the birth or adoption of a child or to care for a sick child (or elderly parent in the House version). Workers with medical

³⁴See for example studies cited in Exploding the Myths: Caregiving in America, a study by the Subcommittee on Human Services of the Select Committee on Aging, U.S. House of Representatives, Committee Publication No. 99-611, January, 1987.

³⁵Heidi I. Hartmann, "Women's Work, Economic Trends and Policy Issues."

disabilities would have been permitted to take up to 26 weeks of unpaid, job-protected leave. The Act would have required employers to maintain health insurance, or pay the same share that they usually pay during the workers' absence. Legislative compromises have now transformed these measures. The bill now only covers workers in firms with 50 or more employees and has substantially shortened the length of the leave (10 weeks for parental leave and 15 weeks for medical leave).³⁶ In the House version, employees would not qualify for the leave until they worked in the business for at least 20 hours per week for at least one year. In addition, employers would be permitted to deny reinstatement to the highest paid 10% of their employees.

These compromises would restrict the coverage of the FMLA to only 40% of the workforce. Nevertheless, the U.S. Chamber of Commerce remains steadfastly opposed to the FMLA because it does federally mandate a new labor regulation. Despite this opposition, family leave has gained increased public support.

The growing political strength of the new regulations is especially evident at the state level. By 1988, 21 states, either through legislation or regulation, had a form of leave policy that provided for job reinstatement. (See Charts 1 and 2 for a survey of these state policies.) These leave policies are much narrower in coverage than the FMLA. Most cover only pregnancy disability or maternity leave for up to eight weeks. Only the more recent of these policies (in Minnesota, Rhode Island and Oregon) provide for leave for either parent.³⁷

Small Business Opposition to Parental Leave Policy

Whether at the state or federal level, business lobbyists traditionally have opposed most legislative efforts to regulate the work place. For example, during the debate which preceded the passage of the Fair Labor Standards Act in 1937, a major concern by spokespeople for the National Association of Manufacturers (NAM) and the U.S. Chamber of Commerce was the alleged negative effects that these measures would have on small business.

Noel Sargent, chief economist of NAM, stressed that the proposed minimum wage law would favor big business over small business. Although the proposed legislation took account of the size of the company, he testified:

³⁶The number would drop to 35 after three years.

³⁷See Appendix 3 for the details of state family leave laws and regulations.

I believe ... that this bill would, if enacted, tend to favor so called "big business" as compared to "little business." No general rule can be laid down -- I know many small plants which pay top wages in their industries -- but generally speaking the big company tends to pay higher wages than its small competitors. The result is that if costs are raised by wage and hour control the larger company will, as a rule, have its costs increased least; the small company will be given an additional competing handicap.³⁸

Just as fifty years before, there is no mistaking the vociferousness of small business opposition to new labor standards. There is a real fear that these enterprises will not be able to afford any new regulations. Even though the legislation that is most likely to pass Congress will exempt most small businesses from its coverage, the 1986 White House Conference on Small Business made opposition to any family leave legislation a priority issue.

As Frances Shane, Chairman of the U.S. Chamber of Commerce Council of Small Business put it:

The Chamber does not want to give the impression that, if the above-mentioned items were modified, the U.S. Chamber would support this legislation. In fact, modifications along these lines only could be viewed as 'rearranging the deckchairs on board the Titanic' to most of our members. We urge Congress to address the fundamental and often overlooked question with which Congress must begin -- IS A FEDERAL GOVERNMENT MANDATE THE MOST CONSTRUCTIVE RESPONSE TO THE PROBLEM?³⁹

The resistance of Shane and other small business representatives can be reduced to two broad claims. First is the micro-economic argument that mandating new benefits will actually harm those workers already employed by modest-sized enterprises. Firms, it is claimed, will respond to the increased demands for legally required benefits by cutting back other non-wage services offered to workers and by hiring fewer of those potential employees most likely to benefit from mandated benefits. Spokespeople for small business interests, for example, argue

³⁸Testimony before the Committee on Education and Labor of the United States Senate and the Committee on Labor of the U.S. House of Representatives, 75th Congress, First Session on S 2475 and HR 7200, Part I, June 2 to June 5, 1987, p. 654.

³⁹"Statement of the Chamber of Commerce of the United States on: S 249, the Family and Medical Leave Act of 1987", Subcommittee on Children, Family, Drugs and Alcoholism of U.S. Senate, February 19, 1987. (Shane's emphasis.)

that a mandated family leave policy will harm women of child-bearing age who are searching for work.

The macroeconomic claim is, if anything, even more troubling. Small business lobbyists raise the specter of "Europeanization." The argument is that mandated benefits reduce international competitiveness by raising the fixed costs associated with hiring a new worker. Since Chamber spokespeople claim that small business enterprises now represent one of the most dynamic parts of our economy, this policy might depress aggregate increases in total employment and worsen the trade deficit. In short, business groups warn against implementing a mandated benefits policy which will erode America's competitive strength and thus the nation's economic well-being.

Both the microeconomic and macroeconomic arguments carry one clear prediction. The presence of mandated benefits will hurt the employment generating ability of small business. The increased costs will lead some entrepreneurs to reduce their staffs immediately. And those business people who do not respond immediately will eventually hire fewer people because of reduced competitiveness.

Small business representatives portray a harsh world of intense competition: a world in which there is little margin for private business decision errors and no margin at all for a social policy that would add new business expenses and force a change in firm behavior. Employment is the ultimate benefit which a firm can provide to its workers; all other fringe benefits are predicated on job stability and job creation. If family leave mandates or any other governmental effort to change firm behavior actually reduces the incentive to invest, shrinks other more flexible employee benefits, and even promotes employment discrimination against women workers, then perhaps we should reconsider the present effort to develop new labor standards to meet the needs of the new U.S. workforce. As Concerned Alliance of Responsible Employers argues:

The most important employee benefit is a paycheck. Indiscriminate across-the-board mandates threaten the viability of firms and the jobs they provide.⁴⁰

This perspective is an intellectual and political challenge to all advocates of the new social policy. We respond to the small business challenge by examining the impact of state-level family leave policies (along with other factors) on employment growth.

⁴⁰Concerned Alliance of Responsible Employers, Myths about Mandates, n.p., n.d.

CHAPTER II
EMPIRICAL FINDINGS

Comparing Parental Leave and Anti-Regulation States

The existence of leave policies in some states and not in others provides us with a quasi-experimental context because we can construct tests to examine how this reform has actually affected employment over the past decade. The simplest method is to compare employment growth in states which require businesses to grant parental leave, to employment growth in those states which are models of a more anti-regulationist approach to business and public policy. If the anti-regulation model is correct, then parental leave policies should have a negative impact on private employment growth -- especially small firm employment growth -- in states with such policies. The regulationist perspective, on the other hand, would predict a more dynamic economic expansion in parental leave states.

While 21 states currently have some form of parental leave policy, only seven were considered leave states for the purposes of this study. (These are California, Colorado, Connecticut, Kansas, Massachusetts, Montana and Washington.) These states had leave policies in place by 1984, two years before the last year the Small Business Administration has complete employment data. Given the time sequence covered by the data and the years in which the leave policies were implemented, we have a quasi-experimental model diagrammed as follows:

| | | | |
|--------------------|--------|--------------------------|-------|
| States with leave: | Before | Treatment (leave policy) | After |
| States without: | Before | No Treatment | After |

We compare the employment of the seven leave states to the seven states which do not have leave policies and in addition are ranked as having the best general climate for manufacturing by Grant Thornton Inc., an international accounting and management consulting firm. To order states, Grant Thornton uses a multi-staged method including interviews with manufacturing associations, governors, state economic development directors and state Chambers of Commerce. States are positively ranked on the basis of a number of factors including lack of unionization, low wage and cost factors, availability of a skilled workforce, tight fiscal and tax policies and low state-regulated employment costs (i.e. average weekly payment for temporary total disability and worker's compensation insurance, unemployment compensation payments, and welfare expenditures).

The state business lobbyists who helped construct this index are clear partisans of an anti-regulation model of business growth and survival. In their view the best role for states is

to limit taxation and to maximize work incentives by minimizing public and private benefits. (For a fuller description of the Grant Thornton rankings, consult Appendix 1.) We decided to use Grant Thornton rankings of states in order to compare directly the regulation-oriented parental leave states with the anti-regulationist model of business promotion policies. The seven states with the highest Grant Thornton rankings are, in ranked order: Indiana, Tennessee, North Carolina, South Dakota, Florida, Missouri and Nebraska.

There is no overlap between the Grant Thornton and parental leave states. This is not surprising, given that each set can be viewed as representing opposing notions of what is in the best interest of business and the workforce.

Findings: Higher Growth in Parental Leave States

Tables 1 and 2 show the results of the comparison of parental leave and Grant Thornton states, and Table 3 sets the findings in context. Between 1976 and 1986 total employment in the 48 contiguous U.S. states rose by almost a third (32.3%). Employment in small businesses with less than 20 employees increased by about one-fifth (21.1%) and small businesses with less than 50 employees increased by about one-quarter (24.3%). In no state does small business grow at a greater rate than larger businesses and in many states it is considerably lower.⁴¹

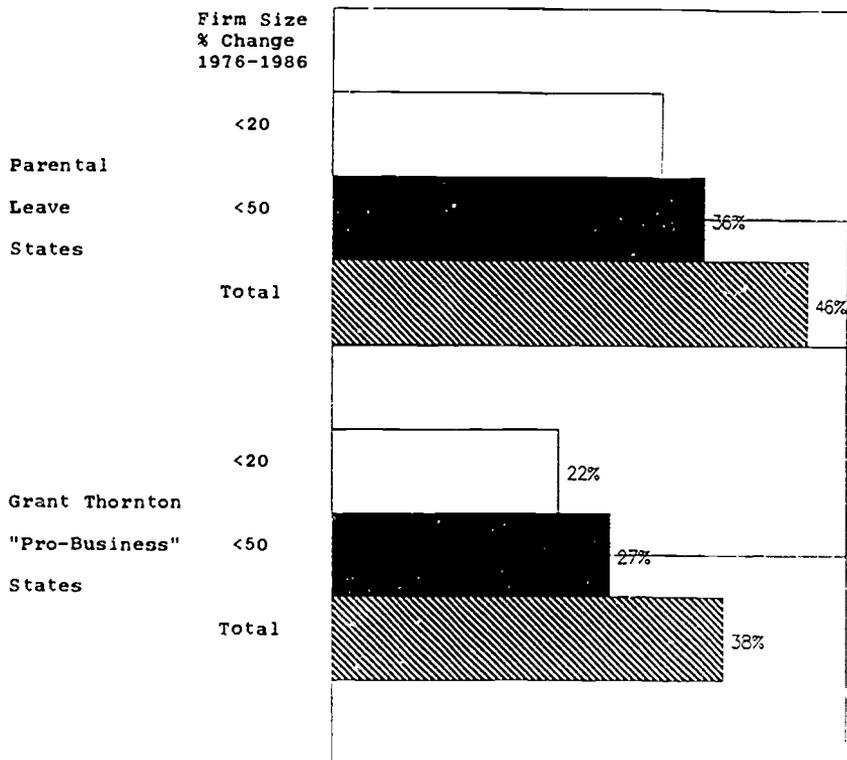
Tables 1 and 2 compare the parental leave states to the seven top Grant Thornton states by examining the percentage change in employment from 1976 to 1986. Growth in both sets of states was relatively good. However, of the seven parental leave states, five (California, Colorado, Connecticut, Kansas and Washington) had higher growth rates for total employment than did the U.S. as a whole. In contrast, only four manufacturing climate states (North Carolina, South Dakota, Florida and Nebraska) had higher than average growth rates. When we examine small business employment growth, four of the parental leave states (California, Colorado, Connecticut, and Washington) had equal or higher than average employment growth in businesses with less than 20 employees than did the U.S. as a whole, while only Florida broke the national average for the anti-regulation states.

⁴¹This is in apparent contrast to David Birch's claims in Job Creation in America that small business is "the great American job machine" responsible for 98% of net job growth. Birch himself notes that the percentage of employees in small business has not increased in recent years. His claim is that small businesses are more likely to become bigger businesses than large businesses. This is a controversial argument which we will not enter into in this report.

Although the rate of small business growth was lower than the rate of general employment growth in both the parental leave and the anti-regulationist states, small business employment did considerably better in the parental leave states. When we aggregate the findings for the seven parental leave states and the seven Grant Thornton states and then compare them, this finding is especially clear. Employment growth was higher in all categories in the parental leave states. Total employment grew by 46% compared to 38% in the anti-regulation states, employment in firms with fewer than 20 employees grew by 32% compared to 22% and employment in firms with fewer than 50 employees grew by 36% compared to 27%.

In short, the parental leave states did better than did the anti-regulationist states -- especially in terms of employment growth in small businesses. This first empirical test indicates that state-mandated parental leave legislation not only did not hurt small business employment, but may actually help it.

Figure 1: Comparison Of Employment Growth In Parental Leave States And Grant Thornton States, Aggregate Findings



SOURCE: See Appendix 1.

TABLE 1: EMPLOYMENT GROWTH IN PARENTAL LEAVE STATES

| STATE & FIRM SIZE | # OF EMPLOYEES 1976 | # OF EMPLOYEES 1986 | PCT. CHANGE 1976-1986 |
|----------------------|------------------------|------------------------|--------------------------|
| California | | | |
| Total | 5,874,144 | 8,907,203 | 51.6 |
| <20* | 1,278,887 | 1,789,607 | 39.9 |
| <50* | 1,757,057 | 2,534,563 | 45.4 |
| Colorado | | | |
| Total | 672,363 | 1,146,834 | 70.6 |
| <20* | 173,014 | 257,410 | 18.8 |
| <50* | 236,901 | 351,853 | 48.5 |
| Connecticut | | | |
| Total | 985,445 | 1,385,954 | 39.9 |
| <20* | 193,563 | 235,032 | 20.6 |
| <50* | 274,400 | 349,227 | 27.3 |
| Kansas | | | |
| Total | 559,430 | 759,928 | 35.8 |
| <20* | 151,973 | 170,337 | 12.1 |
| <50* | 199,902 | 228,784 | 14.4 |
| Massachusetts | | | |
| Total | 1,842,357 | 2,367,332 | 28.5 |
| <20* | 345,436 | 381,687 | 10.5 |
| <50* | 503,253 | 583,226 | 15.9 |
| Montana | | | |
| Total | 149,904 | 190,861 | 27.3 |
| <20* | 58,573 | 69,017 | 17.8 |
| <50* | 73,502 | 87,060 | 18.4 |
| Washington | | | |
| Total | 836,538 | 1,235,956 | 47.4 |
| <20* | 210,185 | 295,525 | 40.6 |
| <50* | 279,089 | 400,002 | 43.3 |
| Total U.S. | | | |
| Total | 58,776,175 | 77,691,377 | 32.2 |
| <20* | 12,339,275 | 14,947,415 | 21.1 |
| <50* | 17,068,038 | 21,213,038 | 24.3 |

*=independent enterprises only
Source: See Appendix 1.

TABLE 2: EMPLOYMENT GROWTH IN TOP RANKED
GRANT THORNTON STATES 1976-86

| STATE & FIRM SIZE | # OF EMPLOYEES 1976 | # OF EMPLOYEES 1986 | PCT. CHANGE 1976-1986 |
|-----------------------|------------------------|------------------------|--------------------------|
| Indiana | | | |
| Total | 1,523,338 | 1,749,956 | 14.9 |
| <20* | 271,971 | 295,015 | 8.5 |
| <50* | 376,437 | 421,131 | 11.9 |
| Tennessee | | | |
| Total | 1,184,135 | 1,514,891 | 27.9 |
| <20* | 222,135 | 255,576 | 15.1 |
| <50* | 302,997 | 360,618 | 19.0 |
| North Carolina | | | |
| Total | 1,489,052 | 2,029,982 | 36.3 |
| <20* | 278,188 | 317,837 | 14.3 |
| <50* | 382,826 | 457,180 | 19.4 |
| South Dakota | | | |
| Total | 127,353 | 177,825 | 39.6 |
| <20* | 47,307 | 49,459 | 4.5 |
| <50* | 61,388 | 66,031 | 7.6 |
| Florida | | | |
| Total | 2,076,717 | 3,525,381 | 69.8 |
| <20* | 539,073 | 805,660 | 49.5 |
| <50* | 729,466 | 1,128,080 | 54.6 |
| Missouri | | | |
| Total | 1,278,377 | 1,639,039 | 28.2 |
| <20* | 283,888 | 310,912 | 9.5 |
| <50* | 379,470 | 435,007 | 14.6 |
| Nebraska | | | |
| Total | 396,726 | 526,874 | 32.8 |
| <20* | 104,738 | 112,071 | 7.0 |
| <50* | 139,127 | 149,169 | 7.2 |
| Total U.S. | | | |
| Total | 58,776,175 | 77,691,377 | 32.2 |
| <20* | 12,339,275 | 14,947,415 | 21.1 |
| <50* | 17,068,038 | 21,213,038 | 24.3 |

Source: See Table 1.

