

HB

155

# HOUSE COMMITTEE REPORT

File

(11)

Date Referred: April 21, 1989

FURTHER REFERRALS:

Date of Committee Action: 3/14/90

The FINANCE Committee considered:

HB 155

HOUSE BILL NO. 155

[MATERNITY/ADOPTION/FAMILY LEAVE]

"An Act relating to employee health insurance coverage, employment rights based on pregnancy, childbirth, and related conditions, and family leave."

### RECOMMENDATIONS:

- be replaced with CS HB 155 (FIN)  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

fiscal impact LABOR

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

(2)  zero with analysis Admin Admin.

zero fn/analysis \_\_\_\_\_

### SIGNING DO PASS:

[Signature] KOPONEN

[Signature] BROWN

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u> Hoffmann	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Wallis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Rieger	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Phillips	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Barnes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Larson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[Signature] Hoffmann  
Chairman's Signature  
[Signature] Larson

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
 Title: CSHB155: Relating to employment BRU: Labor Relations  
rights based on pregnancy, childbirth, \*  
 Sponsor: Brown, Ulmer, et al.  
 Requestor: Brown Components: \_\_\_\_\_

\* sick leave, and family leave

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The bill provides guaranteed leave entitlements separate and apart from the collective bargaining process. As such, it alters the environment for bargaining, but neither adds nor detracts from the cost of that process in and of itself.

Prepared by: Dianne M. Corso Phone: 465-4404  
 Division: Labor Relations Date: \_\_\_\_\_

Approved by Commissioner: Frank S. Baxter Date: 1/19/90  
 Agency: Department of Administration

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Adopted

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
 Title: \* \_\_\_\_\_ BRU: Personnel  
 Sponsor: Ulmer, et al. Components: Personnel  
 Requestor: Brown

\* An Act relating to employment rights based on pregnancy, childbirth and related conditions and adoption.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would not have a direct fiscal impact on the Division of Personnel either in 1990 or in subsequent years. Although full implementation of this legislation would result in cost throughout State government, these costs cannot be quantified accurately.

Prepared by: David K. F. Otto *D.K.F.O.* Phone: 465-4430  
 Division: Division of Personnel Date: 1/23/90  
 Approved by Commissioner: Frank S. Baxter *F.S.B.* Date: 1/23/90  
 Agency: Department of Administration

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

Adopted

CONTINUATION of FISCAL NOTE ANALYSIS

CSHB 155 (draft)

The leave guarantees found in this legislation would result in the following costs:

1. Sick leave usage could be expected to increase because it will become available under a new set of circumstances;
2. Training costs would increase. Employees who exercise their full rights under this legislation could be absent for 18 weeks in a 12- or 24-month period. Substitutes would be required for many, if not all, of these employees. Most substitutes would require either on-the-job or outside training before they could perform the full duties of the position temporarily vacated by the absent employee. If the training is provided on the job, the cost to the employer would be reduced productivity. If the training required is provided by an outside agency, such as computer training, the costs could be measured in lost productivity, plus the direct cost of providing the training;
3. Although substitute employees could be hired and possibly trained to temporarily replace employees who take leave, they could not be expected to produce at the same level as permanent, journey level employees;
4. When leave is taken to recuperate or care for a family member, employees are not required to take 18 weeks of leave consecutively. If leave is taken sporadically and in short increments, it would be difficult to plan for the effective replacement of the absent employee. In cases where a replacement could not be found, an employee's absence could result in increased overtime, reduced productivity and/or lowered morale. These results may be most prevalent in institutions that require 24-hour coverage, such as Pioneers' Homes, correction facilities or the Alaska Psychiatric Institute.

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 155 (FIN) (HESS)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
Title: "An Act relating to... family leave." BRU: Labor Standards & Safety  
Sponsor: Brown, et al. Components: Wage & Hour  
Requestor: House Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	51.0	51.0	51.0	51.0	51.0	51.0
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	5.4	5.4	5.4	5.4	5.4	5.4
SUPPLIES	0.4	0.4	0.4	0.4	0.4	0.4
EQUIPMENT	1.2	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	64.0	62.8	62.8	62.8	62.8	62.8

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	64.0	62.8	62.8	62.8	62.8	62.8
FEDERAL FUNDS						
OTHER						
TOTAL	64.0	62.8	62.8	62.8	62.8	62.8

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary) Note: there is no fiscal impact in FY 90.

Under the provisions of this bill, the department would investigate alleged violations of the family leave law and attempt reconciliation. In order to do this, a Wage & Hour Investigator II located in Anchorage would be hired. This position would travel throughout the state to investigate the complaints. An effective date of July 1, 1990 is assumed.

Prepared by: Tom Stuart, Director Phone: 264-2452  
Division: Labor Standards & Safety Date: 1/18/90  
Approved by Commissioner: Jim Sampson Date: 1/18/90  
Agency: Department of Labor

Distribution (by preparer) :  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Adopted

Position Title <b>Wage &amp; Hour Investigator II</b>			No. of Positions <b>1</b>	Range/Step <b>18A</b>	Barg. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>		Location <b>Anchorage</b>		Election District
Type of Expenditure			Amount		
1			2		3
Salary			<b>\$37,356</b>		
Benefits			<b>13,735</b>		
Premium Pay					
Other					
<b>Total Personal Services</b>					<b>\$51,091</b>
Travel					<b>6,000</b>
Contractual					<b>5,400</b>
Commodities					<b>400</b>
Equipment					<b>1,200</b>
Other					
<b>Total Cost</b>					<b>\$64,091</b>
Funding Source for Total Cost					
Federal Receipts 1002					
G. F. Match 1003					
General Fund 1004					<b>\$64,091</b>
GF Program Receipts 1005					
Other					
Justification					
<p>This position would investigate alleged violations of the family leave law. The investigator would attempt to resolve violations by conference, conciliation, and persuasion.</p> <p>Travel costs would allow the investigator to cover complaints in all parts of the state.</p> <p>Contractual and commodity costs are average per-employee costs. Equipment would be a one-time expense for desk, chair, cabinets, etc.</p>					

**Request For  
New Position**

Agency Labor  
 BRU Labor Standards & Safety  
 Component Wage & Hour

Page 2 of 2  
 Revised Date

**FY 90**

Original sponsor(s): REP. BROWN, Ulmer, Gruenberg, Ellis, Spohnholz, Goll

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 155 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to employment rights based on preg-  
7 nancy, childbirth and related conditions, sick leave,  
8 and family leave."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. SHORT TITLE. This Act may be known as the Alaska Family  
11 Protection Act.

12 \* Sec. 2. FINDINGS AND PURPOSE. (a) The legislature finds that

13 (1) generally, parents are the best providers of care for their  
14 children;

15 (2) the number of single-parent households and two-parent house-  
16 holds in which the single parent or both parents work outside the home is  
17 increasing significantly;

18 (3) it is important to the development of a child and to the  
19 family unit that parents be able to participate in early childrearing and  
20 the care of a child who has a serious health condition;

21 (4) the lack of employment opportunities to accommodate working  
22 parents can force individuals to choose between job security and parenting;  
23 and

24 (5) it is important for the family unit that a person be able to  
25 care for a parent or spouse who has a serious health condition.

26 (b) The legislature declares that the purposes of this Act are

27 (1) to balance the demands of the workplace with the needs of  
28 families, and to promote stability and economic security in families;

29 (2) to entitle employees to take reasonable leave for the birth

1 or adoption of a child, for the care of a child, spouse, or parent who has  
2 a serious health condition, and in case of their own serious health condi-  
3 tion; and

4 (3) to accommodate the legitimate interests of employers.

5 \* Sec. 3. AS 14.20.140 is amended by adding a new subsection to read:

6 (c) Notwithstanding a teacher's right to continued employment  
7 under AS 23.10.500 - 23.10.550, a school district may notify a teacher  
8 of nonretention under this section for the following school year for a  
9 permissible reason.

10 \* Sec. 4. AS 14.20.145 is amended to read:

11 Sec. 14.20.145. AUTOMATIC REEMPLOYMENT. If notification of  
12 nonretention is not given according to AS 14.20.140, a teacher is  
13 entitled to be re-employed in the same district for the following  
14 school year on the contract terms the teacher and the employer may  
15 agree upon, or if no terms are agreed upon, the provisions of the  
16 previous contract are continued for the following school year, subject  
17 to AS 14.20.158. The right to be reemployed according to this section  
18 expires if the teacher does not accept reemployment within 30 days  
19 after the date on which the teacher receives a contract of reemploy-  
20 ment. A teacher who is on family leave under AS 23.10.500 - 23.10.550  
21 must comply with the 30-day deadline in this section to retain the  
22 teacher's reemployment rights under this section.

23 \* Sec. 5. AS 14.20.590 is amended by adding a new subsection to read:

24 (b) Notwithstanding any provision of AS 14.20.550 - 14.20.610 to  
25 the contrary, a negotiations agreement between an employer subject to  
26 AS 23.10.500 - 23.10.550 and an employee bargaining organization that  
27 conflicts with the benefit provisions of AS 23.10.500 - 23.10.550 is  
28 void unless the agreement provides benefits at least as beneficial to  
29 the employee as those provided by AS 23.10.500 - 23.10.550 or unless

1 the commissioner of education has waived compliance with AS 23.10.-  
2 500 - 23.10.550 under AS 23.10.530(c).

3 \* Sec. 6. AS 23.10 is amended by adding new sections to read:

4 ARTICLE 7. PREGNANCY, CHILDBIRTH, AND FAMILY LEAVE.

5 Sec. 23.10.500. EMPLOYMENT BENEFITS AND PRIVILEGES FOR HEALTH  
6 AND FAMILY CARE. (a) An employer shall grant an employee whose  
7 health is affected by pregnancy, childbirth, or a related medical  
8 condition the same employment benefits and privileges that the em-  
9 ployer grants to other employees with similar ability to work who are  
10 not so affected, including allowing the employee to take disability or  
11 sick leave or other accrued leave that the employer makes available to  
12 temporarily disabled employees.

13 (b) An employee is eligible to take family leave if the employee  
14 has been employed by the employer for at least 35 hours a week for at  
15 least six consecutive months or for at least 17 1/2 hours a week for  
16 at least 12 consecutive months immediately preceding the leave. An  
17 employer shall permit an eligible employee to take family leave for a  
18 total of 18 workweeks during any 24-month period. The leave may be  
19 unpaid leave. However, the employee may choose to substitute, or the  
20 employer may require the employee to substitute, accrued paid vacation  
21 leave, sick leave, personal leave, or other paid leave during this  
22 period. If the employee is entitled to a longer period of time under  
23 (a) of this section, then the longer period applies. An eligible  
24 employee is entitled to take family leave

25 (1) because of pregnancy, the birth of a child of the  
26 employee, or the placement of a child, other than the employee's  
27 stepchild, with the employee for adoption, in which case the entitle-  
28 ment to leave expires at the end of the 12-month period beginning  
29 after the date of the birth or placement; an employer may require that

1 an employee using family leave under this paragraph take the leave in  
2 a single block of time;

3 (2) in order to care for the employee's child, spouse, or  
4 parent who has a serious health condition; in this paragraph, "child"  
5 includes the employee's biological, adopted, or foster child, step-  
6 child, legal ward, or a child to whom the employee stands in loco  
7 parentis; and

8 (3) because of the employee's own serious health condition.

9 (c) Notwithstanding (b) of this section, if a parent or child of  
10 two employees employed by the same employer has a serious health  
11 condition, the employer is not required to grant family leave to both  
12 employees simultaneously.

13 (d) During the time that an employee is on leave under this  
14 section, the employer shall maintain coverage under any group health  
15 plan at the level and under the conditions that coverage would have  
16 been provided if the employee had been employed continuously from the  
17 date the leave began to the date the employee returns from leave under  
18 (e) of this section. However, the employer may require that the  
19 employee pay all of the costs for maintaining health insurance cover-  
20 age during a period of unpaid leave.

21 (e) Unless the employer's business circumstances have changed to  
22 make it impossible or unreasonable, when an employee returns from  
23 leave under this section, the employer shall restore the employee

24 (1) to the position of employment held by the employee when  
25 the leave began; or

26 (2) to a substantially similar position with substantially  
27 similar benefits, pay, and other terms and conditions of employment.

28 (f) This section does not apply to an employer's small business  
29 facility if the total number of employees employed within 50 road

1 miles of the small business facility, including those employed at the  
2 facility, was fewer than 21 during the 20 consecutive workweeks in  
3 which the employer employed at least 21 employees at all business  
4 facilities.

5 (g) An employer may refuse to grant an employee family leave  
6 under (b) of this section if the employer establishes that

7 (1) the salary received by the employee places the employee  
8 in the top 10 percent of all employees in facilities of the employer  
9 covered by this section; and

10 (2) the employee has skills, knowledge, or experience that  
11 cannot be provided satisfactorily by other employees during the period  
12 of the proposed leave and that are necessary to the employer during  
13 that time to meet a business necessity.

14 Sec. 23.10.510. EMPLOYEE NOTICE. If the necessity for leave  
15 under AS 23.10.500 is foreseeable based on an expected birth or adop-  
16 tion or on planned medical treatment or supervision, the employee  
17 shall provide the employer with prior notice of the expected need for  
18 leave in a manner that is reasonable and practicable. If the necessi-  
19 ty for leave under that section is foreseeable based on planned medi-  
20 cal treatment or supervision, the employee shall also make a reason-  
21 able effort to schedule the treatment or supervision so as not to  
22 disrupt unduly the operations of the employer, subject to the approval  
23 of the health care provider of the employee or the employee's child,  
24 spouse, or parent.

25 Sec. 23.10.520. EMPLOYEE TRANSFER. (a) A pregnant employee may  
26 request a transfer to a suitable position under this section. An  
27 employer may not fill the position with a person other than the re-  
28 questing employee until the employer has offered the position to the  
29 employee and the employee has refused the offer. A position is

1 suitable if

2 (1) it is an existing unfilled position in the same admin-  
3 istrative division in which the employee is currently employed and is  
4 less strenuous or less hazardous than the employee's current position;

5 (2) transfer to the position is recommended by a licensed  
6 health care provider;

7 (3) the employee is qualified and immediately able to  
8 perform the duties of the position; and

9 (4) the transfer will not subject the employer to legal  
10 liability.

11 (b) An employer shall compensate an employee who receives a  
12 transfer under this section at a rate at least equal to the lesser of  
13 the rate, as adjusted by changes to compensation that apply generally  
14 to the work force, at which

15 (1) the employee was compensated immediately before re-  
16 questing the transfer; or

17 (2) the position into which the employee transfers is  
18 compensated.

19 Sec. 23.10.530. APPLICATION TO OTHER LAWS. (a) The provisions  
20 of AS 23.10.500 - 23.10.550 do not affect any other provision of law  
21 relating to sex discrimination, pregnancy, or parenthood.

22 (b) The provisions of AS 23.10.500 - 23.10.550 are subject to  
23 collective bargaining. However, except as provided in (c) of this  
24 section, a collective bargaining contract is void unless it contains  
25 terms giving employees benefits at least as beneficial to the employee  
26 as those provided by AS 23.10.500 - 23.10.550.

27 (c) The commissioner of education may approve a collective  
28 bargaining agreement entered into between a school district or a  
29 regional educational attendance area and a bargaining organization

1 representing certificated employees that does not meet the leave  
2 requirements of AS 23.10.500 - 23.10.550, if the district or atten-  
3 dance area establishes to the satisfaction of the commissioner that a  
4 variance from the requirements of AS 23.10.500 - 23.10.550 is neces-  
5 sary to avoid a hardship on the school district based on the lack of  
6 qualified, available substitute teachers to replace teachers on leave  
7 under AS 23.10.500 - 23.10.550 or the lack of available housing for  
8 replacement teachers who do not live in the community.

9 Sec. 23.10.540. INVESTIGATION AND CONCILIATION OF COMPLAINTS.

10 (a) A person aggrieved by a denial of a right or privilege granted by  
11 AS 23.10.500 - 23.10.540 may file a complaint with the department.

12 (b) The department shall informally, promptly, and impartially  
13 investigate the matters set out in a filed complaint. If the investi-  
14 gator determines that the allegations are supported by substantial  
15 evidence, the investigator shall immediately try to eliminate the  
16 denial of rights or privileges by conference, conciliation, and per-  
17 suasion.

18 Sec. 23.10.550. DEFINITIONS. In AS 23.10.500 - 23.10.550,

19 (1) "child" means an individual who is

20 (A) under 18 years of age; or

21 (B) 18 years of age or older and incapable of self-  
22 care because of mental or physical disability;

23 (2) "employer" means a person, including the state and a  
24 political subdivision of the state, who employed at least 21 employees  
25 in the state for each working day during any period of 20 consecutive  
26 workweeks in the preceding two calendar years;

27 (3) "health care provider" has the meaning given in AS 18.-  
28 23.070;

29 (4) "parent" means a biological or adoptive parent, a

parent-in-law, or a stepparent;

(5) "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves

(A) inpatient care in a hospital, hospice, or residential health care facility; or

(B) continuing treatment or continuing supervision by a health care provider;

(6) "small business facility" means a facility of an employer that did not employ 21 or more employees during any period of 20 consecutive workweeks in the preceding two calendar years;

(7) "state" includes the University of Alaska and the executive, legislative, and judicial branches of state government including public and quasi-public corporations and authorities established by law.