* Independents only.

TABLE 3: PERCENTAGE CHANGE IN EMPLOYMENT
BY FIRM SIZE, 48 STATES, 1976-86

| STATES | ALL FIRMS | FIRMS <20* | FIRMS <50* |
|----------------|-----------|------------|------------|
| Total U.S. | 32.2 | 21.1 | 24.3 |
| Alabama | 23.9 | 5.3 | 9.7 |
| Arizona | 99.7 | 58.6 | 70.8 |
| Arkansas | 27.9 | 8.2 | 12.2 |
| California | 51.6 | 39.9 | 45.4 |
| Colorado | 70.6 | 48.8 | 48.5 |
| Connecticut | 40.6 | 21.4 | 27.3 |
| Delaware | 54.5 | 15.0 | 16.7 |
| Florida | 69.8 | 49.5 | 54.6 |
| Georgia | 36.5 | 15.4 | 20.1 |
| Idaho | 59.4 | 22.0 | 23.4 |
| Illinois | 8.4 | 8.2 | 8.5 |
| Indiana | 14.9 | 8.5 | 11.9 |
| Iowa | 9.2 | - 8.4 | - 6.0 |
| Kansas | 35.8 | 12.1 | 14.4 |
| Kentucky | 18.0 | 7.0 | 10.3 |
| Louisiana | 35.3 | 22.1 | 25.2 |
| Maine | 30.0 | 8.9 | 11.6 |
| Maryland | 48.6 | 32.6 | 37.9 |
| Massachusetts | 28.5 | 10.5 | 15.9 |
| Michigan | 13.1 | 14.4 | 15.2 |
| Minnesota | 42.4 | 14.7 | 19.4 |
| Mississippi | 17.2 | 3.3 | 7.5 |
| Missouri | 28.2 | 9.5 | 14.6 |
| Montana | 27.3 | 17.8 | 18.4 |
| Nebraska | 32.8 | 7.0 | 7.9 |
| Nevada | 98.8 | 45.3 | 53.2 |
| New Hampshire | 55.6 | 25.7 | 36.2 |
| New Jersey | 33.3 | 20.1 | 24.9 |
| New Mexico | 52.1 | 33.1 | 37.1 |
| New York | 15.0 | 11.7 | 14.0 |
| North Carolina | 36.3 | 14.3 | 19.4 |
| North Dakota | 29.8 | 5.6 | 5.1 |
| Ohio | 14.6 | 11.2 | 13.8 |
| Oklahoma | 40.1 | 27.3 | 29.1 |
| Oregon | 32.9 | 20.1 | 23.0 |
| Pennsylvania | 9.8 | 7.7 | 9.2 |
| Rhode Island | 16.3 | 4.3 | 7.7 |
| South Carolina | 29.9 | 16.2 | 21.9 |
| South Dakota | 39.6 | 4.5 | 7.6 |
| Tennessee | 27.9 | 15.1 | 19.0 |
| Texas | 59.1 | 48.0 | 48.5 |
| Utah | 97.7 | 33.3 | 37.6 |

TABLE 3: PERCENTAGE CHANGE IN EMPLOYMENT
 BY FIRM SIZE, 48 STATES, 1976-86
 CONTINUED

| STATES | ALL FIRMS | FIRMS <20* | FIRMS <50* |
|---------------|-----------|------------|------------|
| Vermont | 36.9 | 18.7 | 24.2 |
| Virginia | 45.3 | 23.8 | 27.8 |
| Washington | 47.7 | 40.6 | 43.3 |
| West Virginia | 3.3 | - 6.9 | - 7.3 |
| Wisconsin | 21.0 | 10.6 | 14.0 |
| Wyoming | 38.5 | 26.4 | 24.7 |

Source: See Table I.

* Independents only.

A Multi-Variable Study of Employment Determination

While this initial comparison is suggestive, it is necessary to delve more deeply. Parental leave by itself is not likely to be responsible for better employment growth. It may be that some other factor, such as being in a more economically dynamic region of the country, is really the cause of the higher growth rates which we observe. Given this uncertainty, we used a method which allowed us to take account of the other important variables that might be responsible for the good or poor performance of a state's economy.

We chose multiple regression analysis to help unravel these statistical complexities. This technique allowed us to choose a variety of other variables which might affect employment growth. We can then determine whether changes in the values of each of these variables, holding the others constant, really were related to different employment experiences, and this can help us explain why some states do well and others poorly. We assumed that the following variables might have had an effect on the percentage change in small business and total employment growth between 1976 and 1986:

1. Average manufacturing wage.
2. The Grant Thornton ranking which measures the pro-business friendliness of a state's fiscal and employment compensation policies.
3. The presence of a parental leave policy.
4. The presence of a more general medical disability leave policy.
5. The average rate of women's labor force participation, 1976-1986.
6. An instrumental variable which reflects those factors which explain the percentage increase in labor force participation of women.
7. The average share of manufacturing employment, 1976-1986.
8. The percentage change in the relative share of manufacturing employment (1976-1986).
9. The change in the median income of a family of four, 1976-1985.
10. Six regional variables for the forty-eight continental states: New England, the Mid-Atlantic, the Southeast, the

Industrial Midwest, the Great Plains and Rockies, and the Far West. (For a more formal discussion of how the variables were operationalized, see Appendix 2).

Before presenting our results, it is useful to suggest how the alternative models of business promotion would differ in predicting how state-level employment would change in response to different values of our explanatory variables.

Average Manufacturing Wages

The anti-regulationist model of economic growth would predict that higher average manufacturing wages will -- if all the other variables in this model affecting business performance were held constant -- depress employment. The regulationist vision -- in contrast -- would suggest that higher wages might be an indication of or even promote a more productive work effort. Thus, there should be no long-term negative effect on employment growth.

"Pro-Business" Taxation and Workers' Compensation Policies

A similar controversy surrounds the use of the business-oriented, state ranking variables. Here, the advocates of unregulated competition would suggest that a "pro-business" climate, which both limits the payment of benefits to workers (or potential workers) and keeps taxation relatively low, will promote employment. On the other hand, worker advocacy groups would argue that state expenditures on (and thus taxation for) items such as education and infrastructure can often aid competitiveness and promote employment. Higher transfer payments can limit the exploitation of workers, but, in and of itself, will not promote growth, advocates would argue.

Parental and Disability Leave

Mandating parental or a more general disability leave also divides the advocates of the anti-regulationist and regulationist models. As we have seen, business lobbyists argue that these policies will depress employment levels -- if the other factors that also affect employment growth are held constant.

In contrast, advocates consider parental leave policies as a new, but important, part of the partnership path to economic growth because leaves allow more potential workers to balance home and work place responsibilities. Advocates argue that businesses cannot afford to ignore the needs of women workers in particular because the lack of social support for the new workforce will eventually reduce productivity increases. Workers accumulate job and company-specific skills as they work, and thus it is in the long-term interest of all business to operate in an environment which promotes "labor force attachment". Even if

there are short-term costs which will lead many small businesses to avoid implementing these benefits on their own, a mandated parental leave policy can benefit both employers and workers. Individual businesses will become more competitive as worker productivity rises, which allows wages to increase. At the very least, regulationist advocates would predict that a parental leave policy will have no long-term negative effect on employment growth and competitiveness, while reducing the social costs associated with combining work place and household responsibilities.

Other Variables Affecting Employment Growth

The remaining factors in our regression test do not really divide the regulationists from the anti-regulationists. This does not mean, however, that the variables are unimportant. In fact, it may very well be that these less controversial factors are really the major ones which regulate employment growth in the United States.

Women's Labor Force Participation

For example, the change in women's labor force participation should be positively associated with employment growth. If more women are entering the labor market, this should stimulate more employment as wages in women's occupations drop. Similarly, a higher average labor force participation rate of women might indicate the presence of a pool of relatively skilled, relatively low-wage labor and thus lead to a greater expansion in jobs. We noted earlier that the growth in service employment has been dependent on the availability of a female labor reserve. Here we will be further testing this assertion.⁴²

Reliance on Manufacturing

It has often been claimed that the most successful states are those which are not heavily reliant on manufacturing and thus can more easily adapt to a service-oriented economy. Two of our other variables attempt to capture this effect on employment. If the proportion of employment in manufacturing has declined relatively rapidly, we might expect small business employment

⁴²Adding this variable does make our model more complex because it is quite possible that employment growth causes a rise in women's labor force participation as much as the latter actually generates employment growth. We have attempted to resolve this problem by constructing a two-stage least squares regression model. This procedure permits us to construct a variable which is an estimate of the change in women's labor force participation, but which is not a function of employment growth. For more details, turn to Appendix 2.

growth to be higher in those states. Furthermore, if the state we study is on average more reliant on manufacturing employment for its prosperity, then it may be that it will have experienced slower employment growth over the last decade.

Change in Median Family Income

Finally, it is possible that the connection between the change in median income of a family of four, and employment growth is not unidirectional. On the one hand, a rise in income could raise a general demand for output and increase business hiring. On the other hand, a decline in family income might have an "added worker" effect by pushing women workers out of the household and into the labor market.⁴³ For these reasons, we cannot be sure how current shifts in median income will affect employment.

Summary of Results

Finding 1: There is a strong positive association between the presence of parental leave policies and small business employment growth.

Our regression results indicate that a state parental leave policy is associated with a significant expansion in small business employment. We estimate that both very small businesses (having zero to twenty workers) and relatively small businesses (employing zero to fifty workers) will hire approximately 21% more employees if these enterprises reside in a parental leave state. (In all of our discussions of these results, we are holding constant the other variables in the model which are assumed to affect employment decisions.)

⁴³Real wage and salary levels are still below their 1973 levels and falling. Women's participation has risen partly to offset the effects of inflation and declining men's wages on the household's standard of living.

Expansion of State Employment
Associated with Parental Leave Policies

| <u>Size of Firm</u> | <u>Percent Change in Employment</u> |
|-----------------------------------------|---------------------------------------------------------------|
| 0 - 20 employees (independent firms) | 20.7 ** |
| 0 - 50 employees (independent firms) | 20.7 * |
| All Firms | Cannot demonstrate any statistically significant effect |

Source: See Appendices 1 and 2.

* Significant at the .05 level.

** Significant at the .10 level.

If we consider firms of all sizes, however, we cannot demonstrate that parental leave policy has a significant effect on employment growth in the total private sector. This last result is not surprising. The Chamber of Commerce itself indicates that many larger businesses provide some form of parental leave.⁴⁴ As a result, we would not expect a state policy mandating this leave to have a significant influence on bigger firms' employment practices.

Most of the states in our sample implemented a leave policy during the 1970s and early 1980s. If there were any significant negative effects resulting from this policy, we should have observed them in our study.

More gender-neutral, state-level disability leave policies (available in New York, New Jersey, Rhode Island and California) do not have the same positive associations with small business employment growth as parental leave measures.

Finding 2: There is a positive association between a high rate of women's labor force participation and employment growth in all size firms.

For every 1% increase in the average labor force participation rate of women, there is a 3% increase in employment

⁴⁴U.S. Chamber of Commerce Research Center, Employee Benefits, 1985 (Washington: Chamber of Commerce of the United States, 1986).

growth. An important implication of this result is that the participation of women in the paid labor market is not just specifically associated with small business employment growth. Women's pursuit of economic independence, although constrained by having to combine household and waged-work responsibilities, has promoted the expansion of employment. This finding combined with the previous one suggests that labor standards which facilitate entry into the labor force, such as the FMLA, will have positive effects on employment.

Expansion of States' Employment
as a Result of Women's Labor Force Participation

| <u>Size of firm</u> | <u>Percent change in Employment as a Result of Percentage Point Increase in Labor Force Participation</u> |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| 0 - 20 employees (independent firms) | 2.1 * |
| 0 - 50 employees (independent firms) | 2.2 * |
| All enterprises | 3.0 * |

Source: See Appendices 1 and 2.

* Significant at the .05 level.

Finding 3: There is a positive association between 'anti-regulation' fiscal and workers' compensation policies and employment growth for all firm sizes.

The fact that parental leave policies may promote employment does not mean that only a regulationist model of business expansion can work. Our previous comparison of parental leave and Grant Thornton states suggests that both anti-regulationist and regulationist states can grow successfully. Thus, despite the parental leave findings, our results also indicate (as they did in the previous section of findings) that it is possible to encourage growth in employment by offering a package of low taxes and local government expenditures on welfare and social compensation packages to unemployed and disabled workers. In other words, some anti-regulation policies may also promote employment.

Expansion of State Employment
as a Result of Anti-Regulation Fiscal Policies

| <u>Size of firm</u> | <u>Percent Change in Employment as Result of One Point Ranking Improvement</u> |
|-----------------------------------------|------------------------------------------------------------------------------------|
| 0 - 20 employees (independent firms) | 1.5 * |
| 0 - 50 employees (independent firms) | 1.7 * |
| All enterprises | 2.0 * |

Source: See appendices 1 and 2.

* Significant at the .05 level.

A one-point improvement in a state's Grant Thornton rank may lead to a 2% increase in employment, if all other variables are held constant. It is not surprising that these policies would affect both large and small firms, since all enterprises would be influenced by these policies. In fact, one might expect that larger firms which can more easily relocate production and distribution facilities would be more sensitive to a state's fiscal climate.

In addition to reinforcing our earlier primary findings, the regression results also showed a positive association between employment growth and declines in median family income, lending support to the argument that women have gone to work as family incomes declined. Differential wage rate in the manufacturing sector had no significant effect on employment growth, indicating that higher wages in this sector do not necessarily lead to declines in employment. The agricultural crisis and the sharp declines in energy and raw material prices throughout the 1980s have been important factors in reducing small business employment growth in the Great Plains and Rocky Mountain states. Hence regional location factors were significantly related to employment growth. (For detailed regression results, see Appendix 2).

Implications of these Results

We must confess some surprise with our major finding. We frankly expected to demonstrate that parental or disability leave policies have little effect on overall employment within small business. Thus, we reasoned, it would be appropriate for

government to introduce such policies, since the gains to women workers in particular would outweigh the marginal employment effects of this mandated benefit. Instead, our results indicate that parental leave policies may have a strong positive effect on employment.⁴⁵ Given the unyielding opposition of the small business community to this new labor standard, the ironies associated with these findings are obvious.

While our findings would therefore appear to lend support to both regulationists and anti-regulationists, these findings must be tempered by consideration of social costs -- to workers, employers, taxpayers and to society at large. When these social costs are taken into account, the regulationist perspective proves to be the most cost-effective. Evidence suggests that when both benefits and costs to all relevant parties are taken into consideration, a preference for government regulation becomes manifest. Part III of this report will provide evidence on the cost-effectiveness of the regulationist approach.

Contrary to our own initial intuitions, government policies apparently have an important effect on the future of state economies. Even though anti-regulation policies may have some positive employment effects, our results also suggest that it is possible to construct a more regulated environment which can both meet certain fundamental needs of the workforce and promote economic competitiveness.

⁴⁵Recall, however, our political explanation of the connection between employment growth and the implementation of parental leave. If this causal link is the correct one, then we cannot say that parental leave has caused small business employment growth. On the other hand, there is still no empirical evidence that such policies have negative employment effects. In fact, one could argue that parental leave is a relatively inexpensive policy responding to a very real social need generated by small business employment growth.

CHAPTER III
REGULATIONS AND ECONOMIC GROWTH

Social Costs of Lack of Regulation

We have found that indicators of both regulation and anti-regulation are positively associated with employment growth. Nevertheless, the ability of federal, state and local governments to introduce regulations without harming economic growth is important because evidence suggests that the social costs of anti-regulation are substantially higher than the social costs of regulation.

Social costs are the imputed dollar value of the often hidden, indirect or unintended consequences to workers, to employers, to taxpayers and to society of a particular policy (private or public) or the lack of it. Several examples will show that workers in low-wage, low-benefit marginalized jobs are not the only group that suffers because of anti-regulation policies. Taxpayers pay the price and so, indirectly, do small businesses.

Costs of Low-Wage, Low-Benefit Jobs to Workers and Taxpayers

In a previous section we discussed the costs to women of increased employment. Although the rise in female employment has resulted in more economic independence for women, marginalized jobs have also resulted in increased numbers of female-headed families living in poverty. One such group, home-health care workers in California, were the focus of a recent study by the Service Employees International Union (SEIU). Eighty nine percent of these workers were women, and 20% of them were heads of families with children. The study concluded that "businesses which compete by forcing their workers to labor on the cheap often rely on hidden taxpayer subsidies."⁴⁶

In order to feed, clothe, shelter and care for their families on their minimum wages, more than half of these workers qualified for and use public support programs. These taxpayer-financed public support programs include direct low-income cash assistance (Aid to Families with Dependent Children and Supplemental Security Income), state and federal health insurance (Medical and Medicaid), food stamps, and infant nutrition programs. The study estimated that if Congress raises the minimum wage (as proposed in HR 1834 and S 837) to \$5.05 by 1992,

⁴⁶Public Policy Department, The Hidden Story of Taxpayer Subsidies for Low-Wage Employment (Washington Service Employees International Union, April 1988), p. 1.

California taxpayers would save \$5.9 million annually (in 1988 dollars).

This result has implications for small business. Our findings show that higher wages do not result in the decline of small business growth, but rising taxes and higher public transfer payments do. By keeping wages low so that taxpayers have to subsidize workers via public transfer payments, anti-regulationist policies can hurt small business and aggregate employment growth.

Costs of the Lack of Family Care Policies

We have also discussed the fact that women, despite their increasingly permanent position in the labor force, are still responsible for most home and family care. Institutions and policies have only begun to respond to their needs despite the high costs of not doing so.

Elder Care

Care of the frail elderly, for example, is an increasingly common activity for which women (and men) pay costs in terms of unpaid labor, foregone wages and missed economic opportunities. A study by the National Association of Area Agencies on Aging finds that 77% of the employed women they surveyed experienced work and caregiving conflicts that resulted both in costs to themselves and in productivity losses to employers.⁴⁷ In a recent study on the costs of not having a federal family and medical leave policy, the Institute for Women's Policy Research (IWPR) estimated that the foregone income costs to workers giving eldercare amounted to almost \$5 million in 1986 dollars annually. The hidden costs in additional public support programs to taxpayers in the absence of policy that allows time off the job for elder care were \$380 million in 1986 dollars.⁴⁸

Childbirth and the Lack of Parental Leave

According to the IWPR study, employed women who have had children in the past three years have earned \$31 billion less than those who did not give birth. These income losses were due

⁴⁷National Association of Area Agencies on Aging, Breadwinners and Caregivers: Exploratory Research into the Prevalence and Dimensions of Conflict between Work and Elder Caregiving Responsibilities. (Washington January 1988).

⁴⁸Roberta M. Spalter-Roth and Heidi I. Hartmann, Unnecessary Losses: Costs to Americans of the Lack of Family and Medical Leave (Washington: Institute for Women's Policy Research, forthcoming).

to increased unemployment, decreased wages, and increased time out of the labor force. These new mothers' losses were even greater when compared to new fathers. Between the year before the birth and two years after, women's wages relative to men's declined by 60% -- and their hours of housework increased by 22%. The hidden costs of childbirth to women are increased income inequality and increased unpaid work.⁴⁹

IWPR further estimated that \$715 million of these losses are the result of the lack of parental leave policy. Of this cost, \$607 million is due to lost earnings because of decreased job security and \$108 million were additional hidden taxpayer costs of the lack of this policy.⁵⁰ In the state of Maryland alone, IWPR estimated that the lack of parental leave policy cost nearly \$22 million in lost earnings and taxpayer supported transfer payments. The \$715 million burden on U.S. workers and taxpayers can be compared to the \$102-340 million that the U.S. Government Accounting Office estimates it would cost business to implement a parental leave policy.⁵¹ Clearly the expenses which the regulation imposes on business are less than the costs which the absence of regulation imposes on workers and taxpayers.

Because workers experience more unemployment and time out of the labor force without parental leave, the economy is less productive. Even if employers find an equally capable employee to replace the one they have terminated, society still loses productivity because the former trained and skilled worker will have to find a new job. The IWPR study suggests that these workers are often unemployed longer or employed at jobs below their capability. IWPR concluded that the employer's action in terminating an ill or pregnant worker creates a cost burden on all of society. By requiring job reinstatement, parental leave mitigates this cost.

Costs of the Lack of Health Insurance

In a previous section we discussed the growing number of workers who are not covered by health insurance policies. According to a Congressional Research Service study in 1986, nearly 14 million U.S. citizens without health insurance did not seek health care because they could not afford it. Of the uninsured who did seek health care, they were more likely to receive delayed and less than adequate care, more likely to be

⁴⁹These findings are much more reflective of the patterns of white men and women than black men and women.

⁵⁰Spalter-Roth and Hartmann, Unnecessary Losses.

⁵¹U.S. General Accounting Office, "Testimony on S249 the Parental and Family Leave Act of 1987 "

assigned less effective treatment regimens, more likely to receive abbreviated or incomplete treatment, and among the low-income uninsured, more likely to have poor health status requiring more, rather than less, health care.⁵²

Costs of hospital care for those without health insurance are passed on to privately insured patients, patients affluent enough to afford their own care and, in the case of government hospitals, increased public subsidies. The American Hospital Association estimated in 1986 that uncompensated care for uninsured patients in private hospitals increased the costs of hospital care to private payers by 10%.⁵³ These hidden costs will no doubt rise if the current trend of increasing numbers of uninsured workers (and their families) continues.

A Final Comment on Costs

Although the anti-regulation model may produce employment growth, this approach to public policy generates significant negative costs. Workers forego income, receive lower wages, and experience higher unemployment and time out of the labor force. As a result, taxpayers must fund additional public support payments, and the whole economy suffers productivity losses. Most ironically, business itself can create a negative business climate, since these negative effects may culminate in increased welfare and unemployment payments.

International Competition

It could be argued that this analysis, by focusing on the realities of the American labor market, neglects international competition. Perhaps government action could successfully improve labor contracts during the days when the United States was basically a self-sufficient economy. Now that America is deeply embedded in the world economy, the anti-regulation model argues, it may be that any effort to provide more benefits to workers will undercut the nation's international economic standing.

Our parental leave results suggest that this anti-regulation perspective is needlessly apocalyptic. Our results show that parental leave legislation does not affect big business, the sector of the economy which participates significantly in international trade. Small business, which does not

⁵²Congressional Research Service, Library of Congress, Health Insurance and the Uninsured Background Data and Analysis (Washington: U.S. Government Printing Office, 1988) P. 136ff

⁵³Ibid.

significantly participate in international trade, is positively affected by family leave policy. Other traditional and new regulatory policies (such as the minimum wage) have a similarly positive impact on workers in this sector of the economy, while not dramatically changing American competitiveness.⁵⁴ Thus, there is no reason to expect any adverse competitive effects from legislative benefits which are aimed at mitigating the adverse consequences of the more marginal workforce.

If this conclusion is true, what are we to make of the chart widely distributed by small business spokespeople which links the relative size of fringe benefits to unemployment rates?

| <u>Fringe Benefits and Unemployment</u> | | |
|-----------------------------------------|----------------------------------|-----------------------------------|
| | <u>Fringes as % of wages</u> | <u>Unemployment Rate 1984</u> |
| Italy | 100 | 9 |
| Germany | 80 | 8 |
| France | 80 | 8 |
| USA | 38 | 7.5 |
| Japan | 28 | 3 |

Source: CARE. "Benefit Mandates in a Global Economy" numbers approximate, taken from chart 1.

The figures in this table indicate that the European benefits system has created an environment of high unemployment and slow growth. And it seems straightforward to conclude that:

The European experience with mandated benefits is that it has increased the fixed costs of hiring to the point of stagnation. Much of our competitiveness (sic) threat is now coming from Japan and Asia. The compensation in these countries is such that government mandating of even a minimal level of benefits for U.S. employees will most certainly reduce our competitiveness and is likely to result in the loss of U.S. jobs.⁵⁵

⁵⁴F. Gerard Adams, Increasing the Minimum Wage: The Macroeconomic Impacts (Washington Economic Policy Institute Briefing Paper, July 1987).

⁵⁵Concerned Alliance of Responsible Employers, Benefits Mandates in a Global Economy. n.d., n.p.

Despite the impressive correlation which CARE establishes, the most direct measure of a nation's competitiveness is its trade balance. This figure tells us the relationship between the aggregate value of exports and imports. If the value of a country's imports is consistently greater than its exports, this is good indication of a weak competitive position.

When we examine these figures, we get quite a different story from that told by the small business community.

| <u>Fringe Benefits and the Trade Balance</u> | | |
|----------------------------------------------|----------------------------------|-----------------------------------------------------------------------|
| | <u>Fringes as % of wages</u> | <u>Trade Surplus (+) or Deficit (-) as % of GDP (1980-85)</u> |
| Italy | 100 | -2.1 |
| Germany | 80 | +3.0 |
| France | 80 | -1.7 |
| USA | 38 | -1.8 |
| Japan | 28 | +2.4 |

 Source: See previous table for column 1. Column 2 computed from data in IMF, International Financial Statistics, December 1987).

This table indicates that there is no clear relationship between the amount of fringe benefits as a percentage of wages and salaries and a nation's competitive position. Germany and Japan have been equally successful in running a trade surplus despite the very different relationship between wage and non-wage remuneration. This result is not surprising, since nearly every serious commentator on the trade balance has noted that swings in exchange rates and the pursuit of different macroeconomic policies are primarily responsible for the great differences in trade performance of the advanced capitalist nations in the 1980s.⁵⁶

Small business lobbyists have grossly exaggerated the negative macroeconomic effects of mandated benefits. There is no proven link between different national benefits packages and varying economic performance.

⁵⁶Robert Z. Lawrence, Can American Compete? (Washington: The Brookings Institution, 1984).

CONCLUSIONS

In the general context of small business' concern over a series of new labor standards, the specific purpose of this report is to answer the question: Does small business employment grow more slowly in those states that have government-mandated parental leave policies? The clear and resounding answer is no.

Although state parental leave laws and regulations are narrower in scope than the proposed federal Family and Medical Leave Act, they are versions of a policy that responds to the needs of an increasingly feminized workforce. As such, family leave acts as a lightning rod between those who favor increasing economic growth by giving business owners a free hand to set the conditions of employment, and those who favor government-mandated policies that establish partnership relations between labor and management.

This study also sheds light on the differing impacts of two opposing political approaches: the anti-regulation and the regulationist models of public policy. How do our findings resolve these issues?

Summary of Findings

1. Job growth is 21% higher in states with leave policies, when other factors are held constant, although total employment growth is neither helped nor hindered by these policies. Moreover, when the percentage change in employment growth is compared, states with parental leave programs did better than those states which both provided low welfare and other workers' compensation expenditures and do not tax heavily.
2. Employment growth is significantly associated with a high rate of women's labor force participation.
3. Employment growth is significantly connected with policies of low government compensation expenditures and low taxation.
4. The rise in jobs is not significantly associated with low manufacturing wage rates.
5. The rise in jobs is significantly related to declines in family income.
6. There is no clear relationship between the amount of fringe benefits which workers receive as a percentage of wages and salaries and a nation's competitive position.

Policy Implications

We conclude, on the basis of these findings, that public policies which permit the easier integration of household and work place responsibilities not only help women to participate in the labor force but also have a positive impact on small business employment growth. For this reason, it is important for federal, state and local governments to mandate labor standards which take account of the needs of the new American workforce.

We have shown the hidden costs to workers, to employers, to taxpayers and to society in general of anti-regulationist strategies which block progressive labor market policies. Given these costs, it is in society's interest (including the interests of small business) to support programs such as family and medical leave, universal child care, universal health insurance, and wages that can support a family.

These new labor standards will keep women employed as permanent members of the workforce, rather than as marginal workers moving between temporary, low-wage work and welfare. With these policies in place, employment expansion will be promoted along with decent working conditions.

The Need for a Federal Family and Medical Leave Policy

Our findings are based on state-level policies. Do we need a federal leave policy or should we allow the states to enact this regulation? We would argue that a state by state strategy is not the best way to enact this minimum labor standard -- unless all fifty governments adopt it simultaneously. In the absence of a federal policy, workers, taxpayers and businesses in unregulated states will bear disproportionate costs. A national leave policy would cut these losses and have the effect of making the right to return to a job after childbirth or illness available to all citizens regardless of the state in which they happen to reside.

If a federal law is passed, states can still have a role in regulatory policy making by providing variants that go beyond the currently proposed federal policy. Local legislatures could decide to extend coverage to more workers and perhaps initiate paid leave policies. State experiments, as we can see from this report, often provide the basis for informed federal regulation.

Additional Benefits of Leave Policy

The currently proposed Family and Medical Leave Act, by not limiting benefits to a specific group of the employed population (pregnant women workers) and by allowing men as well as women to take time off for family responsibilities, has an additional

positive effect. Historical experience and recent economic studies have demonstrated that gender-neutral policies are preferable because they limit sex-specific discrimination. Such adverse effects are less likely with a policy that provides the needed benefit regardless of sex.⁵⁷ A neutral policy legitimates greater equality in gender relations at home and in the work place.

Regulations in the Interests of Business and Society

We have shown that well-designed public interventions which permit the vast majority of American workers to combine household and work place responsibilities serve the public and private good. Workers, taxpayers and business all benefit from regulations which limit the excessive human costs of unrestricted competition.

⁵⁷Eileen Trzenski. "Wage and Employment Effects of Mandated Leave Policies." (Unpublished paper, The University of Connecticut, April 1988).

APPENDIX 1

DATA SOURCES

This study relies on a variety of sources for its study of the relationship between small business employment growth and parental leave policies.

1. Employment

The data for employment growth draws on the Small Business Administration's small business data base. More specifically, we use the United States Longitudinal Microdata File (USELM). The USELM data file has been created from the United States Establishment and Enterprise Microdata file (USEEM) in order to facilitate longitudinal studies. These files are, in turn, constructed from the Dun and Bradstreet data base -- which is an attempt to compile data on all U.S. private enterprises with employees and some financial experience.

There is some difference in the coverage of large and small firms. Data on firms with more than fifty employees are updated every six months, while smaller firms are surveyed every thirteen months. Moreover, our small business data only cover independently-owned enterprises, while our total employment figures include all private firms.

One problem with these data is that there are lags in reporting firm births (two to three years) and firm deaths (up to three years). In addition, the employment data figures of the SBA are consistently higher than those reported by the Department of Labor or the Bureau of the Census. Since we focus on rates of employment change, this latter difficulty should not be a problem.

2. Parental and Maternity Leave

Because of time lags in the reporting of employment data, parental leave states were limited to those which had a parental or maternity leave law or regulation in place by 1984. In fact, most of the seven states in our sample had laws or regulations on the books during the 1970s.

3. State Rankings on Pro-Business Climate

This ranking was constructed from the General Manufacturing Climates Study of the Forty-Eight Contiguous States that is issued annually by Grant Thornton, International, an accounting and management consulting firm.

Grant Thornton has issued this controversial ranking since 1979. Every year they present business lobbyists and state

officials with a list of quantifiable indicators which the Grant Thornton researchers believe are important in determining a favorable or unfavorable business climate. The lobbyists are asked to assess the relative importance of each variable. Grant Thornton then uses these responses to construct a composite index.

We focussed on the fiscal and government expenditure data used by Grant Thornton and constructed a ranking for the 48 states for the years 1981-84. This ranking takes account of the following annual data:

1. State and local taxes per capita.
2. The percentage change in state and local taxes per capita.
3. State spending versus state income growth.
4. State debt per capita.
5. Welfare expenditures per capita.
6. Average unemployment compensation paid per covered worker.
7. Net worth of unemployment compensation trust per covered worker.
8. Maximum weekly workers compensation for average wage worker.
9. Workers compensation insurance rate per \$100 of payroll on manufacturing worker.