\* Sec. 7. AS 23.40.200 is amended by adding a new subsection to read:

(g) Notwithstanding any provision of AS 23.40.070 - 23.40.260 to the contrary, an agreement between an employer subject to AS 23.10.500 - 23.10.550 and an employee bargaining organization that conflicts with the benefit provisions of AS 23.10.500 - 23.10.550 is void unless the agreement provides benefits at least as beneficial to the employee as those provided by AS 23.10.500 - 23.10.550.

\* Sec. 8. AS 39.20.225(b)(4) is amended to read:

(4) Pregnancy and childbirth is a medical reason for a female officer or employee to take personal leave. [A FEMALE OFFICER OR EMPLOYEE, OTHERWISE QUALIFIED FOR A LEAVE OF ABSENCE, IS ENTITLED TO TAKE A MAXIMUM OF NINE WEEKS LEAVE IMMEDIATELY PRECEDING AND FOLLOWING CHILDBIRTH. IF THE OFFICER'S OR EMPLOYEE'S ACCRUED PERSONAL LEAVE IS INSUFFICIENT FOR THIS PURPOSE, THE OFFICER OR EMPLOYEE IS ENTITLED TO TAKE LEAVE WITHOUT PAY FOR THE BALANCE OF THE NINE-WEEK

PERIOD.]

\* Sec. 9. AS 39.20 is amended by adding a new section to read:

Sec. 39.20.305. FAMILY AND HEALTH LEAVE. (a) An officer or employee who is otherwise qualified to take leave of absence may take family leave for a total of 18 workweeks during any 24-month period. An officer or employee taking leave under this section shall use accrued personal leave. After exhausting accrued personal leave, the officer or employee may take leave without pay for the balance of the 18-week period. If the employee is entitled to a longer period of time under AS 23.10.500, then the longer period applies. An eligible employee is entitled to take family leave

(1) because of pregnancy, the birth of a child of the employee, or the placement of a child, other than the employee's stepchild, with the employee for adoption, in which case the entitlement to leave expires at the end of the 12-month period beginning after the date of the birth or placement; the department or agency may require that an employee using family leave under this paragraph take the leave in a single block of time;

(2) in order to care for the employee's child, spouse, or parent who has a serious health condition; in this paragraph, "child" includes the employee's biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis; and

(3) because of the employee's own serious health condition.

(b) If the necessity for family leave under (a) of this section is foreseeable based on an expected birth or adoption or on planned medical treatment or supervision, the employee shall provide the employee's department or agency head with prior notice of the expected need for leave in a manner that is reasonable and practicable. If the

1 necessity for leave under this section is foreseeable based on planned  
2 medical treatment or supervision, the employee shall also make a  
3 reasonable effort to schedule the treatment or supervision so as not  
4 to disrupt unduly the operations of the state department or agency,  
5 subject to the approval of the health care provider of the employee or  
6 the employee's child, spouse, or parent.

7 (c) Notwithstanding (a) of this section, if a parent or child of  
8 two employees employed by the state has a serious health condition,  
9 the state is not required to grant family leave to both employees  
10 simultaneously.

11 (d) A state department or agency may refuse to grant an employee  
12 family leave under (a) of this section if the department or agency  
13 establishes that

14 (1) the salary received by the employee places the employee  
15 in the top 10 percent of employees within that department or agency;  
16 and

17 (2) the employee has skills, knowledge, or experience that  
18 cannot be provided satisfactorily by other state employees during the  
19 period of the proposed leave and that are necessary to the department  
20 or agency during that time to meet a business necessity.

21 (e) In this section, "child," "health care provider," "parent,"  
22 and "serious health condition" have the meanings given in AS 23.10.-  
23 550.

24 \* Sec. 10. Notwithstanding AS 14.20.590(b), enacted by sec. 5 of this  
25 Act, AS 23.10.500 - 23.10.550, enacted by sec. 6 of this Act, and AS 23.-  
26 40.200(g), enacted by sec. 7 of this Act, a collective bargaining agreement  
27 in effect on the effective date of this Act that contains terms that do not  
28 comply with AS 23.10.500 - 23.10.550 remains valid until the agreement  
29 expires. However, the contract may not be extended by agreement or renewed

1 unless it complies with AS 14.20.590(b), AS 23.10.530, or AS 23.40.200(g),  
2 as applicable.

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7-2 3/14/90

AMENDMENT #1

OFFERED IN THE HOUSE

BY REP. BROWN

TO: CSHB 155 (Finance)

Page 2, line 29, after "23.10.550":

Insert "or the commissioner of education has waived compliance with AS 23.10.500 - 23.10.550 under AS 23.10.530(c)"

Page 6, line 21, after "However,":

Insert "except as provided in (c) of this section,"

Page 6, after line 24:

Insert a new subsection to read:

"(c) The commissioner of education may approve a collective bargaining agreement entered into between a school district or a regional educational attendance area and a bargaining organization representing certificated employees that does not meet the leave requirements of AS 23.10.500 - 23.10.550, if the district or attendance area establishes to the satisfaction of the commissioner that a variance from the requirements of AS 23.10.500 - 23.10.550 is necessary to avoid a hardship on the school district based on the lack of qualified, available substitute teachers to replace teachers on leave under AS 23.10.500 - 23.10.550 or the lack of available housing for replacement teachers who do not live in the community."

3-7  
Failed  
3/14/90

A M E N D M E N T

#2

OFFERED IN THE HOUSE

BY REP. PHILLIPS

TO: CSHB 155(HESS)

Page 1, line 6, after "rights":

Insert "for public employees"

Page 1, line 10, after "Alaska":

Insert "Public Employee"

Page 1, line 29, after "entitle":

Insert "public"

Page 2, line 3, after "of":

Insert "public"

Page 6, line 19:

Delete "a person, including"

Delete "and"

Insert "or"

Page 6, line 20:

Delete "who"

Insert "that"

Page 7, line 8, after "includes the":

Insert "Alaska Railroad, the"

Attachment 5

6-0525Jf  
Cramer

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5-5

3/14/90

A M E N D M E N T #3

OFFERED IN THE HOUSE

BY REP. PHILLIPS

TO: CSHB 155(HESS)

Page 1, line 6, after "rights":

Insert "for state employees"

Page 1, line 10, after "Alaska":

Insert "State Employee"

Page 1, line 29, after "entitle":

Insert "state"

Page 2, line 3:

Delete "employers"

Insert "the state"

Page 2, lines 6 - 7:

Delete "an employer subject to AS 23.10.500 - 23.10.550"

Insert "the state"

Page 2, line 8:

Delete "AS 23.10.500 - 23.10.550"

Insert "AS 39.20.305 - 39.20.309"

Page 2, line 11:

Delete "AS 23.10.500 - 23.10.550"

Insert "AS 39.20.305 - 39.20.309"

Page 2, line 12 through page 7, line 11:

Delete all material.

Renumber the following bill sections accordingly.

Page 7, lines 14 - 15:

Delete "an employer subject to AS 23.10.500 - 23.10.550"

Insert "the state"

Page 7, line 16:

Delete "AS 23.10.500 - 23.10.550"

Insert "AS 39.20.305 - 39.20.309"

Page 7, line 19:

Delete "AS 23.10.500 - 23.10.550"

Insert "AS 39.20.305 - 39.20.309"

Page 7, line 29:

Delete "a new section"

Insert "new sections"

Page 8, line 8:

Delete "AS 23.10.500"

Insert "this section"

Page 9, lines 18 - 20:

Delete all material and insert:

"(e) The state shall grant an employee whose health is affected by pregnancy, childbirth, or a related medical condition the same employment benefits and privileges that the state grants to other employees with similar ability to work who are not so affected, including allowing the employee to take disability or sick leave or other accrued leave that the state makes available to temporarily disabled employees.

(f) During the time that an employee is on leave under this section, the state shall maintain coverage under any group health plan at the level and under the conditions that coverage would have been provided if the employee had been employed continuously from the date the leave began to the date the employee returns from leave under (g) of this section. However, the state employee shall pay all of the costs for maintaining health insurance coverage during a period of unpaid leave.

(g) Unless the department or agency's circumstances have changed to make it impossible or unreasonable, when an employee returns from leave under this section, the department or agency shall restore the employee

(1) to the position of employment held by the employee when the leave began; or

(2) to a substantially similar position with substantially similar benefits, pay, and other terms and conditions of employment.

(h) The provisions of AS 39.20.305 - 39.20.309

(1) do not affect any other provision of law relating to sex discrimination, pregnancy, or parenthood;

(2) are subject to collective bargaining; however, a collective bargaining contract is void unless it contains terms giving employees benefits comparable to those provided by AS 39.20.305 - 39.20.309.

(i) A person aggrieved by a denial of a right or privilege granted by AS 39.20.305 - 39.20.309 may file a complaint with the Department of Labor. The department shall informally, promptly, and impartially investigate the matters set out in a filed complaint. If the investigator determines that the allegations are supported by substantial evidence, the investigator shall immediately try to eliminate the denial of rights or privileges by conference, conciliation, and persuasion.

Sec. 39.20.307. EMPLOYEE TRANSFER. (a) A pregnant employee may request a transfer to a suitable position under this section. A department or agency may not fill the position with a person other than the requesting employee until the department or agency has offered the position to the employee and the employee has refused the offer. A position is suitable if

(1) it is an existing unfilled position in the same administrative division in which the employee is currently employed and is less strenuous or less hazardous than the employee's current position;

(2) transfer to the position is recommended by a licensed health care provider;

(3) the employee is qualified and immediately able to perform the duties of the position; and

(4) the transfer will not subject the state to legal liability.

(b) The state shall compensate an employee who receives a transfer under this section at a rate at least equal to the lesser of the rate, as adjusted by changes to compensation that apply generally to the work force, at which

(1) the employee was compensated immediately before requesting the transfer; or

(2) the position into which the employee transfers is compensated.

Sec. 39.20.309. DEFINITIONS. In AS 39.20.305 - 39.20.309,

(1) "child" means an individual who is

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of mental or physical disability;

(2) "health care provider" has the meaning given in AS 18.-23.070;

(3) "parent" means a biological or adoptive parent, a parent-in-law, or a stepparent;

(4) "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves

(A) inpatient care in a hospital, hospice, or

residential health care facility; or

(B) continuing treatment or continuing supervision by a health care provider;

(5) "state" includes the University of Alaska and the executive, legislative, and judicial branches of state government including public and quasi-public corporations and authorities established by law.

\* Sec. 7. AS 39.20.310 is amended to read:

Sec. 39.20.310. EXCEPTIONS. AS 39.20.200 - 39.20.330 do not apply to

(1) members of the state legislature, the governor, the lieutenant governor, and justices and judges of the supreme and superior courts and of the court of appeals, but nothing in AS 39.20.200 - 39.20.330 may be construed to diminish the salaries fixed by law for these officers by reason of absence from duty on account of illness or otherwise;

(2) magistrates serving the state on less than a full-time basis;

(3) officers, members of the teaching staff, and employees of the University of Alaska, except as provided in AS 39.20.305 - 39.20.309;

(4) [REPEALED]

(5) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(6) members of boards, commissions, and authorities who are

not otherwise employed by the state;

(7) temporary employees hired for periods of less than 12 consecutive months;

(8) persons employed by the division of marine transportation as masters and members of the crews operating the state ferry system who are covered by collective bargaining agreements as provided in AS 23.40.040, except as expressly provided by AS 39.20.305 - 39.20.309 or by other law;

(9) persons employed by the state who are covered by collective bargaining agreements as provided in AS 23.40.210, except as expressly provided by AS 39.20.305 - 39.20.309 or by other law."

Renumber the following bill section accordingly.

Page 9, line 22:

Delete "AS 23.10.500 - 23.10.550, enacted by sec. 4"

Insert "AS 39.20.305 - 39.20.309, enacted by sec. 6"

Page 9, line 23:

Delete "5"

Insert "4"

After "agreement":

Insert "between the state and a labor organization representing state employees"

Page 9, line 25:

Delete "AS 23.10.500 - 23.10.550"

Insert "AS 39.20.305 - 39.20.309"

EXPLANATION OF FISCAL NOTE  
FOR HB 155

The Division arrived at the Fiscal Note requiring one additional investigator by extrapolating available statistics from two different sources:

As you may know, this proposed legislation provides for broader protection than that afforded in most other states' existing laws. In addition, such legislation is most often found blended in with the other state's equivalent of our Human Rights Commission. These two factors have made it difficult to segregate the impact of such laws on other states' programs. However, by making a few assumptions, we were able to develop some meaningful statistics.

In 1987-88 the State of California, Fair Employment Administration office processed 8322 cases. Of those, 1123, (14 percent) involved pregnancy related offenses. These numbers do not separate out pregnancy leave problems specifically. Neither do they incorporate additional protected classes such as personal sick leave as contemplated in Alaska's legislation.

By presuming that these two factors will offset each other, we can use the 14 percent impact to analyze potential impact in Alaska. In doing so, we would project an approximate increase on case load of 14 percent. We currently process approximately 1400 wage claims annually statewide, with an average of 200 claims per investigator. A 14 percent increase would be 196 claims or one investigator position.

To double check this analysis, we also approached the question from an employer perspective. The Department's Research and Analysis section reports that there are approximately 10,900 employers in the state. We handle 1400 claims annually. Allowing for repeat and multiple offenders as well as invalid claims, this number equates to 600-800 employers or five to eight percent of the total number who violate our laws annually. If we apply this same percentage of violations to the new bill, we can approximate the number of complaints expected. In its projections for Alaska, The Institute for Women's Policy Research estimates that 4000 Alaskan employees will take advantage of this law annually. If we take the low estimate of five percent and apply it to the number of potential affected employees, we could expect 200 complaints per year.

It is important to note that these estimates are conservative in that the presumptions made were based on the bill's effect before the addition of personal sick leave; and, where given an option, we elected to use the smallest variable in our calculations. We determined to err on the side of conservation as we did not want to hamper the bill with an exorbitant Fiscal Note.

Therefore, we feel that the request for one position may underestimate the actual impact. We nonetheless are confident that at least one will be necessary, with overflow being absorbed by existing staff.

It is interesting to note that Human Rights, in a separate analysis arrived at nearly the same conclusion; i.e., one additional staff investigator.

MARCH 7, 1990

Patricia Chamberlin Clark  
Board Member, Resource Center for Parents & Children  
Fairbanks, Alaska

Legislative Chair, Alaska State Federation of Business &  
Professional Women

The Board of Directors of the Fairbanks Resource Center for Parents and Children, as a local agency dealing with child abuse, strongly urges your committee passage of CS HB 155 (Finance). In our daily efforts we see the results of problems that arise when parents have to return to work in order to save their jobs. Often when they really need to stay at home for a longer time. This same stress can affect a family when other family care needs arise and the necessity of protecting a job simply creates more tension within a home.

As Legislative Chair for the Alaska Federation of BPW, I wish to inform you that our organization strongly supports CS HB 155 (Finance) at the state level, just as our national organization supports action at the national level. A number of our state members of BPW are also member of NFIB and their local Chamber of Commerce and recognize the need for CS HB 155 (Finance). Members of your committee, as well as other legislators, will be hearing from constituents in support of this legislation.

BPW and the Fairbanks Resource Center for Parents and Children oppose any amendments to CS HB 155 (Finance) that would decrease the numbers of employees receiving the benefits of family leave.

Our organization is in accord with the stand of the Alaska Women's Lobby and the Alaska Women's on matters pertaining to this legislation.

Thank you for your time. I am sorry I was unable to testify in person on March 7, 1990 but the hearing on the bill was postponed.

Patricia Chamberlin Clark  
612 Sprucewood  
Fairbanks, Alaska 99701  
907/479-2735

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y. STATE CAPITOL  
JUNEAU, ALASKA 998.1  
907.465.3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 1, 1990

SUBJECT: Equal protection questions in The Family Protection Act  
(CSHB 155 ( ) 1/29/90)

TO: Representative Kay Brown

FROM: Teresa B. Cramer *TC*  
Legislative Counsel

You have asked whether the exclusion from coverage of the employees of a small business facility violates the equal protection clause of the state or federal constitution. There has not been time to thoroughly research this issue. On the basis of the review that time has permitted, in my opinion the courts would probably find that the legislation was valid.

The Alaska Family Protection Act grants employees of those employers covered by the Act rights to additional unpaid leave, continuation of any group health insurance at the employee's expense, and the right to return to work for the employer at the end of the leave. See Sec. 23.10.500(b), (d), and (e). Under the Committee Substitute, these benefits are granted to employees of an "employer," defined in Sec. 23.10.550(2) as

a person, including the state and a political subdivision of the state, who employed at least 21 employees in the state for each working day during any period of 20 consecutive workweeks in the preceding two calendar years."

Under Sec. 23.10.500(f), the employees at a "small business facility" are excluded from the protections granted by the Act if the employer did not have more than 20 employees working within 50 road miles of the small business facility during the period of 20 consecutive workweeks.

The state equal protection standard is more rigorous than the federal standard. If legislation is constitutional under the state standard, it will survive a federal challenge. The state supreme court recently articulated state equal protection analysis in State v. Enserch, \_\_\_ P.2d \_\_\_, Opinion No. 3539 December 18, 1989, pg 22 - 24. Under the state analysis, the court first determines the importance of the individual interest impaired by the challenged enactment. Then the court examines the importance of the state interest underlying the enactment. The state's interest must satisfy a standard found on a continuum from mere legitimacy to a compelling interest. The final step in the examination is the connection between the state interest and the means adopted in the legislation to carry out that interest. Depending on the importance of the individual's interest, determined in the first step of the analysis, the equal protection clause requires that the connection fall somewhere on a continuum from substantial relationship to least restrictive means.

The individual's interest under the committee substitute is in receiving the additional job benefits set out in Sec. 23.-10.500. The court has not examined a distinction of this kind under the sliding scale equal protection analysis it now uses. It seems likely that the court would find the individual's interest to be significant but less important than a person's interest in access to employment, which the court reviewed Enserch, and found to be an important right. If the right to these benefits is a significant right, the purpose of the legislation must bear a fair and substantial relationship to the methods chosen to achieve the legislative goals.

The state's interest in the legislation as a whole is in furthering family care for children and other family members who have health problems. This interest is an important state interest. The state's interest in the distinction made between employees at small business facilities and other employees is in accommodating the needs of employers of small businesses, who probably have less flexibility in staffing arrangements than do larger employers. Resolution of the question of whether the distinction is constitutional depends on the evidence brought forward to support it. If the state can show that small businesses have a significantly harder time accommodating the leave provisions required by the legislation, then the court would uphold the distinction.

Representative Kay Brown  
Page 3  
February 1, 1990

The final step in equal protection analysis is the connection between the state's interest in caring for family and employees and the means adopted by the legislation to accomplish that. The legislation balances the interest the state has in protecting families by requiring most employers to offer employees family leave with concern for those employers who have few employees and who would find the requirements of the legislation harder to meet. The fit between the objective of the legislation and the benefits granted by the law seems reasonably close, although not perfect. Some small employers may be better able to continue operations in the absence of an employee on family leave, than employers with a larger workforce. But it seems probable that the evidence would support the distinction between large and small employers and that the connection between the categories created by the legislation and the state's goals in enacting it would be held to be sufficiently close.

If I may be of further assistance, please advise.

TBC:pl  
WKP1/079

Bill Title: Employment rights based on pregnancy  
Family Leave  
Prime Sponsor(s): Thrawn  
Committee Referrals: FIN  
Counterpart Bill: \_\_\_\_\_ Related Bill(s): \_\_\_\_\_

**DEPARTMENT ANALYSIS**

Impact on MOA:  
Any financial impact? Yes X No \_\_\_\_\_  
If "yes", is it major? Yes X No \_\_\_\_\_ (Priority)  
Please describe fiscal impact: See attached

Any programmatic impact? Major X Minor \_\_\_\_\_ None \_\_\_\_\_  
Please explain briefly if needed See attached

Recommended MOA position: Support \_\_\_\_\_ Support with amendments \_\_\_\_\_  
Monitor \_\_\_\_\_ No action necessary \_\_\_\_\_

Comments:  
Oppose. See Attached Comments.

**LEGAL ANALYSIS**

Impact on MOA:  
Any conflict or effect on the charter or municipal code? Yes \_\_\_\_\_ No \_\_\_\_\_  
If "yes", is it major? Yes \_\_\_\_\_ No \_\_\_\_\_  
Please describe briefly if needed \_\_\_\_\_

Submitted by: Neil R. Koeniger 343-4447  
Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Approvals: Neil R. Koeniger 2/7/90  
Department Director/ Date: \_\_\_\_\_ Manager/ Date: \_\_\_\_\_  
Logged Legislative Affairs/ Date: \_\_\_\_\_ Adlegana

Municipality of Anchorage

## HB 155 COMMENTS

We should oppose this proposed legislation for three primary reasons:

1. It conflicts with a basic principle of deferral to local control. That principle is that policies with regard to entitlement of public employees of local governments in Alaska should be determined by the public which employs them. The local taxpayers should have the ability to determine compensation and benefits for their employees through their local elected officials-not have such items mandated for them by a different authority which affords them minimal opportunity for input.
2. It has a direct cost impact for employers. Differing studies in the human resources field have indicated that it costs approximately 20% of the salary of a position to recruit, select and train a replacement. With that requirement for 15 positions a year under this policy, our costs could be increased by as much as \$120,000 annually.
3. It has more significant programmatic impacts. Currently we allow employees to take up to 90 days of unpaid leave per year for personal and/or medical reasons. We are able, however, to have some control on when personal leave is taken and, if medical leave is taken on whether to fill the position on a temporary or regular replacement basis depending on the workload and requirements of the program. This legislation would remove that control. We would be required to only replace on a temporary basis and to guarantee to hold the position for the employee to accommodate their personal needs. There is no recognition of the legitimate needs of the public to be served or the employer to have essential work performed in a consistent manner.

I would recommend that if the State is really desirous of granting additional benefits to its employees, who already have a very generous leave package, that it do so by amending the leave provisions of AS 39.20 which apply specifically to State employees. They do not need to inflict their desired conditions of employment for their workforce-which are both costly and inefficient-on other public and private employers.

**KEY COMMITTEE VOTE - H.B. 155**

You will soon be asked to vote in the Finance Committee on H.B. 155, legislation which mandates that employers give most employees a minimum of 18 weeks of unpaid parental leave. The bill also essentially requires the employer to restore the employee who has taken parental leave to her/his prior job with the same level of pay and benefits.

NFIB/ALASKA's 4,200 members oppose H.B. 155 in its present form and will be supporting amendments in Committee to make the bill acceptable to our members.

We oppose the bill for following public policy reasons:

1. There is no demonstrated need for this bill; put simply, H.B. 155 is a solution looking for a problem.
2. Although NFIB/Alaska's members generally support generous employee leave policies, we staunchly oppose state government mandating that small business must adopt such policies.
3. H.B. 155 carves the very heart out of the collective bargaining process by forcing new terms and conditions on parental leave which now exist in many Alaskan labor contracts.
4. If concern about discrimination is the driving force behind the bill, far-reaching federal and state anti-discrimination laws already on the books offer effective protection to workers.

#B155 Back up

TESTIMONY TO THE HOUSE FINANCE COMMITTEE

MARCH 7, 1990

Patricia Chamberlin Clark  
Board Member, Resource Center for Parents & Children  
Fairbanks, Alaska

Legislative Chair, Alaska State Federation of Business &  
Professional Women

The Board of Directors of the Fairbanks Resource Center for Parents and Children, as a local agency dealing with child abuse, strongly urges your committee passage of CS HB 155 (Finance). In our daily efforts we see the results of problems that arise when parents have to return to work in order to save their jobs. Often when they really need to stay at home for a longer time. This same stress can affect a family when other family care needs arise and the necessity of protecting a job simply creates more tension within a home.

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Patricia Chamberlin Clark  
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THE LEGISLATURE

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a person, including the state and a political subdivision of the state, who employed at least 21 employees in the state for each working day during any period of 20 consecutive workweeks in the preceding two calendar years."

Under Sec. 23.10.500(f), the employees at a "small business facility" are excluded from the protections granted by the Act if the employer did not have more than 20 employees working within 50 road miles of the small business facility during the period of 20 consecutive workweeks.

The state equal protection standard is more rigorous than the federal standard. If legislation is constitutional under the state standard, it will survive a federal challenge. The state supreme court recently articulated state equal protection analysis in State v. Enserch, \_\_\_ P.2d \_\_\_, Opinion No. 3539 December 18, 1989, pg 22 - 24. Under the state analysis, the court first determines the importance of the individual interest impaired by the challenged enactment. Then the court examines the importance of the state interest underlying the enactment. The state's interest must satisfy a standard found on a continuum from mere legitimacy to a compelling interest. The final step in the examination is the connection between the state interest and the means adopted in the legislation to carry out that interest. Depending on the importance of the individual's interest, determined in the first step of the analysis, the equal protection clause requires that the connection fall somewhere on a continuum from substantial relationship to least restrictive means.

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Representative Kay Brown  
Page 3  
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If I may be of further assistance, please advise.

TBC:pl  
WKP1/079

# PARENTAL LEAVE DATA

Updated 1/29/90

## Number of Firms and Employees Affected by Parental Leave Legislation

Table 1

### Number of Firms and Employees by Size of Firm Alaska Employment for May 1989

	<u>Private Sector</u>		<u>Local Govt.</u>
	<u>Firms</u>	<u>Employees</u>	<u>Employees</u>
20 or Fewer Employees	9,720	51,697	1,147
21 or more Employees	1,183	107,339	28,286
50 or Fewer Employees	10,439	74,342	3,199
51 or More Employees	464	84,694	26,234
100 or Fewer Employees	10,679	92,227	4,840
101 or More Employees	224	66,809	24,593

Approximately two thirds of all private sector employees, 107 thousand workers, are employed by firms which would be covered by the parental leave legislation as proposed (see table 1). However, only about 11 percent of all Alaska private sector firms would be involved. If the size of firm affected were raised to 101 employees or more, approximately 224 private sector firms and 42 percent of Alaska's private sector wage and salary workers would be affected.

This estimate is slightly higher than previous estimates due primarily to the recent upturn in the Alaska economy. However, it should be noted that this estimate of the number of employees affected by the parental leave legislation is a high case estimate. Many firms with seasonal employment patterns or large numbers of part time workers would have many fewer eligible employees than would be suggested by average monthly employment figures. Employee turnover was not factored into these estimates.

#### Methodology and Limitations

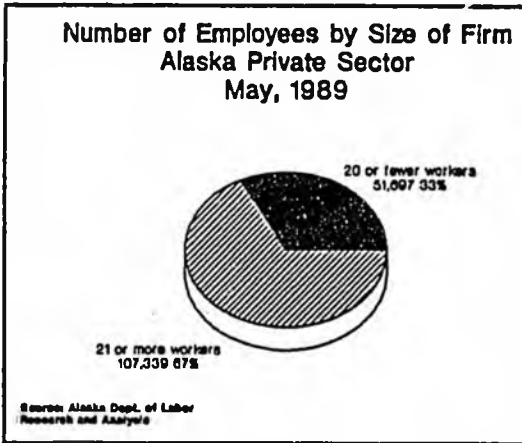
We extracted the 1988 and 1989 monthly employment history of all firms and local governments in Alaska. By examining average monthly employment figures we identified firms that had 21 or more employees, 51 or more employees and 101 or more

employees during every month of any five month period in 1988 and the first six months of 1989. In addition, only firms that had employment in June, 1989 (the most recent month for which data is available) were included in this analysis.

The estimate of the number of employees affected was based on employment during May of 1989. We did not examine the employment history of individual workers by firm to identify those that had been employed for six consecutive months (one of the legislative requirements of the program). Alaska's high rate of interstate migration, employee turnover and many other factors would necessarily reduce the number of employees eligible for parental leave. In 1985-1986, Alaska had a migration rate of approximately 10 percent.



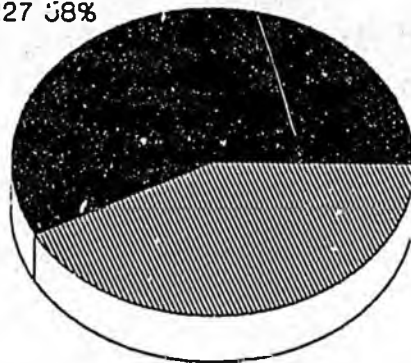
**Figure 1**



**Figure 2**

# Number of Employees by Size of Firm Alaska Private Sector May, 1989

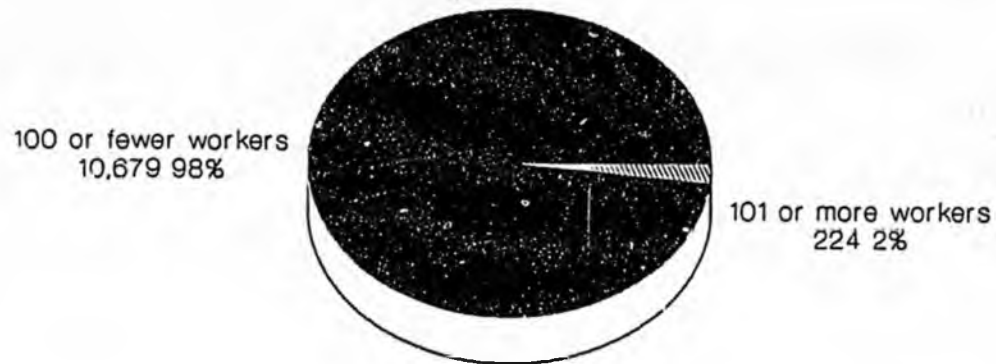
100 or fewer workers  
92,227 58%



101 or more workers  
66,809 42%

Source: Alaska Dept of Labor

Number of Firms by Size of Firm  
Alaska Private Sector  
May, 1989



Source: Alaska Dept of Labor



An Affiliate of the American Civil Liberties Union

P.O. Box 201844  
Anchorage, AK 99520-1844

Office Location:  
310 K Street  
Anchorage, Alaska  
(907) 270-2258

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Jamie Sollenbach  
Executive Director

Date: March 7, 1989  
To: House Labor and Commerce Committee  
From: Jamie Sollenbach, Exec. Dir. AKCLU  
Re: Comments on HB 155

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The Alaska Civil Liberties Union supports family leave legislation which protects the rights of employees to raise a family and continue working without fear of adverse consequences. We believe that this type of legislation extends fair treatment for all employees, and promotes an end to employment discrimination against parents of all kinds, male or female, present or future, single or married. The American Civil Liberties Union lobbied hard on behalf of similar legislation at the federal level.

People employed by companies without leave policies risk losing their jobs if they must be absent because of pregnancy or serious medical conditions in the family. Some states tried to soften the impact of inadequate leave policies by mandating a special minimum leave for pregnant workers. This hinders equality between men and women in the workplace. Special treatment for pregnant women legitimizes sex discrimination and simply ignores the role of men as parents.

The AKCLU would oppose legislation which singled out pregnant women for disability leave without granting family leave to other employees because such legislation would discriminate on the basis of gender. We support legislation that preserves the principle of equal treatment for men and women in the workplace.

HB 155 recognizes that pregnancy does not fundamentally differ from

2025

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other critical family care responsibilities, including adoption, serious illness, and the actual care of a newborn baby. Any of these situations require parents' extra time and attention. It is the responsibility of employers not to penalize Alaskans for trying to build a healthy family.

This proposal would particularly benefit single parents who do not have a spouse or an extended family to assist them. A single parent who confronts the responsibility of a baby without job security may have no one else to rely on; childbirth can become an overwhelming burden. Adverse employment action because of pregnancy or childbirth is an injustice that no Alaskan should face.

The AkCLU fully supports the intent and the heart of the language of HB 155. An initial screening by one of our co-operating attorneys indicated that minor changes in parts of the bill may be helpful in clarifying some points. (I passed some of these concerns along to Rep. Brown's office.) We would be happy to provide a more detailed evaluation.

Alaskans are increasingly concerned over employment and family issues, and working Alaskan parents deserve the protection of law. We urge the Legislature to adopt family leave legislation.

# LABOR RELATIONS

FILE: HB155      RESPONSE A

VM/SP CONVERSATIONAL MONITOR SYSTEM

To: Sioux Plummer

From: Bruce  Spang

Subject: Request for comments on CSHB 155 (draft) \* for proposed Substitute

Date: January 17, 1990

The draft legislation contains three new elements which warrant comment and consideration.

1. The draft expands the universe of applicability from family and parental leave to sick leave claimed by the employee in the event of a serious health condition. If enacted, this would significantly increase employee entitlements beyond those provided in collective bargaining agreements without the opportunity to achieve an appropriate alternative or quid pro quo. In addition, the employer's hands would effectively be tied in situations in which there is no expectation that the employee will be able to return to work. At present, the State may administratively terminate such employees and permanently refill the vacated position. Under the terms of the bill as written, it would appear that the employee could insist on being retained for the full 18 weeks, forcing the employer to leave the position vacant or to fill it with a substitute or temporary employee.
2. The draft requires that collective bargaining agreements contain provisions "at least as beneficial" rather than "comparable" as in the previous version. While admittedly the language change is not on its surface earthshaking, the revision does appear to limit the range of bargainable alternatives.
3. The initial bill permitted denial of leave if the requesting employee was in the top 10 percent of employees in the agency with respect to salary providing that the employee has skills, knowledge or experience which cannot be provided by other state employees. The draft adds the further restriction that there must not be temporary employees or "persons available for temporary or nonpermanent employment." This restriction effectively eliminates any ability to deny leave except in very specialized job classes with a severely restricted labor pool. Additionally, full compliance could well require that an agency actually or effectively work the relevant nonpermanent register to determine the availability of nonperm replacements prior to making a decision on denial, a time consuming process which detracts from productive work. The single criterion is the simple availability of minimally qualified replacements: no allowance is made for the agency to consider other factors, such as the cost and length of time required to bring a temporary employee to the working, productive level.

As far as fiscal impact is concerned, I can only reiterate my comments

FILE: HB155      RESPONSE A

VM/SP CONVERSATIONAL MONITOR SYSTEM

of last February. Cost is not calculable at present absent data on utilization; however, increased leave entitlements will undoubtedly be followed by increased absences.