Many forceful criticisms have been made of this pro-business and anti-union ranking system.⁵⁸ We agree that many of the components of Grant Thornton's composite index do not really indicate whether a state's economic and policy climate is good or bad for business. Moreover, it is arbitrary to rely on business lobbyists to provide the weights for the construction of this index. On the other hand, this procedure is a good measure of the anti-regulation ideology of business interests. Such a ranking does identify those states which do not wish to tax or constrain business activity. Thus, we use this index as a ranking of states on an anti-regulation/regulation continuum.

⁵⁸See, in particular, Corporation for Enterprise Development, Taken for Granted: How Grant Thornton's Business Climate Index Leads States Astray (Washington 1986).

Sources for other variables are taken from the Bureau of the Census, Department of Commerce or the Bureau of Labor Statistics, Department of Labor.

APPENDIX 2

Regression Results

In our attempt to determine the effects of parental leave on employment growth, we ran three general, two-stage, least square regressions.

Each regression contains a different dependent variable, while the independent variables remain the same. The three dependent variables are:

1. The percentage change in total employment growth in all types of firms (1976-86) (SEEMPLOY).
2. The percentage change in employment of small, independent businesses with twenty or fewer employees (CHGSB020).⁵⁹
3. The percentage change in employment of small businesses with fifty or fewer employees (CHGSB050).⁶⁰

The independent, state-level variables are:

1. The percentage change in Women's Labor Force Participation, 1976-86 (CHGFEMLF).
2. The average women's labor participation during 1976-86 (MIDFEMLF).
3. The presence of a parental leave law or regulation (PLDUMM).
4. The presence of a disability leave law or regulation (DISABDUM).
5. The percentage change in the proportion of manufacturing employment 1976-86 (CHMANPRO).

⁵⁹We choose to limit our definition of small business employment growth to firms which are independents rather than branches of large business chains. Using a broader definition of small business would not have changed the results.

⁶⁰We choose to define small businesses as those firms having twenty or fewer and fifty or fewer employees because these are the firm sizes exempted from by the Senate and House versions, respectively, of the Family and Medical Leave Act.

6. The average share of manufacturing employment 1976-86 (MIDMAN).
7. The average manufacturing wage rate (1976-86).
8. A Grant Thornton business climate ranking of state fiscal and transfer payment policies (AVSTRANK).
9. The percentage change in the median income of a family of four (1976-85) (CHGMDINC).
10. The New England region (Region 1).
11. The Mid-Atlantic region (Region 2).
12. The South (Region 3).
13. The Industrial Midwest (Region 5).
14. The Great Plains and Rocky Mountains (Region 6).
15. The Far West (Region 7).

Because of simultaneity problems, we felt that it was necessary to construct an instrumental variable for the percentage change in women's labor force participation. For this reason, we chose a two-stage least square technique to construct estimates for this variable which is not correlated with the error term.

The regression we used has the following dependent variables:

1. Change in male median income (1976-86) (CHMLMDIN).
2. The presence of a parental leave policy (PLDUMM).
3. The percentage change in the share of manufacturing employment (1976-86) (CHMANPRO).
4. The average labor force participation of women (1976-86) (MIDFEMLF).
5. The average share of manufacturing employment (1976-86) (MIDMAN).
6. The average manufacturing wage (1976-86) (AVHRMWG).
7. The percentage change in the number of female-headed households (1976-86) (CHGPWHS).

8. The percentage change in the share of part-time workers in the states' total labor force (1976-86) (CHGCTPT).

Our regression results are reported in the following pages. Our major findings regarding parental leave policies, women's labor force participation and pro-business fiscal and labor market policies are detailed in the Findings section of the text. In the interests of concision and focus, results regarding the remaining dependent variables were only summarized in the text. Detailed findings for these variables are as follows:

Finding 4: A constructed variable which serves as a measure of the factors which promote increased women's labor force participation is positively associated with employment growth.

This result is consistent with our previous finding. Once again, the factors which might promote women's labor force participation are not particularly favorable for the specific expansion of small business. It is clear, however, that U.S. economic growth is heavily dependent on the fuller participation of women in the paid portion of the economy.⁶¹

Finding 5: Different state-level manufacturing wage rates are not significantly associated with differences in state employment growth.

We could find little support for the anti-regulation proposition that higher wages will lead to slower employment growth. This result provides some support to the regulation model of business development. Significant growth can occur in a high wage economy.

Finding 6: Declines in family median income are positively associated with increases in employment.

This finding suggests that families have been able maintain their income only because of women's labor force participation. A decline in living standards may have led more women to enter the wage-working world. Alternatively, it may be that employment was concentrated in relatively low-wage industries. Thus, those states which expanded most rapidly also experienced sharper

⁶¹We do not report our estimates of the precise impact of the growth of labor force participation on employment growth because the results from instrumental variable techniques are difficult to interpret with any quantitative precision.

declines in median income as family members moved from high-wage to low-wage sectors.

This demand-oriented explanation would be more plausible if we could also demonstrate that those states where the manufacturing sectors have declined most rapidly also exhibit the strongest employment growth. (This would be because employment in manufacturing industries is generally more remunerative than those in other occupations.) Our regression findings on the link between manufacturing and employment growth, however, are not robust. None of our two-stage least square regression models could demonstrate a statistically significant relationship between relative manufacturing decline and employment growth. Hence, the supply-oriented argument is more likely to be correct.

Expansion in States' Employment
As a Result of Changes in Median Income

| <u>Size of Firm</u> | <u>Percentage Change in Employment</u> <u>as a Result of a Percentage Point</u> <u>Decline in Family Median Income</u> |
|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| 0 - 20 employees (independent firms) | +0.9 * |
| 0 - 50 employees (independent firms) | +0.9 ** |
| All enterprises | +1.2 ** |

Source: See appendices 1 and 2.

* Significant at the .05 level.

** Significant at the .10 level.

Finding 7: Small business employment has grown more slowly in the Great Plains and Rocky Mountain states.

Employment in this region consistently has grown more slowly than those in all others, after accounting for the other variables which might affect employment growth. And small business job growth has been the weakest of all. There may be several reasons for this poor regional performance, but the major ones are probably the agricultural crisis and the sharp decline in energy and raw material prices throughout the 1980s. The Great Plains and Rockies particularly suffered as a result of these economic trends, and we would hypothesize that the economic crisis of this region especially hurt family farms and small retail and wholesale outlets.

Decline in Great Plains and Rocky Mountain States' Employment

| <u>Size of Firm</u> | <u>Percentage Change in Employment</u> |
|-----------------------------------------|---------------------------------------------------------------|
| 0 - 20 employees (independent firms) | -21.6 * |
| 0 - 50 employees (independent firms) | -22.4 ** |
| All enterprises | Cannot demonstrate a statistically significant relation |

Source: Appendices 1 and 2.

* Significant at the .05 level.

** Significant at the .10 level.

PROCESSED MODEL STATEMENTS

8001. BLOCK SBEMPLOY CHGFENLF * CHMLNDIN PLDUMM CHMANPR MIDFENLF MIDMAN AVHRMVG REGION1 REGION2 REGION3 REGION5 REGION6 REGION7
7 AVSTRANK DISABDUM CHGMDINC CHGFEMHD CHGPWHS CHGPCTPT

A MODEL SBEMPLOY * 8001 CHGFENLF PLDUMM CHMANPR MIDFENLF CHGMDINC MIDMAN AVHRMVG DISABDUM AVSTRANK REGION1 REGION2 REGION3
REGION5 REGION6 REGION7

8. MODEL CHGFENLF * CHMLNDIN PLDUMM CHMANPR MIDFENLF MIDMAN AVHRMVG CHGFEMHD CHGPWHS CHGPCTPT

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| | | | | | |
|---------|---------|-----|------------|-------------|--------|
| MODEL | A | SSE | 18247 09 | F RATIO | 2 27 |
| | | DFE | 32 | APPROX PR>F | 0 0256 |
| DEP VAR | SBEMLPY | MSE | 570 221439 | R-SQUARE | 0 5151 |
| | | OBU | 4434 747 | | |

SECOND STAGE STATISTICS

| VARIABLE | DF | PARAMETER ESTIMATE | STANDARD ERROR | T RATIO | APPROX PROB> T |
|---------------|----|--------------------|----------------|---------|----------------|
| INTERCEPT | 1 | 12 829941 | 85 968444 | 0 1492 | 0 8823 |
| BOO1 CHGFEMLF | 1 | 6 209914 | 2 414107 | 2 5723 | 0 0149 |
| PLDUMM | 1 | 18 943874 | 15 181560 | 1 2478 | 0 2212 |
| CHMANPR | 1 | -0,174153 | 0 801017 | -0,2174 | 0 8293 |
| MIDFEMLF | 1 | 2 972006 | 1 362346 | 2 1815 | 0 0366 |
| CHGMDINC | 1 | -1 237549 | 0 676826 | -1 8285 | 0 0768 |
| MIDMAN | 1 | 16 592488 | 86 554716 | 0 1917 | 0 8492 |
| AVHRMWG | 1 | -5 324899 | 7 215765 | -0 7380 | 0 4655 |
| DISABDUM | 1 | 4 162426 | 16 457693 | 0 2529 | 0 8020 |
| AVSTRANK | 1 | -1,982868 | 0 837470 | -2,1151 | 0 0423 |
| REGION1 | 1 | -6 737613 | 21 135002 | -0 3188 | 0 7520 |
| REGION2 | 1 | 18 300476 | 19 993678 | 0 9153 | 0 3669 |
| REGION3 | 1 | 0 694640 | 14 903173 | 0 0466 | 0 9631 |
| REGION5 | 1 | -2 536882 | 21 693913 | -0 1169 | 0 9076 |
| REGION6 | 1 | -10 039852 | 15 945155 | -0 6296 | 0 5334 |
| REGION7 | 1 | 20,485747 | 23,084535 | 0 8879 | 0 3812 |

| | | | | | |
|---------|----------|-----|------------|----------|--------|
| MODEL | B | SSE | 894 960527 | F RATIO | 0 61 |
| | | DFE | 38 | PRD>F | 0 7801 |
| DEP VAR | CHGFEMLF | MSE | 23 551593 | R-SQUARE | 0 1264 |

| VARIABLE | DF | PARAMETER ESTIMATE | STANDARD ERROR | T RATIO | PROB> T |
|-----------|----|--------------------|----------------|---------|---------|
| INTERCEPT | 1 | 28 606361 | 18 029741 | 1 6421 | 0 1088 |
| CHMLMDIN | 1 | -0 093800 | 0 078482 | -1 1801 | 0 2453 |
| PLDUMM | 1 | -0,748287 | 2,212071 | -0,3383 | 0,7370 |
| CHMANPR | 1 | -0 00767742 | 0 124651 | -0 0616 | 0 9512 |
| MIDFEMLF | 1 | -0 133077 | 0 204714 | -0 6501 | 0 5196 |
| MIDMAN | 1 | -19 099932 | 13 346807 | -1 4310 | 0 1606 |
| AVHRMWG | 1 | -0 106774 | 0 761580 | -0 1402 | 0 8892 |
| CHGFEMHD | 1 | 0 012857 | 0 040571 | 0 3194 | 0 7512 |
| CHGPWHS | 1 | -0,022513 | 0,197036 | -0 1143 | 0 9096 |
| CHGPCPT | 1 | -0 066876 | 0 159303 | -0 4198 | 0 6770 |

PROCESSED MODEL STATEMENTS

BOO1. BLOCK CHGSBD20 CHGFEMLF = CHMLMDIN PLDUMM CHMANPR MIDFEMLF MIDMAN AVHRMWG REGION1 REGION2 REGION3 REGION5 REGION6 REGION7 AVSTRANK DISABDUM CHGMDINC CHGFEMHD CHGPWHS CHGPCTPT

A MODEL CHGSBD20 = BOO1 CHGFEMLF PLDUMM CHMANPR MIDFEMLF CHGMDINC MIDMAN AVHRMWG DISABDUM AVSTRANK REGION1 REGION2 REGION3 REGION5 REGION6 REGION7

B: MODEL CHGFEMLF = CHMLMDIN PLOUMM CHMANPR MIDFEMLF MIDMAN AVHRMWG CHGFEMHD CHGPWHS CHGPCTPT

BOO2. BLOCK CHGSB050 CHGFEMLF = CHMLMDIN PLOUMM CHMANPR MIDFEMLF MIDMAN AVHRMWG AVSTRANK DISABDUM CHGMDINC CHGFEMHD CHGPWHS REGION1 REGION2 REGION3 REGION5 REGION6 REGION7 CHGPCTPT

A: MODEL CHGSB050 = BOO2 CHGFEMLF PLDUMM CHMANPR MIDFEMLF CHGMDINC MIDMAN AVHRMWG DISABDUM AVSTRANK REGION1 REGION2 REGION3 REGION5 REGION6 REGION7

B MODEL CHGFEMLF = CHMLMDIN PLOUMM CHMANPR MIDFEMLF MIDMAN AVHRMWG CHGFEMHD CHGPWHS CHGPCTPT

| | | | | | |
|---------|----------|-----|------------|-------------|--------|
| MOOEL | A | SSE | 7154 006 | F RATIO | 2 33 |
| | | DFE | 32 | APPROX PR>F | 0 0221 |
| OEP VAR | CHGSB020 | MSE | 223 562701 | R-SQUARE | 0 5216 |
| | | OBJ | 2697 619 | | |

SECOND STAGE STATISTICS

| VARIABLE | OF | PARAMETER ESTIMATE | STANDARD ERROR | T RATIO | APPROX PROB> T |
|---------------|----|--------------------|----------------|---------|----------------|
| INTERCEPT | 1 | 0 082865 | 53 829081 | 0 0015 | 0 9988 |
| BOO1 CHGFENLF | 1 | 3 578661 | 1,511592 | 2 3681 | 0 0241 |
| PLDUMM | 1 | 20 728862 | 9,505923 | 2 1806 | 0 0367 |
| CHMANPR | 1 | -0,485089 | 0,501556 | -0,9871 | 0 3310 |
| MIDFENLF | 1 | 2 140875 | 0 853032 | 2 5097 | 0 0173 |
| CHGMDCNC | 1 | -0 905317 | 0 423794 | -2 1362 | 0 0404 |
| M10MAN | 1 | -21 735033 | 54 196175 | -0 4010 | 0 6911 |
| AVHRMVG | 1 | -1 481098 | 4 518147 | -0 3278 | J 7452 |
| DISABDUM | 1 | 9 808486 | 10,304973 | 0 9518 | 0,3483 |
| AVSTRANK | 1 | -1 527056 | 0 586998 | -2,6015 | 0 0139 |
| REGION1 | 1 | -6 377950 | 13 233667 | -0 4819 | 0 6331 |
| REGION2 | 1 | 8 149905 | 12 519027 | 0 651C | 0 5197 |
| REGION3 | 1 | -2 718427 | 9 331611 | -0 2913 | 0 7727 |
| REGION5 | 1 | -2 553000 | 13 583629 | -0 1879 | 0 8521 |
| REGION6 | 1 | -21 589340 | 9,984048 | -2 1624 | 0,0382 |
| REGION7 | 1 | 6,980641 | 14,454365 | 0,4829 | 0 6324 |

| | | | | | |
|----------|----------|-----|------------|----------|--------|
| MOOEL | B | SSE | 894 960527 | F RATIO | 0 61 |
| | | DFE | 38 | PROB>F | 0 7801 |
| DEP VAR. | CHGFENLF | MSE | 23 551593 | R-SQUARE | 0 1264 |

| VARIABLE | OF | PARAMETER ESTIMATE | STANDARD ERROR | T RATIO | PROB> T |
|-----------|----|--------------------|----------------|---------|---------|
| INTERCEPT | 1 | 28 604361 | 18 029741 | 1 6421 | 0 1088 |
| CHALM0IN | 1 | -0 093800 | 0 078482 | -1 1801 | 0 2453 |
| PLDUMM | 1 | -0 748287 | 2 212071 | -0 3363 | 0 7370 |
| CHMANPR | 1 | -0 00767742 | 0 124651 | -0 0616 | 0 9512 |
| MIDFENLF | 1 | -0 133077 | 0 204714 | -0 5501 | 0 5196 |
| M10MAN | 1 | -19 089332 | 13 346807 | -1 4310 | 0 1606 |
| AVHRMVG | 1 | -0 106774 | 0 761590 | -0 1402 | 0 8592 |
| CHGFENLF | 1 | 0 012087 | 0,040571 | 0 3194 | 0 7512 |
| CHGPHNS | 1 | -0,022513 | 0,197036 | -0 1143 | 0 8096 |
| CHGCPCTP | 1 | -0 066876 | 0 159303 | -0 4198 | 0 6770 |