March 24, 1989



Good Morning Mr. Chairman,

My name is Robert M. Rickson and I am the Anchorage Coordinator of DADS. Thank you for this opportunity to talk to you. I would like to say that I'm very happy to see a bill of this nature and give it my wholehearted support. The main reason I support it is that it recognizes the fact that a father forms a bond with his child. This bond may be of a different nature than the mothers but just as strong. Let me repeat that, IT IS JUST AS STRONG!!! By allowing the father family leave you are not only allowing a critical three way bond, between the father, the mother and the baby, to be formed, but the baby will feel twice the touch, twice the emotions, twice the physical contact on a full time scale and will feel more like a whole person than baby's in the past. The reason that most baby's seem to know their moms better is because of the extra time the mom spends with the child while the father is at work.

So long as the father is using leave that he has earned and then taking the rest of the time as unpaid leave, I don't see how a employer can lose money. In fact, it will save money in the form of a happier, loyalier, and more productive employee.

The introduction of this bill is LOOKING in the right direction. By passing this bill you will be taking a DEFINITE STEP in the right direction. The passage of this bill will save jobs, money and most importantly it will build the strongest family ties Alaska has seen since the days before the Alaskan divorce rate was 7 out of 10 as it is today.

Thank you for your time and please, carefully look at the importance of this bill to Alaskan fathers and their families.

Sincerely,

Robert M. Rickson Sr.

Anchorage Coordinator DADS

STEVE COWPER  
GOVERNOR



PHONE  
(907) 561-4227

STATE OF ALASKA  
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION  
3601 C STREET - SUITE 742  
ANCHORAGE, ALASKA 99503

March 28, 1989

POSITION PAPER ON HB 155

The Alaska Women's Commission strongly supports HB 155, legislation which guarantees job protected unpaid leave for parents after the birth or adoption of a child and to look after a sick child or parent. Businesses with fewer than 15 employees, 84% of the total in Alaska, are excluded in this legislation.

Basic to this bill are the need for parental bonding with infants and the need for parental nurturing of infants and sick children. In addition, many women take time off work to look after elderly parents. These are very important factors in the well-being of children and families. Many women are forced to make a choice between having a child and employment because of the lack of parental and family leave. A study by the National Association of Area Agencies on Aging finds that 77% of employed women experienced work and caregiving conflicts that resulted both in costs to themselves and in productivity losses to employers.

It is necessary to address in a positive way the impact on our families of the increasing number of women in the work force. In Alaska 65% of women over age 16 work. Between ages 20 to 34 when most women have children, 68% of women work. This figure rises to 78% for women aged 35 to 44 years. While Alaska has one of the highest birth rates in the nation, 49% higher than the national average, we also have the second highest participation rate of females in the work force. Similar to national statistics, however, women attain less seniority and earn less money than men. In order to attain equal earning power in the marketplace, women need job protected maternity leave, adequate child care, and flexible work time.

When working full-time, married women earn on average half of what married men earn. It is not surprising, therefore, that women disrupt their career or risk loss of their job to look after children and elderly parents. This creates a vicious circle that prevents women from attaining promotions and seniority. In addition, with the high rate of divorce in Alaska and increasing number of female headed families, the earning power of women has a wider impact on families than before. Job protected leave, as defined in this bill, is one part of the solution.

Several national studies have looked at what private businesses now provide. These studies indicate that at least half of employers provide maternity leave. Maternity leave is least frequently provided in the retail trade and service industries which are areas of high female employment. When leave was available for two parent families, 37% of women returned to work in less than 8 weeks and 32% in 9 to 18 weeks. Men rarely took paternity leave. Thus, the impact of mandated leave is diminished by economic reality for most families since it is not fully used.

Companies with parental leave policies report savings in training and hiring costs, increased employee loyalty and productivity. Conversely, the productivity of working parents who have infants in day care tends to be lower and the cost to government for day care assistance eligible parents is very high.

The National Association of Working Women recently made a multivariate analysis of business employment in seven states with parental leave compared with seven states considered to be pro-business because of anti-regulatory policies. The study addressed the question: Have small businesses grown more slowly or declined in those states which have mandated a family leave policy. The results of this study indicate that 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. Businesses with less than fifty workers were estimated to hire approximately 21% more employees if these enterprises were located in a parental leave state. A second finding of this study is the positive association between a high rate of women's labor force participation and employment growth in all size firms.

Family leave with job protection would positively impact women's earning ability and job security, decrease reliance on welfare and other forms of government support, and promote healthy families. The Alaska Women's Commission strongly urges your support of this bill.



## **FAMILY LEAVE**

### **HOUSE BILL 155 - FAMILY LEAVE**

**Sponsors: Brown, Ulmer, Gruenberg, Ellis and Spohnholz**

**Introduced: 2-10-89**

**Referred: Labor and Commerce, HESS, Finance**

The ALASKA DIVISION of AAUW, following the lead of the national association, supports the concept of Family Leave. Family Leave is a positive response to the social and economic reality that the majority of parents - both fathers and mothers - work outside of the home.

Current proposed legislation would allow an employee to take up to 18 workweeks of unpaid leave at the time of birth, adoption or placement of a child and for the care of a child, spouse or parent who has a serious health condition. It would also require an employer to make temporary disability benefits equally available to all employees (including those incapacitated by pregnancy) and, under certain circumstances, to transfer pregnant employees to less strenuous positions. The scope of this bill is limited to employers with at least 15 employees located within a 50 mile area; it is considered "model legislation" that will be promoted among all other Alaskan employers.

#### **Major points:**

1. It would not apply to an employer if changed business circumstances made application of the leave provisions unreasonable;
2. It gives employers latitude in providing substitute employment after the leave period;
3. It requires the employers to maintain health insurance during the leave period if the employee pays the costs;
4. It would require an employee to work for an employer for six consecutive months at 35 hrs per week or 12 consecutive months at 17.5 hrs per week before becoming eligible for leave;
5. It expressly acknowledges that leave may be unpaid;
6. It allows employers or employees to substitute accrued paid leave for unpaid leave;
7. It limits mandatory transfers and does not require the employer to incur additional wage expense as a result of the transfer.
8. It addresses specifically implementation for state employees.

Because of the increasing number of single-parent and two working parent households and the young age of our Alaskan population, it is increasingly important to enact a Family Leave policy. Every other Western industrialized nation has more generous policies; Alaska can be a force in modeling US policy by adopting this legislation.

Prepared by:  
Rep. Kay Brown  
February 10, 1989

## THE NEED FOR FAMILY LEAVE LEGISLATION and related Issues

- About 117 countries have parental leave policies for working parents. **Eleven countries provide 100% paid leave to mothers: U.S.S.R., Mexico, Poland, Bulgaria, Chile, Iraq, Thailand, Brazil, West Germany, Finland and Austria.** The following industrialized nations have more generous leave provisions than the U.S. : **Canada, England, France, Italy, Sweden, Israel, and Japan.** The most extensive policies are in the European countries. **South Africa** has a less generous leave law than the U.S.
- **Surveys** by Gallup, Harris, Hart, Yankelovich and others document **Americans' concerns about what's happening to children and families.** Americans have always valued families but what is changing, say the pollsters, is the public's perception that government is not doing its job.
- **Thirty-two states** are considering some version of workplace leave allowing workers time off to deal with a variety of family situations, including birth, adoption, children's sickness, and, sometimes, aging parents.
- **Two-thirds of the states** are considering bills related to family or parental leave. Most of the measures focus on parental leave, narrowly defined as applying to birth, adoption or caring for a sick child. **Seventeen states** are considering broader family leave policies allowing time off for other types of emergencies such as assisting ailing parents.
- Before 1987 no state required employers to hold jobs for employees on unpaid family leave. Now, certain employees in **Connecticut, Maine, Minnesota, Oregon, Rhode Island and Wisconsin** are guaranteed such rights.

• In a few states like **California, Connecticut and Nebraska**, family policy committees or task forces are taking a long-term view unusual in the state legislative process;

• "States are filling the gap created by the federal government's current hands-off approach to family problems," says **Iowa** Senator Charles Bruner. **Iowa** passed five statutes in 1988 on a range of family issues including increasing options for workers who need time off to meet family needs.

• **Nebraska** Senator Sandra Scofield claims **family issues have become more important to the business community**: "The increasing number of children growing up in poverty does not bode well for the future workforce."

• David Blankenhorn, executive director of the Institute for American Values in New York believes there is an **emerging consensus crossing party lines** that government must respond to the needs of the nation's besieged families.

• **The opposition from small businesses to instituting family leave policies is changing.** **Wisconsin** Senator Plewa says, "Some employers see the value they've put into their employees. Over 90 percent of the first year's salary is the cost of finding, hiring and training the employee. It doesn't make economic sense to just dump that investment." Parental leave policies help maintain the labor force - a particular advantage in smaller firms which rely heavily on women.

• According to a study by 9to5, The National Association of Working Women, there is no evidence that parental leave mandates have any negative effects on small business employment. This first statistical analysis of the impact of parental leave policies on small business shows that **leave policies are strongly associated with small business expansion.** The study found that job growth in firms with 50 or fewer employees was **21% higher in states with leave laws than in those considered pro-business because of their anti-regulatory climate.**

• **Business people are concerned about the costs.** Temporary replacement costs appear to be minimal, according to studies of the few employers who provide such leave. A 1987 General Accounting Office report indicated that work is generally redistributed among employees in lieu of hiring replacements for workers on leave. **It is more expensive for small businesses to rehire and train new workers than to offer a limited leave policy.**

• **Costs of providing benefits during leave** can be high, especially if the employee does not return. Generally, lawmakers have responded to business concerns by exempting small employers, and sometimes requiring employees to contribute to the cost of benefits. In **Rhode Island** and **Wisconsin**, employees contribute to an escrow account for health insurance refundable upon their return to work.

• A paid leave policy is being considered in **Massachusetts**. Designed to protect low income wage earners who cannot afford missed paychecks at a time when there is a new mouth to feed, the proposal is not generous compared with family support policies in the rest of the world. However, **it is a significant step toward acknowledging society's need to nurture the next generation, support families and allow women and men to be responsible parents and employees.**

*Sources: Kids, Families and Politics, "*

State Legislatures  
November/December 1988

*ChildCare Action News*

May-June 1988  
Volume 5, No. 3

*Family leave aids small businesses*

Employee Benefit News  
October 1988

*Women at Work*

International Labor Office Global Survey

*National Business Woman*

August/September 1986



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

March 29, 1989

MEMORANDUM

TO: Representative Kay Brown

ATTN: Roxanne Turner

FROM: Maria Gladziszewski *M. Gladziszewski*  
Legislative Analyst

RE: Family and Parental Leave Statutes in Other States  
Research Request 89.320

You asked us to find out which states' family or parental leave provisions are statutory and which are by labor agreement. You also wanted some sense of how these laws are working; you were especially interested in the impact on small businesses.

Table 1 lists states with statutory provisions for family leave (leave for both sexes for the birth or adoption of a child or to care for seriously ill family members) and parental leave (leave for both sexes for the birth or adoption of a child). Three states (Connecticut, Maine, and Wisconsin) require family leave. Three states (Minnesota, Oregon, and Rhode Island) require parental leave.<sup>1</sup> Table 2 lists states with provisions for maternity disability.

We were not able to determine the impact on small businesses because no state requires family or parental leave for employers with fewer than 21 employees. In addition, most parental and family leave state legislation has taken effect within the last year and no state official contacted was able to comment on the impact of the legislation on smaller businesses. Labor agreements for family or parental leave are negotiated by individual unions and, therefore, no statewide family or parental leave policies are by labor agreement. It was not possible, within the research time available for this request, to contact representatives from the business communities in the states with family or parental leave provisions.

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<sup>1</sup>Statutes from Connecticut, Oregon and Rhode Island are attached.

Representative Brown  
March 29, 1989  
Page 2

Federal legislation now pending in the House of Representatives would require employers of 50 or more employees to provide for 10 weeks of unpaid family leave; three years after implementation of the Family Medical Leave Act, the law would apply to employers of 35 or more employees. The Senate version of the bill applies to employers of 20 or more employees.<sup>2</sup>

I hope this information is useful. Please call this office if you have additional questions or need more information.

Attachment

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<sup>2</sup>The Family Medical Leave Act of 1989, HR-770, went through committee mark-up on March 8, 1989, and is expected to reach the floor of the House by Mother's Day. The Senate version of the bill is expected to reach the Senate floor by mid-April.

**TABLE 1**  
**STATES WITH STATUTORY PROVISIONS FOR FAMILY OR PARENTAL LEAVE**

"Family leave" guarantees men and women time to care for a new child or seriously-ill child, spouse, or parent.

"Medical leave" guarantees time off for an employee's own serious health condition (including pregnancy and childbirth).

"Parental leave" guarantees men and women time to care for a newborn or newly-adopted child; may include care for seriously ill children.

STATE	PURPOSES	WEEKS	EMPLOYERS COVERED	EFFECTIVE DATE OF LEGISLATION
Connecticut 1987 Conn. Pub. Acts 87-291	Family leave	24	public sector	July 1988
	Medical leave	24	public sector	
Maine Me. Rev. Stat. Tit. 26, Sections 843-49	Family or medical leave	8	25+ employees	July 1988
Minnesota Minn. Stat. Sec. 181.930 -.980	Parental leave	6	21+ employees	August 1987
Oregon Or. Rev. Stat. Sec. 659.010-.121 659.360-.370	Parental leave	12	25+ employees	January 1988
Rhode Island RI ST 28-48-1 to 9	Parental leave; includes serious illness of a child	13	private sector, 50+ employees; public sector, 30+ employees	July 1987
Wisconsin 1987 Wis. Act 287	Parental leave;	6	50+ employees	April 1988
	Family leave for serious illness of family member;	2	50+ employees	
	Medical leave	2	50+ employees	

Note: The California legislature enacted a parental leave bill in 1987 that would have required employers with 25 or more employees to allow 16 weeks parental leave every two years. The bill was vetoed by Governor Deukmejian.

Source: Women's Legal Defense Fund.

Prepared by the House Research Agency, March 1989 (89-320A).

**TABLE 2**  
**STATES WITH STATUTORY PROVISIONS FOR MATERNITY LEAVE**

STATE	LEAVE	WEEKS	EMPLOYERS COVERED
Arkansas AR ST 21-4-209	Maternity disability	24	state employees
California 2 Cal. Admin. Code 7291.2(d)(3)	Maternity disability	16	all
Colorado 3 Col. Code of Regs 708, Sec 8	Maternity leave for a reasonable period		all
Delaware 14 Del. C. 1323	Maternity disability	12	public school teachers
Florida Fl St 110.221	Maternity disability	24	state employees
Hawaii Regs 12-23-1 to 12-23-22. 12-12-58	Maternity disability for a reasonable period		1+ employees
Illinois Ill Rev Stat ch 108 1/2 p 17-134	Maternity leave		public school teachers
Indiana IH ST 20-6.1-6-4	Leave of absence up to one year following birth		public school teachers
Iowa Iowa Code 601A.15-.17	Maternity disability	8	4+ employees
Kansas 1 Kans. Admin. Regs. 21-32-6	Maternity leave for a reasonable period		4+ employees
Kentucky Ky. Rev. Stat. 337.015	Adoption of a child under age 7	6	8+ employees
Louisiana LSA-RS 23:1007	Maternity disability	16	26+ employees
Maryland	Maternity leave		state employees
Massachusetts* Mass. Gen. Laws Ch. 149, Sec. 105D	Birth or adoption of a child under age three; Female employees only	8	6+ employees
Missouri MO ST 168.122	Grants Board of Education authority to establish maternity leave policy		public school employees

TABLE 2 (Continued)  
STATES WITH STATUTORY PROVISIONS FOR MATERNITY LEAVE

STATE	LEAVE	WEEKS	EMPLOYERS COVERED
Montana MT ST 49-2-310 to 49-2-311, 49-2-501 to 49-2-509	Maternity leave for a reasonable period		1+ employees
Nevada NV ST 608.159	Maternity disability		employers who grant medical disability
New Hampshire NH ST 354-A:9-10	Maternity disability		6+ employees
Pennsylvania PA Admin Code 41.104, 42.11-141	Adoption		employers that grant leave for childbearing and child care; 4+ employees
Tennessee** TN ST 50-1501 to 50-1505	Maternity disability and nursing	16	100+ employees
Washington Wash. Admin. Code 162-30-020	Maternity leave for period of physical disability		1+ employees

\* The 1972 Massachusetts maternity leave law was amended in December of 1984 to include leave for adoption of a child under age three.

\*\* The Tennessee law as originally enacted required leave for female employees for the birth or adoption of a child. Because of an opinion issued by the Tennessee Attorney General in December, 1988, the Tennessee legislature revised the statute to make it applicable only to natural mothers.

Source: National Conference of State Legislatures and the Women's Legal Defense Fund

Prepared by the House Research Agency, March 1989 (89-320A).

Louis Legref.

STATE OF CONNECTICUT

# PUBLIC and SPECIAL ACTS



JANUARY, 1987, REGULAR SESSION

JULY, 1987, SPECIAL SESSION

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Volume 1

P.A. 87-1—P.A. 87-376

a permanent location, such person shall seek recovery first from the association operating in the location of the property. [, and if it is a workers' compensation claim, he shall seek recovery first from the association operating in the area of the residence of the claimant.] Any recovery under this chapter shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent having a like function to that of said association.

Sec. 6. Section 38-303 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) This chapter shall apply to direct life insurance policies, accident and health insurance policies, annuity contracts and contracts supplemental to life and accident and health insurance policies and annuity contracts issued TO A RESIDENT by persons licensed to transact insurance in this state at any time.

(b) This chapter shall not apply to: (1) That portion or part of any variable life insurance or variable annuity contract not guaranteed by an insurer; (2) that portion or part of any policy or contract under which the risk is borne by the policyholder; (3) any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued, or any policy or contract issued by a nonprofit hospital or medical service corporation.

Sec. 7. Subsection (f) of section 38-308 of the general statutes is repealed.

Sec. 8. This act shall take effect from its passage.

Approved June 10, 1987

Substitute Senate Bill No. 413

PUBLIC ACT NO. 87-291

AN ACT CONCERNING PARENTAL AND MEDICAL LEAVE FROM EMPLOYMENT.

Section 1. (NEW) (a) Each permanent employee, as defined in subsection (s) of section 5-196 of the general statutes, shall be entitled to the following: (1) A maximum of twenty-four weeks of family leave of absence within any two-year period upon the birth or adoption of a child of such employee, or upon the serious illness of a child, spouse or parent of such employee; and (2) a maximum of twenty-four weeks of medical leave of absence within any two-year period upon the serious illness of such employee. Any such leave of absence shall be without pay. Upon the expiration of any such leave of absence, the employee shall be entitled (A) to return to the employee's original job from which the leave of absence was provided or, if not available, to an equivalent position with equivalent pay, except that in the case of a medical leave, if the employee is medically unable to perform the employee's original job upon the expiration of such leave, the personnel division of the department of administrative services shall endeavor to find other suitable work for such employee in state service, and (B) to all accumulated seniority, retirement, fringe benefit and other service credits the employee had at the commencement of such leave. Such service credits shall not accrue during the period of the leave of absence.

(b) The leave of absence benefits granted by this section shall be in addition to any other paid leave benefits and benefits provided under subdivision (7) of subsection (a) of section 46a-60 of the general statutes which are otherwise available to the employee.

(c) Any permanent employee who requests a medical leave of absence due to the employee's serious illness or a family leave of absence due to the serious illness of a child, spouse or parent pursuant to subsection (a) of this section shall be required by the employee's appointing authority, prior to the inception of such leave, to provide sufficient written certification from the physician of such employee, child, spouse or parent of the nature of such illness and its probable duration. For the purposes of this section, "serious illness" means an illness, injury, impairment or physical or mental condition that involves (1) inpatient care in a hospital, hospice or residential care facility or (2) continuing treatment or continuing supervision by a health care provider.

(d) Any permanent employee who requests a family leave of absence pursuant to subsection (a) of this section shall submit to the employee's appointing authority, prior to the inception of such leave, a signed statement of the employee's intent to return to the employee's position in state service upon the termination of such leave.

(e) Notwithstanding the provisions of subsection (b) of section 38-374 of the general statutes, the state shall pay for the continuation of health insurance benefits for the employee during any leave of absence taken pursuant to this section. In order to continue any other health insurance coverages during such leave, the employee shall contribute that portion of the premium the employee would have been required to contribute had the employee remained an active employee during the leave period.

(f) On or before July 1, 1989, and annually thereafter, the commissioner of administrative services shall report to the general assembly on the extent of use by permanent employees of leaves of absence pursuant to this section in the preceding twelve-month period, and the impact of such use on state employment. The commissioner shall gather necessary information for such reports in accordance with regulations adopted pursuant to section 2 of this act.

Sec. 2. (NEW) On or before July 1, 1988, the commissioner of administrative services shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, which establish procedures and guidelines necessary to implement the provisions of section 1 of this act, including but not limited to procedures for the periodic reporting by state agencies to the commissioner of their current experience with leaves of absence taken pursuant to said section. Such regulations may be adopted by the commissioner prior to July 1, 1988, but may not take effect prior to that date.

Sec. 3. This act shall take effect July 1, 1987, except that section 1 shall take effect July 1, 1988.

**659.340 Refusal to employ or otherwise discriminate solely because of employment of another family member prohibited; exceptions; enforcement.** (1) Except as provided in subsection (2) of this section, it is an unlawful employment practice for an employer solely because another member of an individual's family works or has worked for that employer to:

- (a) Refuse to hire or employ an individual;
- (b) Bar or discharge from employment an individual; or
- (c) Discriminate against an individual in compensation or in terms, conditions or privileges of employment.

(2) An employer is not required to hire or employ and is not prohibited from barring or discharging an individual if such action:

(a) Would constitute a violation of any law of this state or of the United States, or any rule promulgated pursuant thereto, with which the employer is required to comply;

(b) Would constitute a violation of the conditions of eligibility for receipt by the employer of financial assistance from the government of this state or the United States;

(c) Would place the individual in a position of exercising supervisory, appointment or grievance adjustment authority over a member of the individual's family or in a position of being subject to such authority which a member of the individual's family exercises; or

(d) Would cause the employer to disregard a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business.

(3) As used in this section:

(a) "Employer" has the meaning for that term provided in ORS 659.010.

(b) "Member of an individual's family" means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of the individual.

(4) Subsections (1) to (3) of this section shall be enforced by the Commissioner of the Bureau of Labor and Industries in the same manner as provided in ORS 659.040 to 659.110 for enforcement of an unlawful employment practice. Violation of subsections (1) to (3) of this section subjects the violator to the same civil and criminal penalties as provided for violation of ORS 659.010 to 659.110. [(1), (2), (3) formerly 659.131; (4) formerly 659.136; 1993 c.225 §5; 1985 c.565 §90]

Note: 659.340 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**659.360 Denial of parental leave prohibited.** (1) It shall be an unlawful employment practice for an employer to refuse to grant an employee's request for a parental leave of absence for:

(a) All or part of the time between the birth of that employee's infant and the time the infant reaches 12 weeks of age, or, in the case of a premature infant, until the infant has reached the developmental stage equivalent to 12 weeks as determined by an attending physician; or

(b) All or part of the 12-week period following the date an adoptive parent takes physical custody of a newly adopted child under six years of age.

(2) The employer is not required to grant to an employee parental leave which would allow the employee and the other parent of the child, if also employed, parental leave totaling more than the amount specified in paragraphs (a) and (b) of subsection (1) of this section nor to grant to an employee parental leave for any period of time in which the child's other parent is also taking parental leave from employment.

(3) The employee seeking parental leave shall be entitled to utilize any accrued vacation leave, sick leave or other compensatory leave, paid or unpaid, during the parental leave. The employer may require the employee seeking parental leave to utilize any accrued leave during the parental leave unless otherwise provided by an agreement of the employer and the employee, by collective bargaining agreement or by employer policy.

(4) The employer may require an employee to give the employer written notice at least 30 days in advance of the anticipated date of delivery, stating the dates during which each parent intends to take parental leave. Duplicate copies of the notice shall be given to the employers of both parents. Both parents shall adhere to the dates stated in the notice unless:

- (a) The birth is premature;
- (b) The mother is incapacitated due to birth such that she is unable to care for the child;
- (c) The employee takes physical custody of the newly adopted child at an unanticipated time and is unable to give notice 30 days in advance; or
- (d) The employer and employee agree to alter the dates of parental leave stated in the notice.
- (5) In cases of premature birth, incapacity or unanticipated taking of custody referred to in

subsection (4) of this section, the employer may require the employe to give notice of revised dates of parental leave within seven days after birth or taking of custody.

(6) The parental leave required by subsection (1) of this section is not required to be granted with pay unless so specified by agreement of the employer and employe, by collective bargaining agreement or by employer policy.

(7) The regular employment position of an employe on leave of absence under this section shall only be considered vacant for the period of the leave of absence, and the employe shall not be subject to removal or discharge from such position as a consequence of the parental leave of absence.

(8) Upon the termination of the parental leave of absence of the employe under this section, an employe shall be restored to the former or an equivalent job without loss of seniority, vacation credits, sick leave credits, service credits under a pension plan or any other employe benefit or right which had been earned at the time of the leave of absence but reduced by any paid leave that the employe used during the parental leave of absence. Benefits are not required to accrue during the parental leave of absence unless accrual is required under an agreement of the employer and the employe, a collective bargaining agreement or an employer policy. If the employer's circumstances have so changed that the employe cannot be reinstated to the former or equivalent job, the employe shall be reinstated in any other position which is available and suitable. However, the employer is not required to discharge any employe in order to reinstate the employe to any job other than the former or equivalent job unless required by an agreement of the employer and the employe, by collective bargaining agreement or by employer policy.

(9) If the employe fails to give the notice that may be required by subsection (4) of this section, the employer may require the parental leave to commence up to three weeks from the date of notice and may reduce the parental leave required by this section by three weeks.

(10) This section is not applicable if:

(a) The employe was employed by the employer for fewer than 90 days immediately prior to the first day of the parental leave of absence;

(b) The employe is employed by the employer on a seasonal or temporary basis for a period of time defined at the time of hire to be less than six months;

(c) The employer employs fewer than 25 persons immediately prior to the first day of the leave of absence; or

(d) The employer offers to the employe a nondiscriminatory cafeteria plan, as defined by Section 125 of the Internal Revenue Code of 1986, providing as one of its options a parental leave benefit that is at least equivalent to the benefit required by this section.

(11) Nothing in this section is intended to reduce the rights to parental leave to which an employe may be entitled under any agreement between the employer and the employe, collective bargaining agreement or employer policy. (1987 c.319 §2)

**659.365 Procedure to enforce ORS 659.360.** (1) Complaints may be filed by employes with the Commissioner of the Bureau of Labor and Industries. The Commissioner of the Bureau of Labor and Industries shall enforce ORS 659.360 in the manner as provided in ORS 659.010 to 659.110 and 659.121 for the enforcement of other unlawful employment practices.

(2) Violation of ORS 659.360 subjects the violator to the same civil remedies and penalties as provided in ORS 659.010 to 659.110 and 659.121. (1987 c.319 §3)

**659.370 Posting of notice on ORS 659.360.** A notice of the provisions of ORS 659.360 shall be provided by the Bureau of Labor and Industries and shall be posted in every establishment in which employes are employed. (1987 c.319 §4)

#### CIVIL RIGHTS OF PHYSICALLY AND MENTALLY HANDICAPPED

**659.400 Definitions for ORS 659.400 to 659.435.** As used in ORS 659.400 to 659.435, unless the context requires otherwise:

(1) "Employer" means any person who employs six or more persons and includes the state, counties, cities, districts, authorities, public corporations and entities and their instrumentalities, except the Oregon National Guard.

(2) "Handicapped person" means a person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.

(3) As used in subsection (2) of this section:

(a) "Major life activity" includes, but is not limited to self-care, ambulation, communication, transportation, education, socialization, employment and ability to acquire, rent or maintain property.

Dr. Rev. Stat. § 659.010 (6)

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Oregon

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	<b>Civil Rights of Mentally and Physically Handicapped</b>	
659 400	Definitions for ORS 659 400 to 659 435 .....	27,000 400
659 405	Policy .....	27,000 405
659 410	Discrimination against workmen applying for workmen's compensation benefits prohibited .....	27,000 410
659 415	Reinstatement of workmen receiving compensable injuries; certificate of physician evidencing ability to work .....	27,000 415
659 420	Employment of injured workman in other available and suitable work; certificate of physician, effect of collective bargaining agreement .....	27,000 420
659 425	Discrimination against mentally or physically handicapped in employment or public accommodation prohibited, mental disorder treatment not evidence of inability to work or manage property .....	27,000 425
659 430	[See deals exclusively with real estate transactions—not reproduced] .....	27,000 430
659 435	Enforcement powers of commissioner .....	27,000 435
659 990	Penalties .....	27,000 930

§ 27,000.10

Sec. 659.010. Definitions for ORS 659.010 to 659.110 and 659.400 to 659.435.—As used in ORS 659.010 to 659.110 and 659.400 to 659.435, unless the context requires otherwise:

(1) "Bureau" means the Bureau of Labor.

(2) "Cease and desist order" means an order signed by the commissioner, taking into account the subject matter of the complaint and the need to supervise compliance with the terms of any specific order issued to eliminate the effects of any unlawful practice found, addressed to a respondent requiring the respondent to:

(a) Perform an act or series of acts designated therein and reasonably calculated to carry out the purposes of ORS 659.010 to 659.110 and 659.400 to 659.435, eliminate the effects of an unlawful practice found, and protect the rights of the complainant and other persons similarly situated;

(b) Take such action and submit such designated reports to the commissioner on the manner of compliance with other terms and conditions specified in the commissioner's order as may be required to assure compliance thereon; or

(c) Refrain from any action designated in the order which would jeopardize the rights of the complainant or other person similarly situated or frustrate the purpose of ORS 659.010 to 659.110 and 659.400 to 659.435.

(3) "Commissioner" means the Commissioner of the Bureau of Labor.

(4) "Conciliation agreement" means a written agreement settling and disposing of a complaint under ORS 659.010 to 659.110 signed by a respondent and an authorized official of the Bureau of Labor.

(5) "Employee" does not include any individual employed by the individual's parents, spouse or child or in the domestic service of any person.

(6) "Employer" means any person, including state agencies, political subdivisions and municipalities, who in this state, directly or through an agent, engages or utilizes the personal service of one or more employees reserving the right to control the means by which such service is or will be performed.

(7) "Employment agency" includes any person undertaking to procure employees or opportunities to work.

(8) "Entity" includes employers, labor organizations, employment agencies, places of public accommodation as defined in ORS 30.675 or vocational, professional or trade schools.

(9) "Labor organization" includes any organization which is constituted for the purpose, in whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

(10) "National origin" includes ancestry.

(11) "Person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

(12) "Respondent" includes any person or entity against whom a complaint or charge of unlawful practices is filed with the commissioner or whose name has been added to such complaint or charge pursuant to subsection (1) of ORS 659.050.

(13) "Unlawful employment practice" includes only those unlawful employment practices specified in ORS 654.062(3), 659.030, 659.035, 659.227, 659.270, 659.295, 659.330, 659.340, 659.410, 659.415, 659.420 and 659.425.

(14) "Unlawful practice" means any unlawful employment practice or any distinction, discrimination or restriction on account of race, religion, color, sex or national origin made by any place of public accommodation as defined in ORS 30.675 or by any person acting on behalf of any such place or by any person aiding or abetting such place or person in violation of section 14 of this 1973 Act, or any violation of ORS 345.240, 659.033, 659.037, or rules adopted pursuant to subsection (1) of ORS 659.103, but does not include a refusal to furnish goods or services when the refusal is based on just cause. [Sec. 659.010 reads as last amended by: Ch. 813, L. 1979, effective October 3, 1983, Ch. 225, L. 1983, effective October 15, 1983.]

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(4) Any individual's benefit rate which is in effect for a benefit year beginning prior to July 1, ~~1983~~ 1987, shall continue in effect until the end of that benefit year.

(b) *Dependents' allowance.*

(1) An individual to whom benefits for total or partial unemployment are payable under this chapter with respect to any week, shall, in addition to those benefits, to be paid with respect to each week, a dependents' allowance of five ten dollars ~~(\$5.00)~~ (\$10.00) or five percent (5%) of the individual's benefit rate which ever is greater for each of that individual's children, including adopted and step-children, who, at the beginning of the individual's benefit year, is under eighteen (18) years of age, and who is at that time in fact dependent on that individual.

(2) \* \* \*

SECTION 2. This act shall take effect July 1, 1987.

CHAPTER 366

87-H 5473A am  
Approved Jul. 1, 1987.

**AN ACT RELATING TO PARENTAL LEAVE**

It is enacted by the General Assembly as follows:

**SECTION 1. TITLE 28 OF THE GENERAL LAWS ENTITLED "LABOR AND LABOR RELATIONS" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING CHAPTER:**

**CHAPTER 48  
PARENTAL LEAVE**

**28-48-1. Definitions.** — As used in this chapter, the following words and terms shall have the following meanings:

(a) "Director" means the director of the department of labor.

(b) "Employee" means any full-time employee who works an average of thirty or more hours per week.

(c) "Employer" means and includes:

(1) any person, sole proprietorship, partnership, corporation or other business entity that employs fifty (50) or more employees,

(2) the state of Rhode Island (including the executive, legislative and judicial branches), and any state department or agency that employs any employees, and

(3) any city or town or municipal agency that employs thirty (30) or more employees and

(4) any person who acts directly or indirectly in the interest of any employer.

(d) "Parental leave" means leave by reason of:

(1) the birth of a child of an employee; or

(2) the placement of a child sixteen (16) years of age or less with an employee in connection with the adoption of such child by the employee, or (3) a seriously ill child.

(e) "Seriously ill child" means a child under the age of 18 who by reason of an accident, disease or condition (1) is in imminent danger of death or (2) faces hospitalization involving an organ transplant, limb amputation or such other procedure of similar severity as shall be determined through regulation by the director of labor in consultation with the director of health.

**28-48-2. Parental leave requirement.** — (a) Every employee who has been employed by the same employer for twelve (12) consecutive months shall be entitled, upon advance notice to his or her employer, to thirteen (13) consecutive work weeks of parental leave in any two (2) calendar years. The employee shall give at least thirty (30) days' notice of the intended date upon which parental leave shall commence and terminate, unless prevented by medical emergency from giving such notice. The director shall promulgate regulations governing the form and content of the employee's notice to the employer.