375

380

| | | | | | |
|---------|-----------|-----|------------|-------------|--------|
| MODEL | A | SSE | 8906 113 | F RATIO | 2 20 |
| | | OFF | 32 | APPROX PR>F | 0 0301 |
| OEP VAR | CHGSRBOS0 | MSE | 278 316036 | R-SQUARE | 0 5076 |
| | | OBJ | 2873 329 | | |

SECOND STAGE STATISTICS

| VARIABLE | OF | PARAMETER ESTIMATE | STANDARD ERROR | T RATIO | APPROX PROB> T |
|---------------|----|--------------------|----------------|---------|----------------|
| INTERCEPT | 1 | 4 987062 | 60 060149 | 0 0830 | 0 9343 |
| BOO2.CHGFEMLF | 1 | 3 902450 | 1.686568 | 2 3138 | 0.0273 |
| PLDUMM | 1 | 20 680322 | 10 606295 | 1 9428 | 0.0600 |
| CHMANPR | 1 | -0.472804 | 0.559615 | -0.8449 | 0.4045 |
| MIDFEMLF | 1 | 2 214938 | 0 951776 | 2 3272 | 0 0264 |
| CHGMINDC | 1 | -0 920174 | 0 472851 | -1 9460 | 0 0605 |
| MIDMAN | 1 | -14 238970 | 60 469737 | -0 2355 | 0 8153 |
| AVHRMVG | 1 | -2.123708 | 5.041152 | -0.4213 | 0.6764 |
| DISABDUM | 1 | 9 920881 | 11 497841 | 0 8628 | 0.3946 |
| AVSTRANK | 1 | -1.681963 | 0.654945 | -2.5834 | 0.0146 |
| REGION1 | 1 | -4.018079 | 14 765551 | -0 2721 | 0 7873 |
| REGION2 | 1 | 9 964553 | 13 968187 | 0 7134 | 0 4808 |
| REGION3 | 1 | -1 830428 | 10 411806 | -0 1758 | 0 8616 |
| REGION5 | 1 | -1.032850 | 18.186023 | -0.0682 | 0 8481 |
| REGION6 | 1 | -22.428844 | 11 139767 | -2 0134 | 0.0328 |
| REGION7 | 1 | 11.868391 | 16.127853 | 0.7359 | 0.4671 |

| | | | | | |
|----------|----------|-----|------------|----------|--------|
| MODEL | B | SSE | 894 960527 | F RATIO | 0 61 |
| | | OFF | 38 | PROB>F | 0 7801 |
| DEP VAR. | CHGFEMLF | MSE | 23.891893 | R-SQUARE | 0 1264 |

| VARIABLE | OF | PARAMETER ESTIMATE | STANDARD ERROR | T RATIO | PROB> T |
|-----------|----|--------------------|----------------|---------|---------|
| INTERCEPT | 1 | 29 606361 | 18.029741 | 1 6421 | 0 1088 |
| CHMLMIND | 1 | -0 093800 | 0.079482 | -1 1801 | 0.2453 |
| PLDUMM | 1 | -0.748287 | 2.212071 | -0.3363 | 0.7370 |
| CHMANPR | 1 | -0 00767742 | 0 124651 | -0 0616 | 0 9512 |
| MIDFEMLF | 1 | -0 133077 | 0 204714 | -0 6501 | 0 5196 |
| MIDMAN | 1 | -19 099932 | 13 346807 | -1 4310 | 0 1606 |
| AVHRMVG | 1 | -0.106774 | 0.761580 | -0 1402 | 0.8892 |
| CHGFEMLD | 1 | C. 012857 | 0.04057 | 0 3194 | 0 7512 |
| CHGPMHS | 1 | -0.022513 | 0.197036 | -0.1143 | 0.9096 |
| CHGPCPT | 1 | -0 066876 | 0 159303 | -0 4198 | 0 6770 |

APPENDIX 3

State Leave PoliciesState Parental Leave Regulations Affecting Private Employers
(March 1988)

| State & cite | Date | Leave provisions | Reinstatement provisions |
|------------------------------------------------------------------------------------|-----------|----------------------------------------------------|------------------------------------------------------------------------------------------|
| California, 2 Cal. Admin. Code 7291.2(d)(3). | 1980 | Pregnancy disability leave for up to 4 months. | Original or similar job unless job ceased to exist for legitimate business reasons. |
| Colorado, 3 Col. Code of Regs. 708, Sec. 8. | 1971 | Pregnancy leave for reasonable period of time. | Original or similar job. |
| Kansas, 1 Kans. Admin. Regs. 21-32-6. | 1975 | Pregnancy leave for reasonable period of time. | Original or similar job. |
| Massachusetts, 804 Code of Mass. Regs. 8.01. | 1978 | Maternity leave for up to 8 weeks. | Original or similar job. |
| Montana, 9 Admin. Rules of Montana, Title 24.14.302 and 24.14.305-306. | 1977 | Pregnancy leave for reasonable period of time. | Original or similar job unless changed circumstances make it impossible. |
| Washington, Wash. Admin. Code 162-30-020. | 1972/3(?) | Pregnancy leave for period of physical disability. | Original or similar job unless business necessity makes this impossible or unreasonable. |

State Parental Leave Regulations Continued

| State | Employers affected | Notice required | Other provisions |
|----------|---------------------|---------------------------------------------------------------------------|-----------------------------------------------------------|
| Calif. | All | Reasonable notice of date of commencement & estimated duration of leave. | Leave does not have to be taken in one continuous period. |
| Colorado | All | Must signify intent to return. | |
| Kansas | 4 or more employees | Must signify intent to return. | |
| Mass. | All | 2 weeks notice of expected departure date and notice of intent to return. | Employee must have completed probationary period.* |
| Montana | All | Must signify intent to return. | |
| Wash. | All | As required for other anticipated disability leave. | May use sick or vacation leave |

*In Massachusetts, the employee must have completed a probationary period not exceeding 6 months, or 3 months if the employer does not have a probationary period.

State Parents' Leave Laws Affecting Private Employers
 (March 1988)

| <u>State & cite</u> | <u>Date</u> | <u>Leave provisions</u> | <u>Reinstatement provisions</u> |
|-----------------------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| California, Cal.Govt.Code Sect.12945(b)(2) | 1978 | Pregnancy leave for up to 4 months. | Employee may not be penalized for taking leave |
| Connecticut, Conn.Gen.Stat. Sect.46a-60(a)(7) (B)-(D). | 1973 | Reasonable leave for pregnancy disability. | Original or equivalent job unless changed circumstances make it impossible |
| Massachusetts, Mass.Gen.Laws Ann Ch.149, Sect.105D. | 1972, 1984 | Maternity leave for up to 8 weeks (1972). Leave for adoption of child under age 3 (1984). | Original or equivalent position, unless changed circumstances make it impossible. |
| Montana, Mont.Pev.Code Sects.49-2-310 to 311. | 1975 | Reasonable leave for pregnancy disability. | Original or equivalent position, unless changed circumstances make it impossible. |

State Parental Leave Laws Continued

| State | Employers affected | Notice required | Other provisions |
|---------|----------------------|---------------------------------------------------------------------------|----------------------------------------------------|
| Calif. | 5 or more employees. | Reasonable notice of date and duration of leave. | Accrued leave may be utilized. |
| Conn. | 3 or more employees. | Must signify intent to return. | |
| Mass. | 6 or more employees. | 2 weeks notice of expected departure date and notice of intent to return. | Employee must have completed probationary period.* |
| Montana | 1 or more employee. | Must signify intent to return. | Can use accrued paid leave. |

*In Massachusetts, the employee must have completed employer's probation period, up to 6 months, or if none, 3 months as full-time employee.



**NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE**

2000 K Street, N.W. Suite 800, Washington, D.C. 20006 (202) 822-9459

**STATEMENT OF
FORMER CONGRESSMAN JAMES ROOSEVELT**

**CHAIRMAN OF
THE NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE**

SUBMITTED TO

**THE SUBCOMMITTEE ON
LABOR-MANAGEMENT RELATIONS
COMMITTEE ON EDUCATION AND LABOR
U. S. HOUSE OF REPRESENTATIVES**

**REGARDING
THE FAMILY AND MEDICAL LEAVE ACT OF 1989**

FEBRUARY 7, 1989

My name is James Roosevelt. I am Chairman of the National Committee to Preserve Social Security and Medicare which represents five-and-a-half-million members and supporters. The National Committee strongly endorses the Family and Medical Leave Act of 1989. We commend you, Mr Chairman, Congressman Roukema, and other cosponsors for insuring that the bill protects caregivers of parents as well as children. Caregivers of newborn, newly adopted or ill children and ill parents must be guaranteed the security of a return to employment if they need limited leave to fulfill caregiving responsibilities. We urge, however, that protection also be offered to caregivers of an ill spouse.

Our society has tried to have it both ways. On the one hand, families are expected to assume full responsibility for the care of their ill family members, whether young or old. Adult children are often harshly criticized if they appear to be prematurely placing parents in institutional care. On the other hand public policy gives caregivers and caregiving families little or no support to sustain them through what can be an overwhelming physical, emotional and financial burden.

Access to home health services, day care services, and respite care are essential elements of a national caregiver support policy, but employers also have a responsibility. Fulfilling family caregiving responsibilities must not carry with it the constant threat of loss of employment on top of caregiving responsibilities.

National Committee member Myra Guski of Seminole, Florida, has twice experienced the anguish of losing a parent who needed extensive help in the final months of life. In 1983, when her father was dying, her employer's refusal to allow her a brief period of unpaid leave forced her to resign from a position she had held for ten years. Last fall, when her mother was dying, she was fortunate in having an employer who understood her need for flexibility in her work hours so that she could take her mother to medical appointments or, during a lunch break, go home to check on her. Myra Guski testified last week before the Senate Subcommittee on Children, Family, Drugs and Alcoholism in support of the Family and Medical Leave Act of 1989. A copy of her statement is attached. I ask that it be included in the record of this hearing today.

But why should caregivers be at the mercy of employers? In the long run, the enlightened public policy which H.R. 770 provides is cost effective and humane. It will not put U. S. employers at a competitive disadvantage since the U. S. is one of the few industrialized nations not to already mandate family leave.

Some enlightened employers are showing the way, but they are still too few. In addition to granting unpaid leave, these employers are assisting employees in identifying needed services so as to minimize time lost from the job. Have these employers suffered financially as a result? The evidence to date is that short-term employer costs can be more than offset by savings from retaining trained and trusted employees instead of losing them or firing them and hiring replacements. And it isn't just the employee granted unpaid leave or assisted in locating help who appreciates the employer's assistance and cooperation in a trying time. The entire organization gains renewed respect and loyalty from all employees.

The National Committee and its members are grateful that H.R. 770 recognizes that family caregiving responsibilities range from the very young to the very old. However, this legislation will be enhanced by the addition of a guarantee of similar unpaid leave to a spouse. This is a very modest change because only ten percent of caregiving spouses are in the workforce. Excluding spouses while approving leave to care for a parent would present a strange irony. A son or daughter could take leave to care their father, for example, but their mother could be fired if she took time off to care for her husband. The omission suggests that a spouse must choose between caregiving and work. We don't believe that caregiving spouses should be forced to make such a choice.

The National Committee's position on family leave and elder care is consistent with its support of Social Security benefits for caregiving spouses of disabled beneficiaries, even if the spouse is under age 62. If the Congress takes seriously the need for public policy to support the family, we believe that it will pass the Family and Medical Leave Act of 1993, strengthened by the addition of leave for spouses, and provide job security to all caregivers.

Thank you.

TESTIMONY OF
MYRA V. GUSKI OF SEMINOLE, FLORIDA

BEFORE THE
SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM
COMMITTEE ON LABOR AND HUMAN RESOURCES
U. S. SENATE

HEARING ON FAMILY AND MEDICAL LEAVE

FEBRUARY 2, 1989

Good morning. I am Myra Guski from Seminole, Florida. I am a medical technologist, currently employed by University General Hospital in Seminole.

I am an adult child who cared for two elderly parents in the last few months of life. My experience is not unique, of course; as I speak here today, there are thousands like me--mostly mid-life and older women--who provide virtually round-the-clock bedside nursing care to a seriously ill parent.

When my father's death was close, I asked my supervisor for a leave of absence. He flatly refused my request. I had no choice but to resign.

I'm here today to share my experiences as a "caregiver" who was also a full-time employee.

My 76-year-old father suffered his final heart attack (his third) while on a trip to Ohio in June of 1983. I took leave, went to Ohio and stayed with my parents until Dad was strong enough for an air ambulance home. In the three weeks before he was able to travel, I used up all my annual leave. At that time, I had been working for ten years as assistant supervisor of hematology for St Anthony's Hospital and was entitled to 25 days annual leave.

During the next four months I worked double shifts, but still tried to spend time with my father who was in the hospital most of that time. My mother stayed with my husband and me because she, too, was in frail health. We were called many times at night to rush to the hospital thinking it would be the last time. The emotional strain of trying to give one hundred percent both to my dad and to my vocation was very difficult.

Though I had the help and support of my husband and my mother, I became exhausted trying to meet Dad's needs while working full-time. Finally, in October, because his doctors said Dad was dying, I asked for leave. My supervisor said no. He didn't believe me. He said, "your father was dying before."

I cannot tell you how hurt and angry I felt. The anger is finally gone, but the hurt will never leave.

I am a conscientious and loyal worker. My employer let me down when I most needed that dedication to be repaid. I was forced to choose between my Dad and my job. There was no alternative. I resigned. Three weeks later, Dad died.

I still don't understand why my employer was not more cooperative. It would have served his own interests. That is because no matter how experienced a new medical technologist might be, it takes three months to a year to train and orient a new employee. Each lab has its own procedures, rules, regulations, and instrumentation. My employer would have been far better off to have given me the short leave I needed.

After Dad's death, I did not return to St. Anthony's. I worked in another medical laboratory until it closed last spring.

When I sought other employment this past summer, I told potential employers that my 81-year-old mother was seriously ill. She had been in declining health for four years. I promised to give a full day's work, but at times I needed flexibility to check on my mother during lunch and to take her to doctor's appointments. In spite of a growing shortage of medical technologists,

this was unacceptable to most employers. I looked for less demanding jobs right in the neighborhood. Not even the local florist was willing to let me go home for lunch if I needed to check on my mother.

Finally, in October, I was hired by University General Hospital. The laboratory director knew of my circumstances, but decided my qualifications outweighed the possibility of a short-term leave. Four weeks later, almost five years to the day Dad died, Mom died. With the complete understanding and cooperation of new supervisor, I took five days off and returned to work.

Caring for a loved parent is difficult under the best of circumstances. There is no way to describe the pain and agony of seeing a parent deteriorate before your eyes. Both of my parents had been strong and proud of their independence. To see their health deteriorate was devastating.

But my parents' need shouldn't have put my job in jeopardy. Had the Family and Medical Leave Act been law in 1983, I would not have been asked to choose between my father and my job. I hope you will vote for this bill so that no worker is again placed in this position.

Thank you.



The National PTA

Office of Governmental Relations
1201 16th Street N.W.
Washington D.C. 20036
(202) 822-7878

The National PTA
Statement Before the Labor-Management
Relations Subcommittee in
Support of the Family and Medical Leave Act
February 7, 1989

The National PTA, an organization that represents over 6.5 million parents, teachers and citizens who are concerned with the health and welfare of our nation's children, urges adoption of the Family and Medical Leave Act. To secure adequate laws for the care and protection of children and youth, and to raise the standards of home life are objects of the National PTA. Passage of FMLA is synonymous with the association's goals.

Sponsored by Representatives Clay (D-MO), Schroeder (D-CO) and Roukema (R-NJ), FMLA would grant an employee up to 10 weeks unpaid leave to care for a new child or seriously ill dependent. An employee would be allowed up to 15 weeks unpaid leave for her/his own illness. This policy would apply to employees who have completed one year of service and who work at least part-time.

For the first three years after FMLA's enactment, employers with fewer than 50 employees would be exempt, thereafter employers with fewer than 35 employees are excluded. A reasonable notice of leave would be required of employees. When possible, leave would be scheduled to accommodate the employer. The FMLA also authorizes a study to examine the effects of family and medical leave on employers.