(b) Parental leave granted pursuant to this chapter may consist of unpaid leave. If an employer provides paid parental leave for fewer than thirteen (13) weeks, the additional weeks of leave added to attain the total of thirteen (13) weeks required by subsection 28-48-2(a) may be unpaid.

**28-48-3. Employment and health benefits protection.** — (a) Every employee who exercises his or her right to parental leave under this chapter shall, upon the expiration of such leave, be entitled to be restored by the employer to the position held by the employee when the leave commenced, or to a position with equivalent seniority, status, employment benefits, pay and other terms and conditions of employment.

(b) During any parental leave taken pursuant to this chapter the employer shall maintain any existing health benefits of the employee in force for the duration of such leave as if the employee had continued in employment continuously from the date he or she commenced such leave until the date he or she returns to employment pursuant to subsection 28-48-3(a).

Prior to commencement of parental leave, the employee shall pay to the employer a sum equal to the premium required to maintain the employee's health benefits in force during the period of parental leave. The employer shall return such payment to the employee within ten (10) days following the employee's return to employment.

**28-48-4. Effect on existing employment benefits.** — (a) The taking of parental leave pursuant to this chapter shall not result in the loss of any benefit accrued before the date on which the leave commenced.

(b) Except as provided in subsection 28-48-3(b), nothing in this chapter shall be construed to entitle any employee who takes parental leave pursuant to this chapter to any benefit other than benefits to which the employee would have been entitled had he or she not taken the leave.

UNIVERSITY OF MICHIGAN LIBRARY

(c) Nothing in this chapter shall be construed to affect an employer's obligation to comply with any collective bargaining agreement or employment benefit plan that provides greater parental leave rights to employees than the rights provided under this chapter.

(d) The parental leave rights mandated by this chapter shall not be diminished by any collective bargaining agreement or by any employment benefit plan.

(e) Nothing in this chapter shall be construed to affect or diminish the contract rights or seniority status of any other employee of any employer covered by this chapter.

**28-48-5. Prohibited acts.** — (a) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by this chapter.

(b) It shall be unlawful for any employer to discharge, fine, suspend, expel, discipline, or in any other manner discriminate against any employee for exercising any right provided by this chapter.

(c) It shall be unlawful for any employer to discharge, fine, suspend, expel, discipline, or in any other manner discriminate against any employee for opposing any practice made unlawful by this title.

**28-48-6. Judicial enforcement.** — A civil action may be brought in the superior court by an employee or by the director against any employer to enforce the provisions of this title or of any order issued by the director pursuant to section 28-48-7. The court may enjoin any act or practice that violates or may violate any provision of this chapter, and may order such other equitable relief as is necessary and appropriate to redress such violation or to enforce any provision of this chapter.

**28-48-7. Enforcement powers of the director.** — If, after giving an employer written notice and an opportunity to be heard, the director finds that the employer has failed to comply with any provision of this chapter, the director may issue such orders as he or she deems necessary to protect the rights of any employee. The director shall promulgate such rules and regulations as are necessary and appropriate to carry out the provisions of this section.

**28-48-8. Civil penalty for violations.** — Any employer who shall violate any provision of this chapter, or of any order issued pursuant to section 28-48-7, shall be subject to a civil penalty of not more than one thousand dollars (\$1,000). In the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.

**28-48-9. Severability.** — If any provision of this chapter or the application thereof to any person or circumstance is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application; and to that end, the provisions of this chapter are declared to be severable.

**SECTION 2.** This act shall take effect upon passage.

# LABOR RELATIONS

FILE: HB155      RESPONSE A

VM/SP CONVERSATIONAL MONITOR SYSTEM

To: Sioux Plummer

From: Bruce  Spang

Subject: Request for comments on CSHB 155 (draft)

Date: January 17, 1990

The draft legislation contains three new elements which warrant comment and consideration.

1. The draft expands the universe of applicability from family and parental leave to sick leave claimed by the employee in the event of a serious health condition. If enacted, this would significantly increase employee entitlements beyond those provided in collective bargaining agreements without the opportunity to achieve an appropriate alternative or quid pro quo. In addition, the employer's hands would effectively be tied in situations in which there is no expectation that the employee will be able to return to work. At present, the State may administratively terminate such employees and permanently refill the vacated position. Under the terms of the bill as written, it would appear that the employee could insist on being retained for the full 18 weeks, forcing the employer to leave the position vacant or to fill it with a substitute or temporary employee.
2. The draft requires that collective bargaining agreements contain provisions "at least as beneficial" rather than "comparable" as in the previous version. While admittedly the language change is not on its surface earthshaking, the revision does appear to limit the range of bargainable alternatives.
3. The initial bill permitted denial of leave if the requesting employee was in the top 10 percent of employees in the agency with respect to salary providing that the employee has skills, knowledge or experience which cannot be provided by other state employees. The draft adds the further restriction that there must not be temporary employees or "persons available for temporary or nonpermanent employment." This restriction effectively eliminates any ability to deny leave except in very specialized job classes with a severely restricted labor pool. Additionally, full compliance could well require that an agency actually or effectively work the relevant nonpermanent register to determine the availability of nonperm replacements prior to making a decision on denial, a time consuming process which detracts from productive work. The single criterion is the simple availability of minimally qualified replacements: no allowance is made for the agency to consider other factors, such as the cost and length of time required to bring a temporary employee to the working, productive level.

As far as fiscal impact is concerned, I can only reiterate my comments

FILE: HB155      RESPONSE A

VM/SP CONVERSATIONAL MONITOR SYSTEM

of last February. Cost is not calculable at present absent data on utilization; however, increased leave entitlements will undoubtedly be followed by increased absences.

STEVE COWPER  
GOVERNOR



PHONE  
(907) 561-4227

STATE OF ALASKA  
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION  
3601 C STREET - SUITE 742  
ANCHORAGE, ALASKA 99503

January 18, 1990

JAN 22 1990

Representative Hoffman  
Representative Larson  
Co-Chairs, House Finance Committee  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Dear Representative Hoffman and Representative Larson,

The Alaska Women's Commission is in strong support of HB155, the parental leave bill. HB155 seeks to enable people working outside the home to take unpaid leave without fear of losing their job so that they can provide the care to infants, sick children and elderly parents that is so critical for healthy families.

It is necessary to address in a positive way the impact on our families of the increasing number of women in the work force. Nationally less than 10% of families have a father working outside the home while the mother stays at home to take care of the children.

The cost to women of our lack of family leave policies is decreased earning capacity and decreased ability to nurture their families. The cost to society is increased welfare, unemployment and government funded care for elderly. Yet the costs to employers are minimal and, as shown by a recent U.S. General Accounting Office study, there are savings in training and hiring costs and increased employee loyalty and productivity. In Oregon, a year after parental leave was initiated, only 20 cases of non-compliance had been reported and one litigated. Virtually no businesses reported that they would reduce other benefits and only 1 in 3 employees was replaced. States with parental leave policies also have been shown to have higher job growth in the small business sector than states with anti-regulatory policies.

Two thirds of women who work are single, divorced, widowed or married to men earning less than \$15,000/year. In Alaska 68% of women aged 20 to 34 years are employed, and 78% of women aged 35 to 44 years. While Alaska has one of the highest birth rates in the nation, we also have the second highest participation rate of females in the work force.

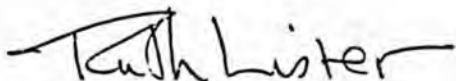
When working full time, married women earn on average half of what married men earn. It is not surprising therefore that women disrupt their career or risk loss of their job to look after sick children and elderly parents. This creates a vicious circle that prevents women from attaining promotions and seniority and thus reduces their earning capacity. Yet with over two out of three marriages in Alaska ending in divorce, it is critical for women, who often become the sole provider for their family, to earn an adequate income and to not risk losing their job or leaving sick children at home alone. Otherwise reliance on various forms of public assistance becomes their alternative, at considerable cost to the state.

Several national studies have looked at what private businesses now provide. These studies indicate that at least half of employers provide maternity leave. However maternity leave is least frequently provided in the retail trade and service industries which are areas of high female employment. When leave was available for two parent families, 37% of women returned to work in less than 8 weeks and 32% in 9 to 18 weeks. Men rarely took paternity leave. Thus, the impact of mandated leave is diminished by economic reality for most families since it is not fully used.

The National Association of Working Women recently made a multivariate analysis of business employment in seven states with parental leave compared with seven states considered to be pro-business because of anti-regulatory policies. The study addressed the question: Have small businesses grown more slowly or declined in those states which have mandated a family leave policy? The results of this study indicate that 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. Businesses with less than fifty workers were estimated to hire approximately 21% more employees if these enterprises were located in a parental leave state. A second finding of this study is the positive association between a high rate of women's labor force participation and employment growth in all size firms. The well-being of employees, which correlates with productivity, decreases when family obligations clash with work responsibilities.

I look forward to your support of this bill. Family leave is a critical issue for families that needs to be addressed now.

Sincerely,



Ruth Lister  
Executive Director

CC: House Finance Committee  
RL/bh



# LASKA STATE MEDICAL ASSOCIATION

2401 E. 42nd • Suite 104 • Anchorage, Alaska 99508 • (907)562-2662

March 1, 1989

Honorable Kay Brown  
House of Representatives  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Brown:

On behalf of the Alaska State Medical Association and myself, I would like to applaud your efforts in addressing health issues through the cosponsorship of House Bill 141. In addition, we continue to support your efforts on House Bill 155 as you again seek employment rights based on pregnancy and childbirth.

Our legislative committee has discussed this proposed legislation and compliments you for your leadership. If we can be of any service or offer any expertise on these or other health issues, please feel free to contact us.

Sincerely,



Ray Schafow  
Executive Director

# NFIB Alaska

National Federation of  
Independent Business

Thursday 19 April

House HESJ Committee

RE: HB 155

Dear Mr. Chairman:

I am sorry that I have been called to Anchorage today and will not be able to attend the continuation of the hearing on HB 155 (PARALLEL LEASE).

I have attached a definitive presentation by our NFIB national office on this issue and I urge you and the committee to read this and consider this a supplement to my previous testimony on Tuesday.

I am also developing the information you requested on the number of businesses who are NFIB members who would be directly affected, and will tender it to you as soon as possible.

I appreciate your consideration

Sincerely,

Henry Siskind

State Office  
Suite 201  
430 C St.  
Anchorage, AK 99501  
(907) 278-NFIB (6342)



The Guardian of  
Small Business

# Parental Leave

National Federation of  
Independent Business

**NFIB**



STATEMENT OF

John Motley III  
DIRECTOR OF FEDERAL GOVERNMENTAL RELATIONS

OF

NFIB

Before: Subcommittee on Children, Family, Drugs and Alcoholism  
of the Senate Labor and Human Resources Committee

Subject: S. 249, Proposal for Government Mandated Parental  
and Temporary Medical Leaves

Date: October 29, 1987

Mr. Chairman, my name is John Motley, and I am the Director of Federal Governmental Relations for the NFIB. 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.

Today, I also represent the Concerned Alliance of Responsible Employers. NFIB is a founding member of the Alliance, and my

comments will also reflect their views. The Alliance represents more than 160 corporations, trade associations, professional societies, and citizen groups actively seeking to ensure that the current voluntary system of benefit structuring remains intact. The Alliance's members believe that the private sector is best equipped and provides the most flexible and efficient response to the changing demands and requirements of today's workforce.

We at NFIB appreciate this opportunity to testify on your proposed legislation mandating parental and temporary medical leave benefits, or "parental leave", as it is commonly referred to.

The 1986 White House Conference on Small Business voted opposition to government mandated benefits, such as parental leave, 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 opposition to legislation was specifically cited.

Further, the National Advisory Council for the Small Business Administration, consisting of 120 small business owners and representatives from around the country, met in Providence, Rhode Island, on October 5 and 6 and passed the following resolution:

The freedom and flexibility that have traditionally characterized the labor management relationship in the American "free enterprise system" are essential to the health of a vibrant small business community. Recent legislative initiatives all interject the federal government directly into this relationship along the lines of the rigid and failed labor-management policies of Western Europe. These initiatives threaten the essential strength and job generating abilities of American small business and should be rejected.

Such initiatives include:

- The Family and Medical Leave Act, H.R. 925 and S. 249, and any so-called compromise bill that mandates that employers provide this fringe benefit
- The Kennedy-Waxman Minimum Health Benefits For All Workers Act, S. 1265 and H.R. 259
- The High Risk Occupational Disease Notification and Prevention Act, H.R. 162 and S. 79
- Plant Closing Notification Act and the Minimum Wage Restoration Act, S. 837 and H.R. 1834.

Also, the results of our September 1986 Mandate polling were 83% opposed to government-mandated parental and medical leaves (11% favored and 6% undecided). The results for the state of Connecticut varied only slightly: 77% opposed, 14.5% favored, and 8.5% undecided.

Beyond the practical difficulties and costs associated with this particular mandate, which I will elaborate on later, the business community's strong and vocal opposition to parental leave is an outcry of rage on principle: that the Congress would force its judgement onto the employer-employee relationship to a new and unprecedented degree.

Business owners fear that such a precedent, once set, would open the floodgates to an increasing number of attempts to force businesses to pay for every benefit deemed desirable by various elements in the national workforce. Indeed, in the 100th Congress alone, we have a plethora of mandate proposals: the Kennedy/Waxman bills mandating health insurance coverage, the Stark/Gradison proposal for mandated catastrophic coverage, the Ways and Means Committee consideration of employer-paid continuation of health insurance coverage for former employees and their dependents. All this while the ink is not yet dry on the "COBRA" provisions passed without hearings or debate in 1986.

#### Practical Difficulties in Implementing Mandated Parental Leave

Providing for parental and medical disability leaves is common sense and in very many cases, good sound business judgement; mandating these leaves will be disastrous because of the cost and practical difficulties in implementing such policies, regardless of the circumstances of the particular business and its employees.

Small firms are labor intensive, and it's not unusual for each employee to wear more than one hat; it could be impossible to get temporaries who can perform this variety of functions in a particular manner.

In larger firms, individual job units could be severely hampered by the loss of one employee. One NFIB member who has testified on these bills provides an excellent example. She owns a paint manufacturing plant with 89 employees. They are a job shop: each paint formula is developed to customer specifications, and all paint is manufactured per customer order. The paint they make goes directly on the customer's line and is an integral part of his manufacturing process. Because of this, there is great demand for continual technical service. Her company's particular strength is its ability to both respond quickly to customer line emergencies and meet the short lead times required by just-in-time deliveries.

The company provides group life and medical insurance, for which it contributes 80 percent of the premium; both short- and long-term disability coverage; and a new 401(K) plan at the request of the employees. They have given salary and wage increases every year since 1958, have had one strike in their 80-year history, but not had even one lay-off. She has testified:

The company encourages long-term employment and makes every effort to accommodate the special needs of its employees when problems occur. The flexibility needed to make these accommodations would be limited if government were to begin mandating benefits such as leave.

If it were to pass, it would have severe consequences for Rockford Coatings because it would require leaves of such a nature and length that it would threaten the stability of our business. If the legislation were in effect today, paternity leave alone would cost our company four months' service of

10 percent of our technical force, including our Rockford lab manager. Paint chemists and service technicians are not available in the temporary market. We would have to choose between overburdening other employees or violating an unreasonable law by denying the leave or hiring replacements. Surely, lawsuits would be inevitable, productivity would suffer and the costs would be grave.

By way of further illustration, consider the description of a small business distributing medical supplies in East Providence, Rhode Island:

The bill incorrectly addresses "all firms with 15 or more employees" but fails to acknowledge that all 15 jobs within a firm are not interchangeable. For example, a typical small distribution firm is staffed as follows:

1 Administrator	2 Delivery Men
1 Accounting/Finance person	2 Salespeople
1 Accounts Receivable clerk	1 Purchasing
1 Accounts Payable clerk	1 Customer Service/Telephone
1 Receiver	1 Computer Operator/Programmer
1 Warehouseman	1 Pricing Clerk/Terminal Operator
1 Shipper	

Total 15

When an employee is absent it's not as though we were 1/15th understaffed. We are 100% understaffed in that functional area. To fill any one functional job on a temporary basis for six months and then to guarantee the absent employee full re-employment rights represents an unrealistic demand placed upon the employer by the federal government.

If a company can hire a replacement for the leave period, what does the employer do when the original employee returns? Lay off the temporary and face the increased unemployment insurance (UI) cost? In all but 14 states, a temporary replacement laid off after working an 18-week leave period becomes eligible for unemployment benefits.

Then, too, some employers, as one NFIB member has testified, 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 would actually become a "temporary replacement", such that two to four different temporaries would be required to cover the leave period. The disruptions to the work flow and the team concept are obvious.

The alternative solution, covering for the missing employee with overtime from other workers, presents another set of problems. If an employer foregoes a replacement -- the costs of hiring and training -- 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 small 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% 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 profit margins.

Benefit Mandates are Detrimental to Employees. Too

In all 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, 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.

For example, small employers typically institute vacation and sick leave benefits first. As their profitability increases, health insurance is the next most widely offered -- and desired -- benefit.

The number one problem for small employers, according to an NFIB survey, is the cost of health insurance. Legislating new benefits and requiring employer-paid benefit coverage during extended leave periods will only exacerbate this problem. Small businesses expand benefit coverage as their profitability increases; nowhere is this fact recognized in this legislation.