This job security measure establishes an employee's right to the same or equivalent position and the continuation of health benefits during leave.

Public policy in the area of family and medical leave has not kept

pace with the changing needs of today's families. Young families now are under vast amounts of stress in their daily lives. Both parents must often work to make ends meet, many times in jobs with inflexible hours. When parents can be fired from a job for taking time off for a new or seriously ill child, the pressure only escalates. In addition, an increasing number of workers care for elderly parents who face life threatening health problems. Equally important, if employees becomes ill, they need job protection. What can we do to help these families, safeguard the country's children and assist dependent elders?

One goal of our society must be to strengthen the family unit. The FMLA is an important and necessary piece of legislation that moves us beyond rhetoric and cliches to pro-family action. Even though strong family relationships are valued in America, the reality is that many parents are frantically trying to hold their families together. Although a stable, nurturing family environment is perceived as the American ideal, many now are forced to choose between attending to their families' needs and having jobs. They have no guaranteed leave.

Laws to help families maintain financial security through job security and, consequently, a greater likelihood for a more harmonious home life, have been deemed inappropriate. The National PTA believes that job security through unpaid leave will reduce the amount of stress experienced by families, benefitting parents, children and society.

Everyone gains from FMLA, not only employees. Family leave strengthens the family unit. The well-being of a family unit transcends the home to illuminate our communities, our schools and our governing bodies. Further, research indicates that business employment growth is higher in states that have parental leave policies. Employee loyalty, satisfaction and productivity are higher when employers provide health benefits that include job security protection. Employers save in retraining and rehiring costs.

Conversely, stress has been tied to an increase in divorce, domestic violence and child abuse, drug abuse and suicide. Treating these problems and dealing with their after-effects, usually with federal and state money, are more costly than granting individuals temporary job security.

In the 100th Congress, the issue of exempting school employees from the Family and Medical Leave Act was raised. Like last year, the National PTA opposes any amendment that would exempt public schools from the bill's provisions. Coverage of all public school employees should be retained in the FMLA. School employees, whether teacher or custodian, need and deserve the same protection offered other employees covered in the bill. Public schools are tax-financed institutions, and whereas surveys show that the majority of U.S. citizens support the concept of parental leave, the public schools should be role models and encourage family leave policy for their employees.

Children's education need not be disrupted. In many instances, teachers leave the classroom to attend training sessions, evaluations and related school activities. In addition, the legislation requires that when possible employees provide advance notice of their leave and that medical treatment be scheduled so that the operations of the employer are not disrupted.

FMLA is not a costly measure for the schools. Based on calculations by the Government Accounting Office (GAO) show that employers would pay \$3.50 per covered employee or \$110 per employee actually taking the leave. The GAO noted that only about one in every 300 employees would be taking leave under the bill at a given time. Further, small school districts or private schools are subject to the small business exemption provision of the bill.

Many opponents of the FMLA claim that they do not oppose unpaid leave for employees, but do not support a federal mandate. This argument was used against the establishment of other minimum employee protections, such as child labor laws, minimum wage provisions and civil rights enforcements. If the majority of families were protected under some type of family and medical leave policy already then federal legislation would not be necessary.

The National PTA urges adoption of the Family and Medical Leave Act.

NTDRA

NATIONAL TIRE DEALERS & RETREADERS ASSOCIATION, INC.
Suite 400, 1250 "I" Street, NW., Washington, D.C. 20005-3989 (202) 789-2300 (800) 87N-TDRA

COMMENTS OF DONALD T. WILSON
DIRECTOR, GOVERNMENT RELATIONS
NATIONAL TIRE DEALERS AND RETREADERS ASSOCIATION, INC.
Submitted to the
LABOR - MANAGEMENT RELATIONS SUBCOMMITTEE
of the
EDUCATION AND LABOR COMMITTEE
of the
UNITED STATES HOUSE OF REPRESENTATIVES
February 7, 1989

My name is Donald T. Wilson. I am Director of Government Relations for the National Tire Dealers and Retreaders Association (NTDRA). NTDRA is a national nonprofit trade association representing approximately 4,800 independent tire dealers and retreaders located in all 50 states who are engaged in the wholesale and retail distribution of automobile and truck tires, the retreading of tires, and the sale of automotive aftermarket services and related products.

Mr. Chairman, I appreciate this opportunity to comment on behalf of NTDRA and its membership in opposition to HR 770, the Family and Medical Leave Act.

In August of 1986, approximately 1800 small business owners gathered in the nation's capital for the White House Conference on Small Business. After in-depth debate, the delegates at that Conference, including four members of NTDRA, set priorities for the small business community for the next decade. Second on the delegates list of concerns was government mandated employer financed employee fringe benefits. By a large majority the delegates at the White House Conference opposed family and medical leave legislation. NTDRA and its membership share that opposition.

Regretfully, some in Congress who supported the convening of that White House Conference, appear to have forgotten the concerns the small business community expressed there.

The opposition of NTDRA and others in the small business community to family and medical leave legislation is not based on an insensitivity to changing conditions in the home and workplace. NTDRA recognizes that during the 1970's rising inflation, caused in part by misguided government policies, made it financially necessary for both partners in millions of families to be employed. NTDRA recognizes that this fact of economic life has changed the structure of the family. Sociologists and psychologists will be debating for decades the true impact of these changes. To date there are studies reflecting strikingly disparate conclusions as to the intellectual and psychological development of children in homes where both parents work and homes where there is a working single parent.

NTDRA opposes HR 770 for a number of reasons. First and foremost, HR 770 would directly interject the federal government in an intrusive and unwarranted way into the employer/employee relationship. Wages and benefits have traditionally been established through negotiations between employers and their employees or the unions representing the employees. These negotiations have allowed companies and their workers to mutually develop wage and benefit packages best suited to the needs of the workers and the financial capabilities of the individual company. When Congress assumes the role of knowing best what benefits or combination of wages and benefits are most desirable, it infringes directly on the

ability of a worker and his or her employer to mutually design a compensation package of their own choice.

Many in Congress are of the view that, in supporting HR 770, they will be "giving" employees additional benefits. Unfortunately, passage of HR 770 will not miraculously make a company better off financially. By dictating a specific fringe benefit, Congress may, in effect, be denying workers as large a salary increase as they might otherwise receive. If the choice were left to the employer/employee bargaining process workers and their employers might mutually agree on a larger wage increase rather than an expanded leave policy.

By intervening into the employer/employee relationship, Congress in effect assumes a role which is now popularly referred to as that of a "Super Union". Unfortunately, where unions and management historically have collectively bargained over wage benefit packages, this new "Super Union" simply dictates, without regard to the wishes of individual workers or the financial capabilities of individual companies. Traditional unions now seek to achieve by Government fiat what they have been unable to achieve at the bargaining table. Organized labor represents an ever declining percentage of the nation's workforce. And yet, despite their inability to attract working men and women to their membership, they have found many in Congress willing to impose union objectives on non-unionized workplaces and non-union workers.

Our second major objection to HR 770 or any other government mandated benefit is the disproportionate impact it will have on small business. Generally labor costs are a higher percentage of overhead costs for small businesses compared to larger businesses. By dictating increased labor costs you will reduce the capability of small businesses to compete with larger firms. It is increasingly difficult for small tire dealerships to succeed. Congress spends upwards of \$25 billion a year trying to preserve the family farm. It then acts hastily on legislation which could threaten the economic viability of small and family owned businesses.

Mr. Chairman, we are keenly aware that supporters of this legislation have "compromised" in their "efforts" to minimize the adverse impact of this legislation on small businesses. They proudly point to the 80 employee exemption as evidence of their good faith. The fact is, under the language of HR 770, that exemption is only a temporary one. And no one involved in this debate really believes that supporters of HR 770 will return to this committee four years from now advocating universal coverage. Then the small business community will be standing alone in its opposition to those efforts.

And surely no one involved in this debate would deny that the ultimate goal of most of HR 770's leading supporters is employer-paid leave. Passage of HR 770, regardless of small business exemptions or study commissions or whatever, is the

first step down an extremely slippery slope. And the further down that slope Congress goes, the more devastating the impact on our nation's small business community and our economy as a whole.

Mr. Chairman, the retail and wholesale tire business is extremely competitive. The average NTDR member engaged in wholesaling and/or retailing of tires realized a 1.7% net operating profit in 1988 as compared to 2.1% in 1984. The average retreader achieved a net operating profit of .7% in 1988 as compared to 1% in 1984. Net operating profits have generally been in decline during recent years. Additional labor costs will pose a serious impediment to the profitability and perhaps survivability of this association's members.

Advocates of this legislation argue that it will impose minimal costs on the nation's business community. They cite the GAO study to support their claims. We strongly disagree. Simply because this bill provides for unpaid leave does not mean the costs to a business will be minimal. There are, as the GAO notes, the clear dollar costs of maintaining insurance benefits for the worker on leave. Secondly, there are the costs involved in finding, hiring and training a replacement worker. The lost productivity, which may be involved in the constant workforce changes which may result from this legislation, is incalculable.

The tire dealer with 4 or five retail outlets in a metropolitan area will almost surely fall under coverage of HR 770 within three years of its enactment. The loss of a capable mechanic at any one retail outlet for 10 weeks could be a crippling blow. And yet supporters of this legislation argue that there would be minimal impact. Obviously few of them have ever owned or managed a business.

In the example I have just sighted, the highly compensated employee exemption of HR 770 would probably not apply. Supporters of HR 770 have added this exemption to try and curb some of the adverse impact which will surely result from this bill. And if HR 770 is adopted the exemption will be needed. However, that exemption, may well distort wage decisions and the job market as employers attempt to keep key personnel within the exemption and workers seek to find places of employment where they will not be exempt.

Proponents of this legislation are frequently those who claim most loudly to be worried about unemployment levels in America. We believe that HR 770 and the rest of the mandated benefits package which organized labor urge Congress to adopt this year would, if implemented, comprise a tremendous employment disincentive. Many American businesses, when faced with a choice of increasing their prices, reducing already shrunken profits, or holding the line on labor costs, will elect to do the latter. They will reduce the size of their workforce or invest in labor saving equipment. The result will

be a reduction in employment opportunities, particularly for unskilled workers and young people. Government mandated increases in the cost of labor can only discourage businesses from hiring. With the budget constraints now facing Congress, it seems strange that this committee is rushing to approve legislation which likely will increase unemployment levels and require increased federal outlays for unemployment and welfare benefits.

This committee is, no doubt, well aware of the fact that the overwhelming majority of new jobs created in this country in the last 8 years have been created by small businesses. Without small business the employment picture in the U.S. would be bleak indeed. And yet I suspect no economists who might be brought before this committee would argue with the premise that the concerted drive of the past 4 years for government mandated workplace benefits will ultimately be of the greatest harm to the small business community.

Supporters of HR 770 profess that they are motivated by a concern for America's working women. Ironically this legislation will strongly encourage employers in their hiring practices to discriminate against women with small children and women of child bearing age. The economic threat which this legislation poses to workplace stability and productivity will likely deny needed job opportunities to hundreds of thousands of women.

Mr. Chairman, advocates of this legislation argue that the U.S. is "behind" the "enlightened" economies of Western Europe in terms of parental leave policies. We would hope this committee would not look to the industrialized countries of Europe for an economic model to follow. Statistics indicate that there has been little or no net job creation in the European economies for over a decade and in many instances unemployment is now at double digit levels.

While we are speaking of other economies, it is essential to note that this legislation can only adversely impact the competitiveness of American companies in the world market. We face a current trade deficit of roughly \$130 billion. During the past two decades millions of American jobs were lost as American products became less competitive abroad. Concerned about that job loss organized labor and many in Congress called for concerted action, including protectionist trade policies, to stem that job loss and reduce our annual trade deficits. And yet many of those same individuals who claimed such concern are the leading advocates of HR 770 and other mandated benefits bills, bills which will insure added production costs for American products and a further erosion in the ability of American products to compete.

Mr. Chairman, we urge you not to risk the harm that this legislation can cause to American business and America's working men and women. Do not idealistically pursue legislative

solutions to problems that may already be in the process of resolution. American business, in cooperation with its employees, is already moving to effectively address the concerns of working parents. Many firms have already adopted flexible leave policies. Many businesses have already established or soon will establish child care facilities on the business premises. Those businesses which can afford to do so, and those faced with a need to do so in order to attract a motivated productive workforce, will do so.

More and more businesses are offering employees cafeteria style benefit plans. Workers have the freedom to choose which benefits they want without the federal government dictating to workers what benefits they need or should want. The marketplace is dealing with the problem. The marketplace and the collective bargaining process can and will resolve the issue without the intervention of the federal government, if allowed to do so.

NTDRA would hope that this committee would weigh the serious potential consequences of this legislation against the highly questionable benefits and conclude that this legislation is not in the interest of America's working men and women or American business.

Thank you again, Mr. Chairman, for the opportunity to present the views of NTDRA and its members.

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February 13, 1989

Mr. John Motley
 Director
 National Federation of
 Independent Business
 Suite 700
 600 Maryland Avenue, S.W.
 Washington, DC 20024

Dear Mr. Motley:

I would like to personally thank you for appearing before the Subcommittee on Labor-Management Relations on February 7 and testifying on the Family and Medical Leave Act. Your time and effort was appreciated by all the members of the subcommittee.

Unfortunately, as you know, the questioning of the business panel was somewhat abbreviated because of the House floor vote on the pay raise issue. I have, therefore, attached a few questions which I would appreciate your responding to. Because the legislation is expected to move quickly, I will need to receive your responses, which will be included in the hearing record, by February 17.

Again, thank you for your testimony. Should you have any questions, please feel free to call Cathy Johnson at 225-7101 or Randy Johnson at 225-3725.

Sincerely,

Marge Roukema
 Ranking Republican Member
 Labor-Management Relations
 Subcommittee

MR:rkj
 Enclosure

1. Your testimony noted the adverse impact this legislation could have on small business. Doesn't the threshold of 50 employees or more, reduced to 35 or more after three years, address, or at least limit, any adverse impact in that the companies covered by the legislation are, therefore, of reasonable size?
2. You, and other witnesses, mentioned the possibility of abuse under this bill when an employee takes leave, together with medical benefits, and then fails to return to work. Of course, during this time the employer would also be required to keep available an equivalent position for the expected return of the employee.

Would one possible solution to this problem be a requirement that the employee pay some portion of the costs for continued health insurance coverage, thus, at least partially, ensuring good faith on the part of the employee?

You also noted that the former employee and his/her family would be eligible for an additional 18-36 months of leave under COBRA (Consolidated Omnibus Budget Reconciliation Act). Please expand on this point.

3. You noted that the current definition of a "serious health condition" (Sec. 101(10)) is much too broad. Do you have any specific recommendations as to how this definition can be improved?

Do you, in any case, object to mandated medical leave as a concept, whether for the care of a child or parent (Sec. 103(a)(3)) or for the employee's own needs (Sec. 104)?

NFIBNational Federation of
Independent Business

February 17, 1989

Congresswoman Marge Roukema
U S. House of Representatives
Washington, DC 20515

Dear Congresswoman Roukema.

Thank you for your letter. I appreciated the opportunity to testify before your subcommittee and hope that many of the suggestions made in my testimony will be incorporated into your legislation. Despite our opposition to the mandate, there are other areas of concern.

I would like to address your concerns in depth as well as outline several others.

1. Thresholds. Thresholds are a euphemism for growth cap. While a large percentage of our members are immediately exempted under the 50/35 threshold, none are exempted from the barrier the threshold represents to continued or future expansion.

Even at the relatively high threshold levels contained in your legislation, the firms covered are still your truly small businesses. When coupled with the very low part-time definition, it does not take long for a small business to reach the threshold cap.

For example, one of our members in the after-office-hours maintenance industry would be covered by the bill, yet 50% of his employees are part timers who work for him sporadically. Those employees work enough to meet the 1000 hours per year requirement in the bill, but not enough hours to qualify as a part-time per week employee. This type of situation is particularly prevalent in retail businesses when holidays necessitate long hours and more employees. When you look at the high number of part-time employees and his low gross sales, it is readily apparent that this business is indeed a marginal small firm

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The Guardian of
Small Business

One of my concerns with the threshold and part-time definition is their cumulative impact on small firms. I would specifically suggest the following:

- a. Remove the "dropping threshold" provision
- b. Increase the part-time definition to 26 hours per week. This corresponds with standard practices and relieves the burden on firms that employ large number of part-time or seasonal workers.
- c. Exempt small startup firms. The Kennedy mandated health proposal contains a similar provision that recognizes the vulnerability of rapidly expanding new firms.
- d. Define eligibility by "worksites". The 75-mile radius definition is administratively difficult and will be a compliance problem. The definition contained in the Senate version is much more desirable.