Mr. Chairman, with all due respect to the collective wisdom of the Congress, it just is not possible for Congress to decide for

each of America's 112 million employees which benefit is the most important. In fact, 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.

All companies are not alike all workforces are not alike and certainly all employees are not alike. Flexibility on the part of the businesses and employees to decide on a benefit plan is crucial.

These mandates change the cost of employment 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. Small business -- labor intensive and pressed for a competitive edge -- will be forced to overlook these same young men and women.

An architectural firm provides somber testament to "the detriment and harm it (H.R. 925) would cause to the young people, the future of the country":

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 sets up conditions for potential discrimination. When choosing between two equally qualified candidates, an employer may be more likely to hire the candidate least likely to take the leave.

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 require 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. Within a year, firms with fewer than 100 workers employed only two-thirds of the elderly workforce. Previously, they had provided jobs for more than three of every four.

Mr. Chairman, mandating these benefits may destroy the very jobs proponents seek to protect. Small businesses create the bulk of our nation's jobs. Small business created the jobs that absorbed the baby boom generation and made it possible for millions of women to

move into the workforce. The rigidities of government-mandated benefits will hamper job creation, undermining the American small business miracle other countries marvel at and want desperately to duplicate.

#### Benefit Mandates in a Global Economy

American businesses do not operate in a vacuum. We are part of a global economy in which we must be able and willing to compete. Small businesses, while not always on the front line, play a vital role as suppliers and in providing services throughout our economic chain.

Since 1980, many U.S. industries have lost their competitive edge in the world market. Indeed, the 100th Congress has recognized this dilemma and formed groups like the Competitiveness Caucus to address this issue. At the same time, however, the 100th Congress has introduced several mandated benefit proposals that will only further damage the ability of these wounded companies and our nation to compete. Mandated benefits are not a new invention. Before we step down the slippery slope of government intervention into the workplace, we should take advantage of the information available to us and learn from other countries' mistakes.

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 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.

NFIB has coined a term for this very real danger -- "Europeanization." We fear the effects from following in the footsteps of our European neighbors who have chosen to mandate a large proportion of their total compensation package. The results: few new business starts, no job growth, a sluggish GNP, high structural unemployment, and long periods of joblessness for displaced workers. The charts in our appendices, prepared by the NFIB Foundation, illustrate several of these factors:

Those nations with the highest proportion of benefits to wages -- Italy, Germany, France and Europe as a whole -- also have the lowest levels of employment growth. (Charts 1 & 2)

These same nations exhibit higher levels of unemployment and longer durations of unemployment. (Charts 3 & 4)

In looking at female labor participation rates, it would appear that increasing fringe benefits (as a percentage of wages) has no effect. (Chart 5)

American companies have been boosting their productivity by adding more capital and more labor, but European companies have been using capital instead of labor. Labor market rigidities, wage and benefit mandates are resulting in excessive substitutions of capital for labor in Europe. (Chart 6)

Further illustration can be found in the remarks of one small California manufacturer:

"Please recognize that many small manufacturers like ourselves employ largely unskilled entry level people. Our fringe benefits approximate 30% of our wages. We employ 25 people and we compete with wages of \$2.50 per day 150 miles south in Mexico, \$0.50 -- \$0.75 per day in the Philippines and similar total daily labor costs in other pacific basin countries. Programs such as this adds to the growing inability of small companies to compete in the world marketplace.

The Proposed Benefits May be Unpaid to the Employee, But There Are Costs

Because the leave periods stipulated in these bills are unpaid, a casual analysis would lead one to believe these bills are cost free. Nothing could be further from the truth.

Assuming jobs are interchangeable and other employees can fill in, time and a half for a \$6.45/hour employee (1982 average wage in firms with less than 100 employees) would require \$2,474 in additional wages alone for an 18-week parental leave and \$3,573 for a 26-week medical leave. These benefits are not free even when unpaid. Yet the legislation requires recommendations be made to the Congress on implementing paid leave!

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 also 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 18- or 26-week 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 a disincentive for employers to offer health insurance.

For those firms that can afford hiring temporaries, there are also grave consequences for their UI rates. The majority of small employers already pay more in payroll taxes than any other form of taxation.

As we stated earlier, using the 18-week parental leave period proposed in S. 249, in all but 14 states the temporary employee would be eligible for unemployment compensation when let go by the employer (see attached chart).

#### Public Opinion

Mr. Chairman, we have closely tracked your hearings on this issue, and while we commend you for your efforts to take this issue to the people in your field hearing work, we believe the record has been construed to single out a minority of cases where employees were not satisfied with their employer's particular policy or lack thereof. In no instance did we hear the employer's side of the story. Always, there are two sides to a story.

Proponents cite the Opinion Research Corporation's April 1987 polling results indicating that a majority of those polled support "The Family and Medical Leave Act" (a full copy of the survey results is attached).

The complete poll results -- the other side of the story -- bears repeating. A majority of those polled -- a majority of those who support "The Family and Medical Leave Act" -- see the same folly in government mandates that I've outlined in my testimony today. Even the majority of supporters (54%) agree that the government

should not interfere in the employer's decision as to whether or not grant parental leave ... 72% of those who are opposed (to the legislation also) hold this opinion.

The majority of both supporters (56%) and opponents (58%) see the possibility that requiring employers to grant parental leave might result in fewer women being hired.

Even more -- 71% of supporters and 78% of opponents -- agree that parental leave with the guarantee of job security will be a hardship for many small companies.

Another problem, recognized by a large majority of the public (73%), is that providing unpaid parental leave will not help low-income employees.

#### Substitute Bills

Mr. Chairman, proponents of the House companion bills, H.R. 925 and H.R. 284, are now touting substitute language -- requiring 10 weeks family leave and 15 weeks medical leave for employees with one year of service in firms with more than 50 employees -- as a "reasonable" alternative. Mr. Chairman, our view on a "reasonable" size standard for exempting businesses from a government mandate is that there is none, and changing the employee threshold at which the mandate applies does not alleviate the concerns of business owners.

David A. Matthews, president of a small medical supply firm says this well:

"The exemption itself is a clue to the harmful effects of the bill. If such a bill were justified, would it not be equally justified for employees of all companies? Do employees of large companies have babies differently than those in small companies? No. The only rationale for the exemption is recognition that its provisions could sink many small firms. It's like saying, "This is a poison, so we'll only give it to people we think can survive it". (emphasis added)

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. Businesses already operating on thin margins could be forced to eliminate jobs and may well be driven out of business.

David Birch, the noted MIT economist, has published a new book in which he discusses the detrimental "hourglass effect" observed in Canada. Government-imposed thresholds have made medium-size firms extinct. The Canadian economy operates 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 "hourglass 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 14 employees would think twice before hiring any additional help which would automatically place them under jurisdiction of this pending legislation.

Likewise, an appropriate leave time will hinge on many factors -- the employee's medical condition, the needs of the business, the availability of a replacement or other trained employees.

I would argue, Mr. Chairman, that the real question is whether this type of government mandate is needed at all. It's acknowledged that nearly all large businesses provide for these types of leaves. NFIB field survey data indicate 72% of small firms allow time off without loss of benefits. Of the 16.3% "nc" 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.

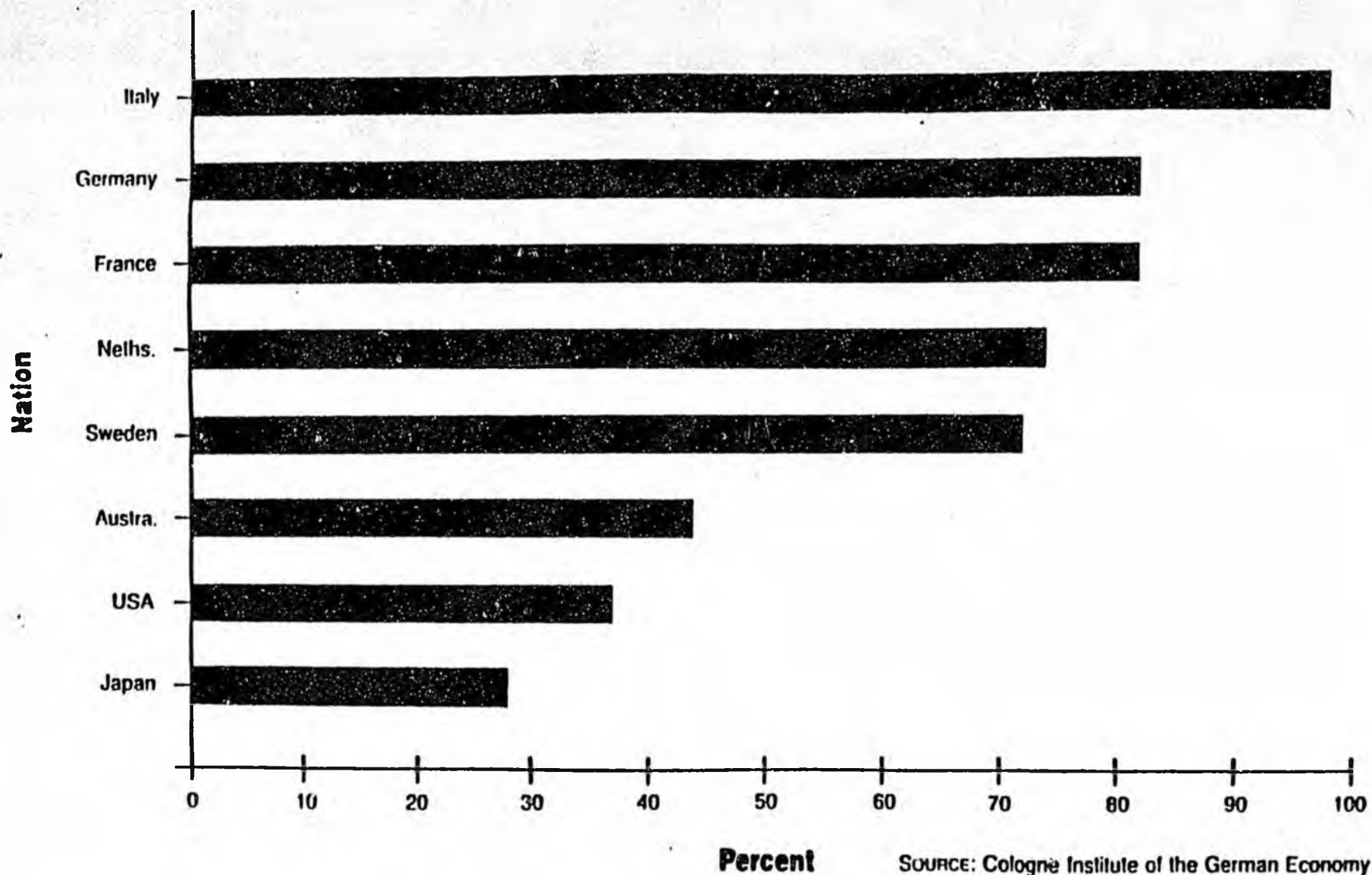
While parental leaves are excellent benefits, they are only one option among many. For instance, small firms are more flexible and more likely to offer part-time jobs that allow women to work and still be at home with their children.

The costs of mandated parental leaves will limit the availability of other benefits. Employers and employees are best able to structure benefit packages; Congressional dictates ignore individual needs and differences.

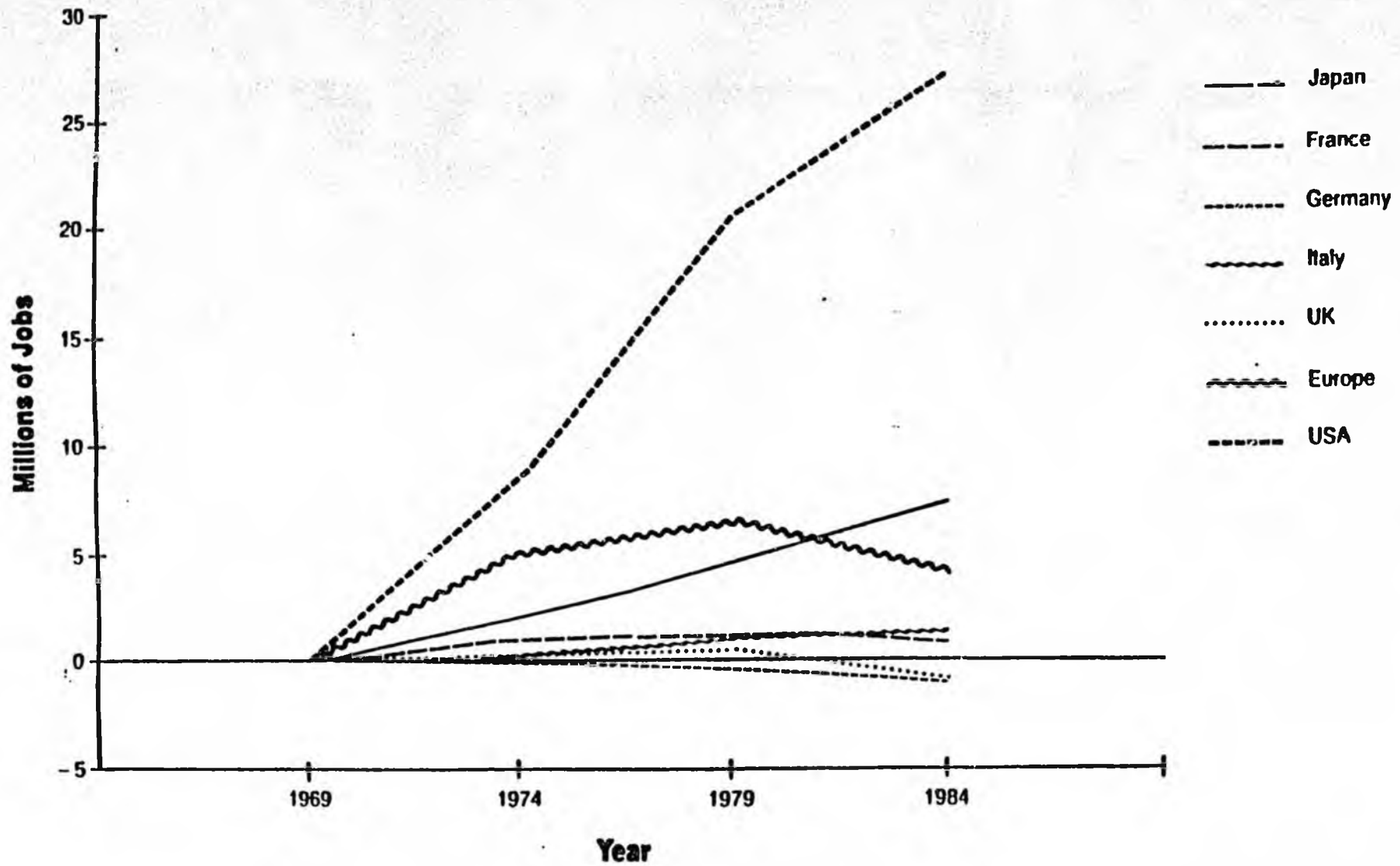
Congress should not attempt to manage the nation's businesses from Washington. It hasn't worked in Europe, and it won't work here.