2 The problem of the non-returning employee has particular implications for a small firm. I would make five specific suggestions to help alleviate this problem and to make the leave period a partnership between the employee and the employer

- a. Require the employee to sign a legally binding intent to return form

Failure to return would, at the employer's discretion, result in a forfeiture of a certain amount of COBRA benefits and forfeiture of the escrow account described in the next paragraph. I would emphasize that this would be at the discretion of the employer and need not be used.

- b. The employee shall put the health benefits premiums for the leave period in an escrow account. The principal and accrued interest would be returned to the employee if he/she returns to the workplace after the leave is over. Rhode Island incorporates a similar provision in its state law.

- c. Permit the employer to return the employee to the same job or to place the employee on preferred rehire status

This provision is particularly important in today's highly competitive marketplace -- it provides a guarantee to the employee but at the same time allows the employer to adapt to internal needs that may

necessitate the permanent filling of the original job. The paint manufacturing company, and other firms with specialized or unique positions, I referred to in the testimony would be greatly helped by such a provision.

d. Rework the key employee exemption to provide a meaningful "safe harbor". Defining key employee by compensation does not necessarily cover all key employees. A better definition would be to use "unique and specialized" like the Tennessee Law and leave the ultimate decision with the employer.

e. Permit the employer, through negotiations with the employee, to put the employee on a flex schedule or to work out of the home during a portion of the leave period.

f. The issue of the unemployment insurance liability and tax issue as a result of a dismissed replacement worker is one for which I unfortunately have no answer

3. As I mentioned at the hearing, the medical leave provisions cause small businesses the most heartburn. While the GAO assumes that the provisions would not be used until after 31 days of bed rest, I interpret the legislation to permit leave for illnesses that do not even broach that level of seriousness.

Language should be inserted to clarify this situation. Leave should be limited to only the very serious illnesses, i.e. illnesses that require treatment in a hospital or intensive care situation under the supervision of a licensed medical doctor. Unless eligibility is restricted, the medical leave provisions will be abused and will lead to extensive litigation.

Safeguards against intermittent leave and untimely notice would also help a small business adjust its operations to meet the requirements of your legislation

In addition, requiring second and third opinions with costs borne by both the employee and the employer would work as a filtration system removing "frivolous" or perhaps less than urgent claims.

In your letter you have asked whether we object to the concept of medical leave. Quite frankly, we do not object to the concept of the entire bill, we object to the mandated aspect. The medical leave provisions are the most burdensome because of the high potential for abuse and disruption

You also requested that I elaborate on the issue of CCBRA. Under COBRA, employers are required to provide

former employees, their spouses (or divorced spouses) and any dependents access to the firm's health plan for 18 to 36 months when employment terminates. Despite assertions made in 1986 when COBRA was passed, this provision has proved to be very expensive, administratively burdensome, an adverse selection hazard and has limited a small firm's ability to control escalating health insurance costs.

It seems patently unfair to require the employer to hold open a job for 10 to 13 weeks, have the employee give notice at the end of the leave period, then still hold the employer liable for an additional 18 to 36 months of health insurance coverage for that employee. Because COBRA is unpaid, the issue is not the cost of the premiums per se, but the impact the continued coverage has upon the entire company's health plan.

I would suggest that an employee who does not return to the workplace have his/her COBRA eligibility reduced proportionately to the amount of leave previously taken. In essence, the leave period would count against the COBRA period. Clearly this provision would only apply to non-returning employees and would help to equalize the responsibilities both parties incur under your legislation.

Finally, I have one unanswered question myself. Will the benefits contained in your legislation fall under the purview of Section 89 of the Internal Revenue Code? If so, I would like to take some time with you to discuss that issue separately.

I appreciate your desire to fully hear the concerns of the small business community. I offer these suggestions because I believe that there are times to work within the process, and at this early date, this is one of those times. I hope we can continue this dialogue.

Again, thank you for the opportunity to better answer your questions.

Sincerely,



John Motley III
Director
Federal Governmental Relations

7031D

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February 13, 1989

Mr. Robert Wingert
 c/o Mrs. Diane Generous
 Industrial Relations Department
 National Association of Manufacturers
 Suite 1500, North Lobby
 1331 Pennsylvania Avenue, N.W.
 Washington, DC 20004

Dear Mr. Wingert:

I would like to personally thank you for appearing before the Subcommittee on Labor-Management Relations on February 7 and testifying on the Family and Medical Leave Act. Your time and effort was appreciated by all the members of the subcommittee.

Unfortunately, as you know, the questioning of the business panel was somewhat abbreviated because of the House floor vote on the pay raise issue. I have, therefore, attached a few questions which I would appreciate you responding to. Because the legislation is expected to move quickly, I will need to receive your responses, which will be included in the hearing record, by February 17.

Again, thank you for your testimony. Should you have any questions, please feel free to call Cathy Johnson at 225-7101 or Randy Johnson at 225-3725.

Sincerely,

Marge Roukema
 Ranking Republican Member
 Labor-Management Relations
 Subcommittee

MR:rkj
 Enclosure

1. The bill provides certain limitations on the rights of employees to take leave, essentially to, when possible, provide notice and to avoid undue disruption of the workplace (See Secs. 103(e), 104(d)).

In your view, does the bill provide an employer with any meaningful recourse when an employee fails to meet these obligations?

What problems do you foresee, especially for the small employer, when an employer makes a decision not to honor an employee's request for leave on the basis that these obligations have not been met? Even if the employer's decision is ultimately vindicated, what do you think will be his/her financial and lost-time cost in responding to either a full-blown government investigation or a private action civil suit?



National Association
of Manufacturers

Industrial Relations Department

February 17, 1989

Mrs. Marge Roukema
Ranking Republican Member
Labor-Management Relations Subcommittee
2101 Rayburn House Office Building
Washington, D.C. 20515

Dear Mrs. Roukema:

I appreciate the opportunity to supplement the hearing record
and to respond to your questions.

I hope the enclosed is helpful.

Sincerely,


Robert Wiggert, Jr.

Enclosure

cc: Randy Johnson

I. MEANINGFUL RECOURSE

H.R. 770 does not appear to provide or allow for any recourse, meaningful or otherwise, when an employee fails to either provide notice or avoid undue disruption of the workplace.

In glaring contrast, 7 of the 12 sections of Title I focus on protecting employees' rights, how an employee can pursue a claim against an employer for possible violation of the Act, and the relief available when an employer is found in violation. This focus on employee rights and employer sanctions juxtaposed with the absence of any reference to employer recourse against recalcitrant employees will surely be embraced by plaintiff employees' attorneys. Absence of statutory language of recourse available to employers could easily be construed as intent to provide none, especially when read alongside the extensive employer sanction provisions.

Abuse of Leave

While half the bill is devoted to defining and resolving alleged employer violations, this legislation does not recognize the potential for employee abuse of such extended leave periods. The burden of misused leave ought not to fall on the employer if an employee chooses to use leave for purposes other than "bonding" or caring for a sick child or parent. Employer recourse should be expressly provided for when employees fail to use the leave for its intended purpose or for the purpose stated in the written employee notice. When this occurs, employees should lose their privilege to be reinstated to the same job and should be obligated to reimburse any expenses incurred by the employer during the leave period. Thus the burden is on the employee to use the leave properly or to suffer the penalties.

"Undue Disruption"

The "limitation" of avoiding undue disruption is vague and will likely cause confusion and probably litigation. The determination as to whether undue disruption would occur should be made solely by the employer and should be so stated in Subsection 103(2)(a) and Subsection 104(d)1. For example, in Subsection 103(2)(a) after the word "employer", the words as determined by the employer, should be inserted.

Intermittent Leave

In recognition of the problem that could result from employees using their 10 or 13 weeks a few days at a time in an unscheduled series of short leaves, employers should be permitted to designate a minimum period of leave in Subsection 103. This would enable employers to manage their operations and scheduling without continual short-term sporadic disruptions.

Notice Requirements

If these sections are aimed at achieving timely notice of when an employee plans to begin leave, then it should be clearly stated. H.R. 770 states in Subsection 103 (1) with regard to leave for birth or

adoption "the eligible employee shall provide the employer with prior notice of such expected birth or adoption in a manner which is reasonable and practicable." A close reading reveals however, that the notice requirement relates to the event of the birth or adoption and not to when an employee wishes or expects to begin leave. Since leave may be used up to 12 months after birth or adoption, notice given by an employee as to the date of birth or placement does not necessarily inform an employer as to when the parental leave will begin. For example, under a strict reading of Subsection 103(e)(1), an employee could tell the employer the date of birth, June 1, but begin leave September 15 of that same year. The employee could argue that notice of the event (birth or adoption) put the employer on notice that parental leave would be taken sometime in the 12-month period, beginning around June 1. A strict reading also reveals that it is the manner of the notice and not necessarily the timeliness of the notice that is required to be reasonable and practicable. The word "timely" should be inserted in Subsections 103 and 104 to accompany the words "reasonable and practicable".

The terms "reasonable and practicable," used to qualify the type of notice to be given, are subject to a wide variety of interpretations. Legislation should include some guidance to the Secretary of Labor, who is charged with defining this term. What is reasonable and practicable for a major manufacturing plant may not be reasonable and practicable for a restaurant. Should standard industrial codes be the determining factor in the definition?

Written Notice

Written notification is advisable to protect both employers and employees, should a dispute later arise over whether prior notice was in fact provided. The employer should also have the express right to deny reinstatement or deny leave if an employee fails to give the required notice.

More specifically, the type of employee obligations created under Subsections 103(e) and 104(d) are ambiguous and subject to a variety of interpretations. If it is the intention of the framers of this legislation to create specific employee responsibilities to accompany this new proposed employee right of parental leave, perhaps a new section should be added to the bill entitled Basic Leave Procedures. Employee obligations should be spelled as clearly as are employee rights and employer obligations. The following language is suggested:

Basic Leave Procedures

- (a) In any case in which the necessity for leave is or subsequently becomes subject to the requirements of subsection 103(e) or Subsection 104(d), the employee shall give written notice prior to taking leave. Such a notice must include: (i) the date upon which such leave is to

commence, (ii) the date upon which such leave is to expire, (iii) the purpose of such leave, and (iv) and other pertinent information such as the hours or dates of leave which is to be taken on an intermittent or reduced schedule basis.

(b) In any case in which an employee desires to accelerate the date upon which a pre-established date of foreseeable leave is to commence or expire, the employee shall provide reasonable advance notice thereof to the employer consistent with provisions of this Section and Sections 103 and 104. The employer shall have the managerial discretion to deny the employee the acceleration of previously established dates of leave in instances in which such denial is based on business necessity, as determined by the employer.

(c) In any case in which an employee desires either to defer the date of commencement or extend the duration of previously established foreseeable leave, the employee shall provide reasonable advance notice thereof to the employer consistent with provisions of this Section and Sections 103 and 104. An employer, following consultation with the employee, may deny the employee the deferral or extension of previously established dates of leave or require the employee to extend such leave for not more than an additional three weeks upon a determination by the employer that: (i) the nature of the position held by the employee, and (ii) the timing requirements of the applicable work activities or projects would make the change in the date sought by the employee unreasonable or impractical.

(d) In any case in which an employee seeks to establish a period of leave of three weeks or longer, the employer may require the employee to extend such leave for not more than an additional three weeks upon a determination by the employer that (i) the nature of the position held by the employee, and (ii) the timing requirements of the applicable work activities or projects would make the date of return sought by the employee unreasonable or impractical.

(e) in any case in which:

- (1) the duration of leave to be taken under this Act exceeds three weeks; and
- (2) such leave shall commence within three weeks of leave previously taken under this Act; and
- (3) such leave previously taken under this Act exceeded three weeks,

the employer may deny the leave to the extent that (i) the nature of the position held by the employee, and (ii) the timing requirements of the employee's employment activities and projects would make implementation of the leave unreasonable or impractical.

(f) However, the employer shall not deny leave under this section to an employee who (i) is eligible to take leave under this Act, and (ii) seeks leave under this Act, and (iii) seeks leave under this Act based on a bonafide unforeseeable medical emergency.

II. Denial of Leave

As indicated above, an employer who denies leave under the legislation as currently written can expect an employee grievance or lawsuit despite providing bona fide reasons for the denial. The problem is, there is no express employer right to deny leave. While certain obligations are stipulated in Subsections 103 and 104, there are no penalties for employee non-compliance. Although certain limitations are placed on employees use of leave, there is no incentive for employees to provide notice, and since there is no requirement of written notice an employee may easily dispute an employers assertion that no notice was provided.

An employee may assert that in their view there is no undue disruption to the employers's operation (because it is unspecified who makes this determination); or an employee may assert that 3 days notice of parental leave was reasonable because everyone knew that the baby was due so it was obvious that the leave would be taken. For leave triggered by birth, it would be advisable to specify what reasonable notice is, perhaps 90-days, since birth dates are predicted with a good deal of accuracy. The same caution applies to planned medical treatment --perhaps a specific notice time period, 2-4 weeks, should be required of employees given the planned nature of the leave.

The term "reasonable and practicable" is subject to broad interpretation. Absent a very specific definition by the Department of Labor, litigation on this aspect could be expected by an employee denied leave.

The numerous levels of review permitted a dissatisfied employee make it almost impossible to calculate a cost, but make the spectre of litigation a fundamental concern for employers opposing this bill. There could be a settlement or there could be a Supreme Court case.

Procedures in the bill allow for dismissal of a complaint by the Secretary, in which case complainant may file a civil action; or for adjudication by an administrative law judge (ALJ). If complainant is

dissatisfied with the ALJ's decision, the party may appeal the decision to the Secretary for a decision. This decision is not final, however, as the complainant may seek still another review by the U.S. Court of Appeals, and then by the Supreme Court. With so many levels of review, employers would spend countless hours defending their denial of leave.

One very significant factor in calculating costs to employers is that the administrative enforcement proceedings and relief provisions are unlike those of any other labor standard. There will be a steep learning curve for those charged with enforcing, administering and investigating under this legislation. Enforcement authority will fall to the Wage and Hour Division of the Department of Labor, which is not in the business of investigating "charges" and "issuing" complaints. The proposed enforcement scheme is generally patterned after Title VII of the Civil Rights Act, allowing workers who believe they have been denied their leave right to file an EEOC-like charge with the Secretary of Labor. Administration by the EEOC would make far more sense.

Investigations, administrative or civil proceedings could be needlessly prolonged, because those responsible for enforcement are charting new territory and are unfamiliar with the procedures required by the legislation. Such on the job training will be at the expense of employers--even those who have committed no infraction.

Financial and lost time costs will depend entirely upon the size and type of firm, number of workers, economic health of the company and on the agency official responsible for investigation, among a variety of other company-specific factors. While we could quote you the cost of a good attorney, assuming there is no in-house counsel, I am certain you could easily find another attorney to handle an employer's case for less.

Vindication could easily be a pyrrhic victory for small companies defending their position, possibly up to the Supreme Court, as time and fiscal resources are drained from a company. It is said, the first 3-5 years of operation are critical to a start up business. A 4-year old operation could be forced out of business by the combined expenditure of time and money on litigation if sufficient resources were siphoned away from managing the company itself. This is the ultimate cost, affecting not only employers, but the employees thrown out of a job.



JOHN J. SWEENEY
INTERNATIONAL PRESIDENT

RICHARD W. CORDTZ
INTERNATIONAL SECRETARY TREASURER

STATEMENT OF
SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, CLC

BEFORE

THE HONORABLE WILLIAM CLAY

CHAIR

SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS
COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

ON

"THE FAMILY AND MEDICAL LEAVE ACT OF 1989"

SUBMITTED BY:

JOHN J. SWEENEY
INTERNATIONAL PRESIDENT
SERVICE EMPLOYEES INTERNATIONAL UNION

I would like to thank Representative Clay and the other members of the Subcommittee on Labor-Management Relations for this opportunity to present the views of the Service Employees International Union on the Family and Medical Leave Act of 1989. SEIU's 850,000 members appreciate your efforts to make 1989 the year that the United States joins the ranks of other industrialized countries with a national family policy -- a minimum parental and medical leave standard.

SEIU members work in the rapidly growing service industries where low wages and few benefits are becoming the norm. We view parental leave as part of a package of decent minimum standards -- including restoration of the minimum wage -- which will bring greater security and stability to America's working families.

SEIU has lead the way in championing the work and family agenda at the bargaining table as well as in state houses and on Capitol Hill. We have negotiated new benefits to help our members cope with the work and family balancing act. But a bargaining solution -- employer-by-employer -- is not sufficient to meet this national problem.

The dramatic economic changes of recent decades have led to stagnating real living standards. Working families have been saved from financial disaster by the increasing labor force

participation of women. Yet families have been left to cope with these changes on their own. There is much discussion of the strain on American families -- action is needed now to bring our family policies up to the levels long taken for granted in other industrialized countries.

Our research has shown a clear need for the Family and Medical Leave Act. Most service workers don't get the minimum ten weeks of unpaid leave this bill would provide. Less than a third of clerical workers, who are overwhelmingly female, get any family leave. Unionized service workers do better. Service Employees International Union contracts have won three months or more of maternity leave benefits in 61 percent of private sector contracts covering 83 percent of SEIU private sector members. But only about one-third of these contracts (covering only 10 percent of SEIU private sector workers) include job guarantees and only 8 percent of the contracts include continuation of employer contributions to health insurance plans.

Workers aged 55 and older are projected by the BLS to be the fastest growing sector of the workforce -- they need the medical leave job protections of this bill. Older workers are twice as likely to miss work because of illness and have a harder time finding a new job at comparable pay if they are unemployed.

We have attached the statement of Lisa Caezza, a member of Service Employees Local 134. Ms. Caezza has worked at Brown University for nine and a half years and has been a clerical assistant in the library for half of that time. While hospitalized following one month's leave for a bleeding ulcer as prescribed by her doctor, she was terminated. This case shows just how quick some supervisors are to fire senior employees because of medical problems -- even when the termination violates a union agreement as in this case.

Once again we hear from employer representatives that mandated unpaid leave would be financially burdensome and would automatically result in the reduction of other benefits desired by employees. The facts do not support this contention which rests only on an ideologically-motivated rejection of any expansion of the rights of working people. The General Accounting Office has estimated the total annual cost to employers of H.R.770 to be \$188 million -- which amounts to \$3.50 annually per covered employee. The total annual costs of benefits and other nonwage payroll costs per employee have been estimated to amount to nearly \$8,000 -- the \$3.50 to cover unpaid family and medical leave will hardly be felt by employers. This point is illustrated by the attached chart.

SEIU's collective bargaining experience shows that the claim of a "squeeze on other benefits" resulting from this bill is without foundation. SEIU is the largest union in California and also has over 190,000 members in New York -- states that have temporary medical disability or minimal parental leave programs in place. In these states, even during the most difficult collective bargaining negotiations, employers have never asked for cutbacks in other benefits such as health insurance, sick leave, or pensions to pay for state mandated family and medical leave programs.

SEIU is the largest union of healthcare workers in the United States. We are all too familiar with attempts to curtail the rights and benefits of healthcare workers with the argument that they are "critical personnel". Healthcare workers know from their daily experiences on the job the direct medical benefit to patients of support from loved ones. It is indeed twisted logic to argue that these same workers should not be guaranteed the right to return to their jobs after taking time off to care for family members. In the face of chronic shortages in the industry of nurses, nurse aides and other direct care personnel, employers need to take steps to reduce turnover and retain qualified workers. According to GAO, a minimum family leave standard will likely "reduce job turnover and enhance average productivity" by retaining experienced, trained employees.

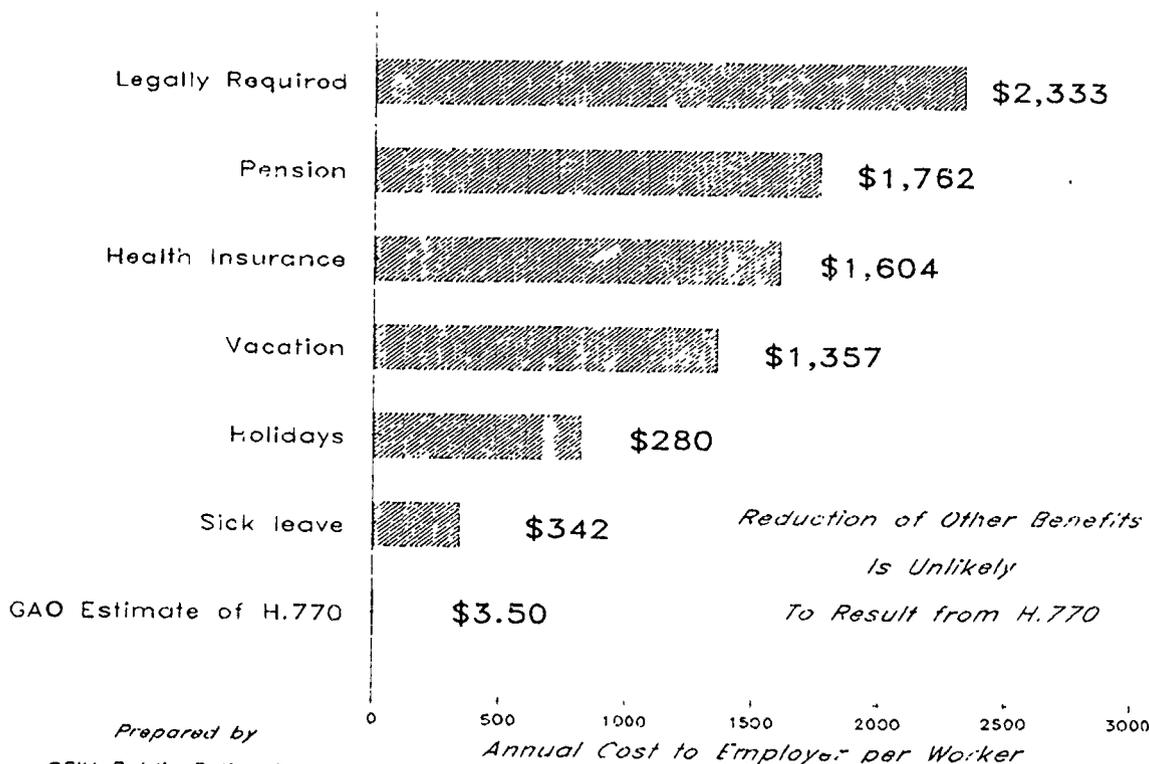
Another category of service sector employers -- local school boards -- have argued for a special exemption from the Family and Medical Leave Act. SEIU represents 100,000 workers in the other half of the public school system -- the non-teaching support staff. School support staff continue to suffer from a two-tiered compensation structure which leaves them with fewer rights and benefits than teachers. School employees juggle the demands of work and family just like everyone else and they need the job protection provided by this bill.

In my opinion, the coverage of this bill is broad enough to avoid employment discrimination against women of childbearing age. Remember that discrimination occurs in firing as well as in hiring. Under current law, employers may use the attendance disruption occasioned by family emergencies as a pretext to dismiss workers considered undesirable for reasons unrelated to work performance.

H.R.770 guarantee's of minimum job security is especially important to low wage workers. When employers claim they are more than willing to work something out with a valued employee, it implies that they are unwilling to accommodate those employees who may have good work records and long seniority but unluckily are readily replaced. Such workers are a majority and need the job security protection this bill offers.

The Family and Medical Leave Act simply requires that employers extend the hand of common decency to all their employees -- without discrimination. The Service Employees International Union will continue to devote its resources and energies to securing passage of the Family and Medical Leave Act of 1989.

ANNUAL COST OF UNPAID PARENTAL AND MEDICAL LEAVE IS FAR BELOW OTHER BENEFITS



Prepared by
SEIU Public Policy Dept.

Source: U.S. Chamber of Commerce, GAO

REMARKS OF HON. OLYMPIA J. SNOWE

HEARING ON THE FAMILY AND MEDICAL LEAVE ACT OF 1989

Sponsored by the House Subcommittee on Labor and Management

February 7, 1989

I welcome the opportunity this morning to join all of you on behalf of myself and the Caucus for Women's Issues to speak in support of the Family and Medical Leave Act of 1989 -- a bipartisan bill that we certainly recognize now to be timely for passage.

I want to thank the Subcommittee for its efforts in setting up this hearing and in bringing together this distinguished panel of expert witnesses. The time these people are taking to be here today is appreciated.

Let me begin this morning by addressing the issue of how this measure would affect the business community. As you know, family and medical leave legislation has generated significant concern among businesses. Their concern has primarily been how the cost of offering this benefit would affect their ability to continue in business and create jobs. There has been a fear that providing family leave benefits might threaten the ability of companies to continue offering all the other desired employee benefits they now offer. Further, they have expressed the belief that this benefit will be so costly that it will affect profit margins and individual market competitiveness. Finally, the

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small business community has suggested that a leave policy such as this one will lead to unmanageable employee absenteeism and threaten the stability of business with only a small number of workers.

These are legitimate concerns and the legislation before your subcommittee has been crafted to meet them. The Family and Medical Leave Act of 1989, which mirrors the compromise bill crafted last session, accommodates these concerns in a variety of ways. It exempts those employers with less than 50 employees for three years after enactment and totally exempts those with less than 35 employees. Further the compromise provides a reduction in the number of weeks available for leave to ten weeks for family leave over two years and 15 weeks for medical leave over one year. In addition, it requires that an employee work for one year (and at least 20 hours per week) before they are eligible for any leave. Finally, this bill authorizes that a study be conducted to examine the effects of family and medical leave on employers.

The efforts that have been made to address the questions raised by small businesses are important. However, the compromises are only part of the argument in favor of passage. There is a substantial body of evidence which supports the contention that enactment of this leave policy will not have the adverse effects its critics forecast. GAO cost estimates have shown that fears

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of excessive costs are inflated. According to their estimate, under the same features as this legislation, the cost nationwide would be approximately \$188 million, given that companies having less than 50 employees would be exempt. These estimates are less than one-tenth of the cost estimates projected by the U.S. Chamber of Commerce.

Lastly, I would note that there are numerous positive reports from employers who have implemented leave policies such as the one we consider here today. Overwhelmingly, the response has been that leave policies promote loyalty, increase productivity, and decrease absenteeism in the workforce. Employers have found it to be a benefit that attracts and retains top quality workers.

We simply cannot afford to ignore changing realities. Families today are headed by working single parents and working couples, whose participation in the work force is essential in nearly all cases to pay the bills. Americans want to be both conscientious workers and attentive, responsible parents. Fulfilling both of these roles is a difficult and all-too-familiar balancing act, one that can be immeasurably eased with the enactment of this legislation.

Thank you very much.

Tektronix
COMMITTED TO EXCELLENCE



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January 31, 1989

The Honorable Mary Wendy Roberts
Commissioner
Bureau of Labor and Industries
1400 SW 5th Avenue, 4th floor
Portland, Oregon 97201

Dear Commissioner Roberts:

Thank you for the opportunity to share with you our current perspective on the issue of parental and family leave.

As you know, Tektronix is a Fortune 500 corporation with slightly more than 15,000 employees worldwide. We manufacture sophisticated electronic test and measurement equipment, advanced computer graphics terminals and printers, and television production equipment. Our headquarters and principal manufacturing operations are in Oregon, but we also employ significant numbers of people typically involved in sales and distribution in many states around the nation -- and the world. *Fortune* magazine lists Tektronix as the 50th largest exporter in the United States -- and the sixth largest by percentage when you compare exports to total sales.

Tektronix was founded in 1946 and has maintained a strong commitment to the people who make our corporation what it is. Therefore, Tektronix is keenly aware of the changing character of the American workforce, with its complex and intensifying demands on people at work and in the home.

Because the success of our company rests on the innovation and productivity of our people, we are eager to assist our workers in finding ways to balance these demands in their life. To a considerable degree, how well we respond corporately to these changing demands on our workers will determine our success in retaining and attracting the supply of skilled workers we need to compete in the global economy. In short, we have ample reason, without further government mandates, to encourage us to recognize and respond to the needs of working women and single parents, as well as to aging workers and existing or potential workers who need additional skills in order to meet the demands of new technologies.

AN EQUAL OPPORTUNITY EMPLOYER

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Tektronix also retains the view that business and government should to the greatest extent possible work as partners, especially when grappling with immense problems that affect each individual person differently and, therefore, require individualized responses. The problems facing the American workforce today are ones that don't conform to easy solutions. The solutions we need to develop will demand extensive private-public sector cooperation -- and they will require both business and governmental leaders to stretch their thinking beyond the limits of past experience. We must aspire less to develop new programs and aspire more to create an atmosphere that yields new opportunities. In short, we must find flexible ways to address the wide array of needs in today's workforce.

At Tektronix, we have striven through our package of benefits and our personnel policies to provide our workers with a framework in which they can balance the demands of work and family, and in which they can secure the means to renew their skills and enhance their own employability.

Some of the opportunities we have provided include:

- Part-time and job-sharing work alternatives;
- Flexible work schedules;
- Work at home;
- Dependent care reimbursement accounts through our corporate-wide cafeteria benefits plan;
- Personal leave of absence for up to one year;
- Educational leave of absence with job assurance upon return;
- 100 per cent tuition reimbursement for work related and degree-oriented educational courses, and 50 per cent reimbursement for courses not directly job-related, but which are related to Tektronix businesses;
- Parental leave of absence for both parents of up to 12 weeks (in addition to the mother's period of disability) following the birth or adoption of a child of any age, with job assurance upon their return to work;

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- On-site summer child care;
- Individual employe counseling regarding personal and family life problems through on-site and other referral employe assistance resource programs; and
- Use of an employe's accrued, paid sick time to care for a sick child under the age of 18.

Tektronix, of course, also offers high-quality health care insurance options, an employer-funded retirement program and a voluntary 401(k) deferred pay plan.

Recently, Tektronix took another step forward in our attempt to confront the needs of our workers by initiating a new Flexible Time Off (FTO) program, which will be implemented this summer. The FTO program will replace our existing sick leave and vacation time-off policies by granting our workers greater flexibility in the use of paid time away from the workplace.

Under our FTO program, employes accrue FTO hours throughout the calendar year. These hours can be used for any personal reason. Also under FTO, each employe will have a "health bank" of saved hours which can be used to take paid time off for a personal or family health-related purpose, including care of an ill spouse, child, parent or other family member, medical or dental appointments, parental leaves for the birth or adoption of a child, the death of a family member, or to purchase health benefits after retirement.

We were thinking about a program such as FTO when we approached lawmakers during the 1987 Oregon Legislature concerning an amendment, which was enacted, that exempts companies if they have a parental leave benefit as part of a non-discriminatory cafeteria plan equivalent to the leave granted under the state parental leave statute. Our objective was to put into the law an incentive to encourage corporations to experiment and to innovate in ways to give workers choices -- and, especially for lower-paid workers, choices of which they could afford to take advantage.

We continue to believe this type of incentive is important. Undoubtedly it can be perfected. But we believe it should be retained and built upon. If we don't encourage innovation, we will wind up with lowest common-denominator policies -- policies which frankly will help some, but be of little use

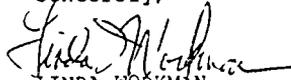
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Our workers, like most workers, prefer to make choices that conform their benefits to their needs. Employers should be given reasonable flexibility and unequivocal encouragement to provide equitable choices to their workers. Not every employer will respond, so some basic requirements may be needed. [As you recall, Tektronix supported Oregon's parental leave legislation.] But the law can permit and even encourage employers to do more than is required.

For Tektronix, it is important to us to have a benefit package and personnel policies that apply evenly to all of our employees, just as it is vital that our benefits and personnel policies treat lower-paid workers as fairly as more highly compensated workers. Policies such as FTO meet this test, and give workers regardless of their income an opportunity to utilize a benefit such as parental leave. We think that is good for our workers and good for Tektronix. We respectfully submit it also represents good public policy and should be endorsed and encouraged in state and federal law.

Thank you for requesting our views and for including them along with your testimony on proposed federal parental and family leave legislation.

Sincerely,



LINDA WORKMAN
Corporate Personnel Policy &
Technical Support Manager

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