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# Fringe Benefits as a Percentage Of Wages in Manufacturing Industries By Selected Nation: 1985

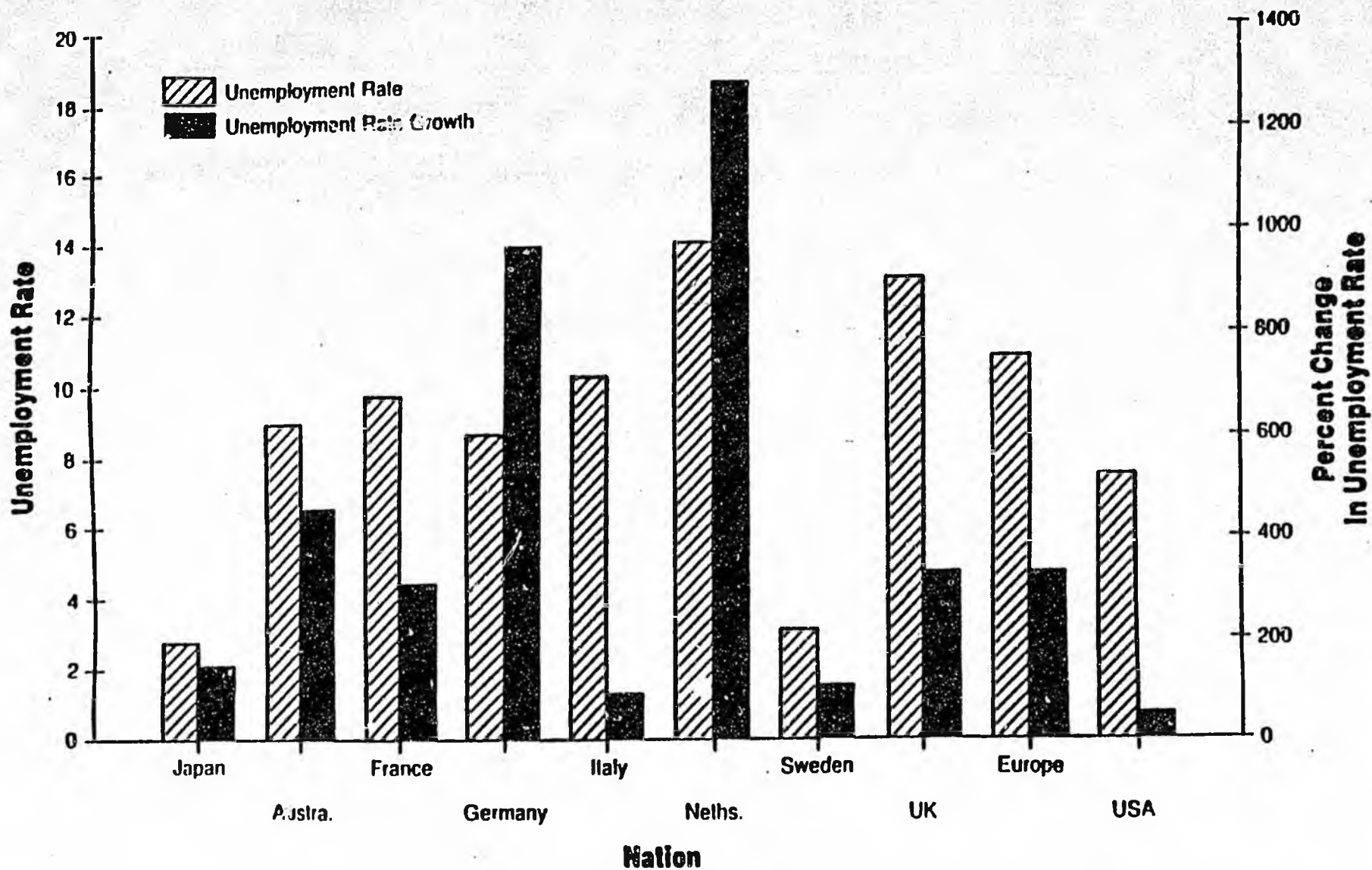


# Cumulative Growth in Total Employment For Selected Nations At Five Year Intervals



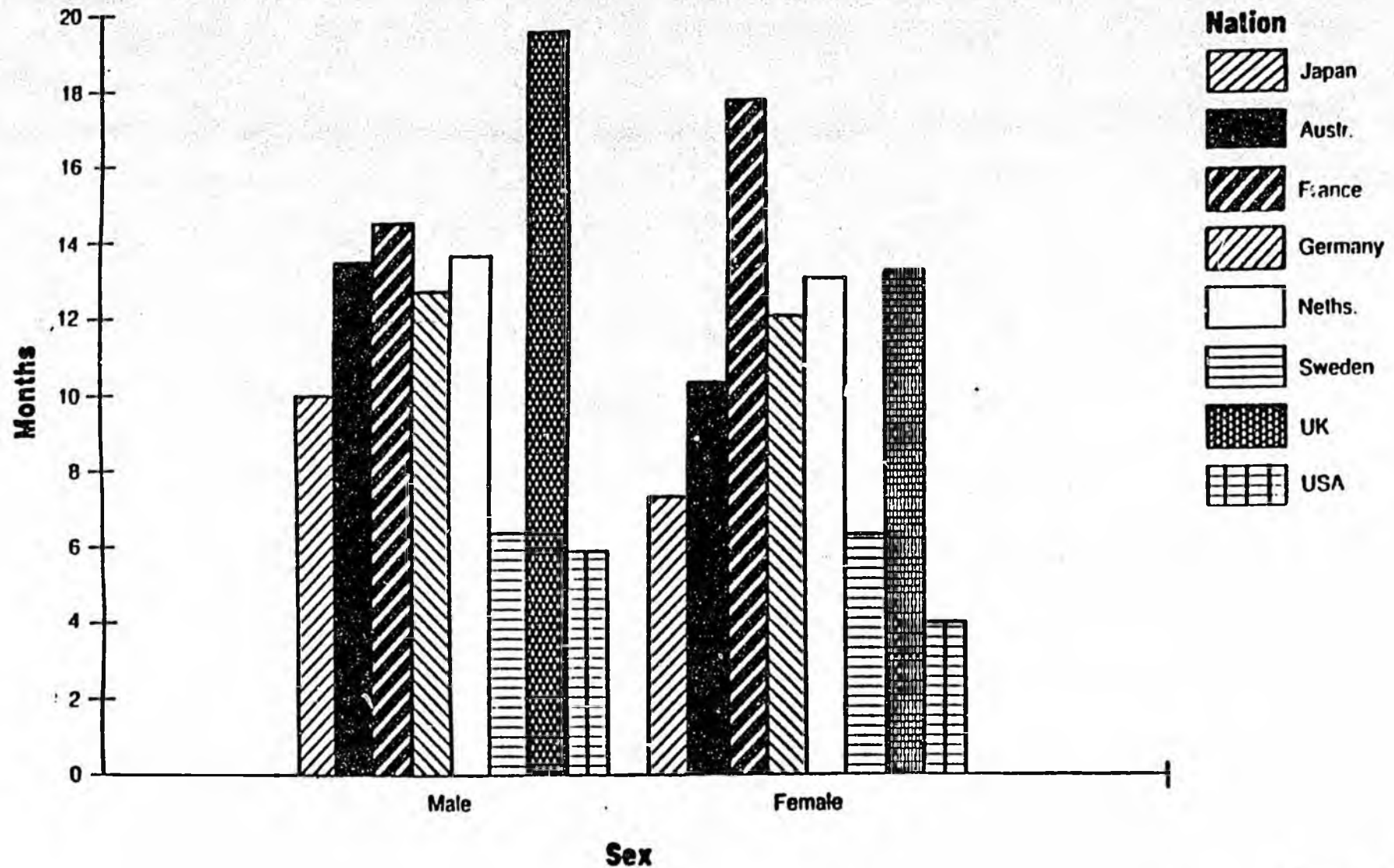
Source: From OECD data

# Unemployment Rate (1984) and Percent Growth in Unemployment Rate (1970-1984) by Selected Nation



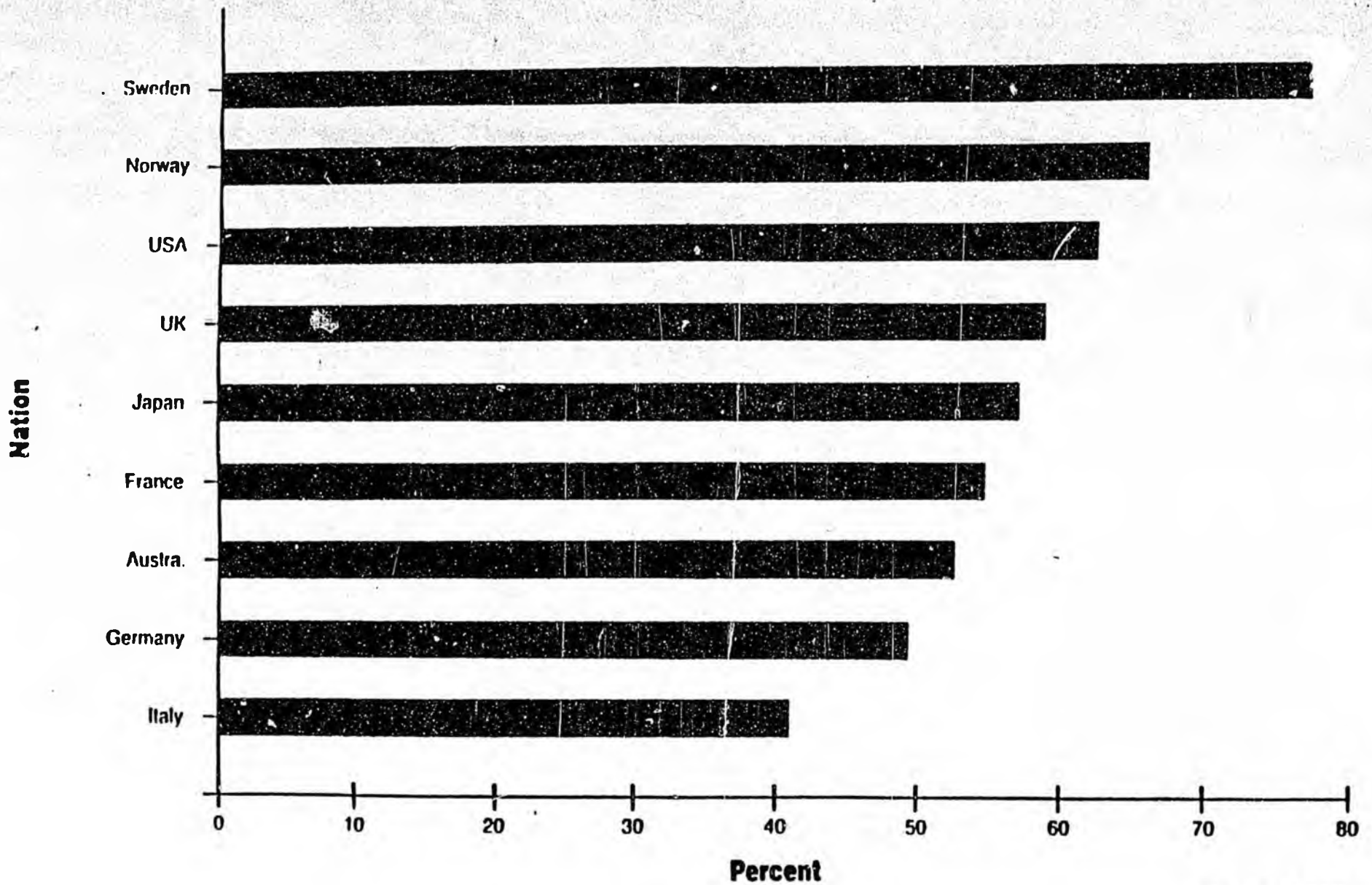
SOURCE: OECD

# Mean Average Duration Of Unemployment in Progress By Selected Nation—1984



Source: OECD

# Female Labor Participation Rates By Selected Nation—1984



SOURCE: OECD

CSHB 155, (proposed finance) "An Act relating to employee health insurance coverage, employment rights based on pregnancy, childbirth, and related conditions, and family leave."

SECTION 1: Short Title: Alaska Family Protection Act

SECTION 2:

(A) FINDINGS

- (1) generally, parents are the best providers of care for their children;
- (2) single and two parent household in which the parent(s) work outside the home are increasing significantly;
- (3) it is important to child development and to the family unit that parents be able to take part in early child rearing and the care of a sick child;
- (4) the lack of employment opportunities to accommodate working parents can force individuals to choose between job security and parenting; and
- (5) it is important for the family unit that a person be able to care for a parent or spouse who has a serious health condition.

(B) PURPOSES

- (1) to balance the demands of the work place with the needs of families, and to promote stability and economic security in families;
- (2) to entitle employees to take reasonable leave for the birth or adoption of a child, for the care of a child, spouse or parent who has a serious health condition, and in case of their own serious health condition.
- (3) to accommodate the legitimate interests of employers.

SECTION 3: amends AS 14.20.590 by adding a new subsection

- (b) not withstanding existing provisions regarding negotiation and mediation in AS 14.20.550 - 14.20.610, an agreement concerning benefits and leave is void unless it provides benefits as least as beneficial as 23.10.500-23.10.550. (Prior HESS version required "comparable" benefits.)

(2)

SECTION 4: amends AS 23.10 by adding new sections

Article 7 Section 23.20.500

- (a) requires employer to grant an employee whose health is affected by pregnancy, childbirth, or a related medical condition the same employment benefits and privileges granted to other temporarily disabled employees, including allowing the employee to take disability, sick, or a other accrued leave if it is available to other temporarily disabled employees.

However, except as provided in (d) of this section, an employer is not required to provide health insurance coverage for the medical costs of pregnancy, childbirth, or related medical condition.

- (b) an employee is eligible for family leave if the employee has worked for the employer at least 35 hours a week for at least six consecutive months, or at least 17-1/2 hours a week for at least twelve consecutive months immediately preceding the leave.

An eligible employee can take family leave for a total of 18 workweeks during any 24-month period.

The leave may be unpaid, but the employee may choose to substitute, or the employer may require the employee to substitute, accrued paid vacation leave, sick leave, personal leave, or other paid leave.

If the employee is entitled to a longer period of leave under (a) of this section, then the longer period applies.

An eligible employee is entitled to take family leave

(1) because of pregnancy, the birth of a child of the employee, or the placement of a child, other than a stepchild, with the employee for adoption, with the entitlement to leave expiring at the end of the 12-month period beginning after the date of the birth or placement; an employer may require that an employee using family leave under this paragraph take the leave in a single block of time;

(3)

(2) in order to care for the employee's child, spouse, or parent who has a serious health condition; "child" is defined as including the employee's biological, adopted or foster child, stepchild, legal ward, or child to whom the employee stands in loco parentis; and

(3) because of the employee's own serious health condition. (Prior HESS version did not provide this benefit.)

- (c) notwithstanding (b) of this section, an employer is not required to grant two employees working for same employer family leave simultaneously to care for a parent or child.
- (d) during the time the employee is on leave, the employer must maintain coverage under any group health plan at the level and under the conditions that coverage would have been provided if the employee had been employed continuously from the date the leave began until the employee returns under (e) of this section.

The employer may require that the employee pay all of the costs for maintaining health insurance coverage during the period of unpaid leave.

- (e) unless the employer's circumstances have changed to make it impossible or unreasonable, when an employee returns from family leave, the employer will restore the employee

(1) to the position held by the employee when the leave began; or

(2) to a substantially similar position with substantially similar benefits, pay and other terms and conditions of employment.

- (f) this section applies only to employers who employed 21 or more employees for each working day during 20 consecutive workweeks;

This section does not apply to a small business facility if the total number of employees employed within 50 road miles of the facility including those employed at the facility during the 20 consecutive workweeks was fewer than 21.

(4)

(g) an employer may refuse to grant an employee family leave under (b) of this section if the employer establishes that

(1) the employee's salary is in the top 10% of all employees in the facilities of the employer covered by this section; and

(2) the employee has skills, knowledge, or experience that cannot be satisfactorily provided by other employees, including temporary employees or persons available for temporary employment, during the period of the proposed leave and that are necessary to the employer during that time to meet a business necessity. (Prior HESS version did not specify that an employer had to consider use of temporary employees.

#### ARTICLE 7 Section 23.10.510 EMPLOYEE NOTICE

Requires employee to give employer prior notice of an expected need for leave in a reasonable and practical manner if the necessity for leave is foreseeable based on an expected birth or adoption, or on planned medical treatment or supervision.

If the need for leave is foreseeable based on planned medical treatment or supervision, the employee shall also make a reasonable effort to schedule the treatment or supervision at time that will not unduly disrupt the operations of the employer, subject to the approval of the health care provider of the employee, or the employee's child, spouse, or parent.

#### ARTICLE 7 Section 23.10.520 EMPLOYEE TRANSFER

(a) A pregnant employee may request a transfer to a suitable position. The employer may not offer the position to another person other than the requesting employee until the employer has offered the position to the employee and the employee has refused the offer. A position is suitable if

(1) it is an existing unfilled position in the same administrative division in which the employee is currently employed and is less strenuous or less hazardous than the employee's current position;

(2) transfer to the position is recommended by a licensed health care provider;

(5)

(3) the employee is qualified and immediately able to perform the duties of the position; and

(4) the transfer will not subject the employer to legal liability.

(b) the employer shall compensate an employee who receives a transfer under this subsection at a rate at least equal to the lesser of the rate, as adjusted by changes to compensation that apply generally to the work force, at which

(1) the employee was compensated immediately before requesting the transfer; or

(2) the position into which the employee transfers is compensated.

ARTICLE 7 Sec. 23.10.530 APPLICATION TO OTHER LAWS

(a) The provisions of AS 23.10.500 - 23.10.550 do not affect any other provision of law relating to sex discrimination, pregnancy, or parenthood.

(b) The provisions of 23.10.500 - 23.10.550 are subject to collective bargaining. However, a collective bargaining contract is void unless it contains terms giving employees benefits at least as beneficial to the employee as those provided by AS 23.10.500 - 23.10.550. (Prior HESS version required "comparable" benefits.)

ARTICLE 7 Sec. 23.10.540 INVESTIGATION AND CONCILIATION OF COMPLAINTS

(a) a person aggrieved by a denial of a right or privilege granted by AS 23.10.500 -23.10.550 may file a complaint with the Department of Labor.

(b) the department shall informally, promptly, and impartially investigate the matters set out in a filed complaint. If the investigator determines that the allegations are supported by substantial evidence, the investigator shall immediately try to eliminate the denial of rights or privileges by conference, conciliation, and persuasion.

(6)

ARTICLE 7 SEC. 23.10.550 DEFINITIONS (as 23.10.500 -  
23.10.550)

- (1) "child" means an individual who is
  - (a) under 18 years of age; or
  - (b) 18 years of age or older and incapable of self care because of mental or physical disability;
- (2) "employer" means a person, including the state and a subdivision of the state, who employed at least 21 employees in the state for each working day during 20 consecutive workweeks in either the current or preceding calendar year;
- (3) "health care provider" has the meaning given in AS 18.23.070.
- (4) "parent" means a biological or adoptive parent, a parent-in-law, or a stepparent;
- (5) "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves
  - (A) inpatient care in a hospital, hospice, or residential health care facility; or
  - (B) continuing treatment or continuing supervision by a health care provider;
- (6) "small business facility" means a facility of an employer at which fewer than 21 employees were employed for each working day during 20 consecutive workweeks in the current or preceding calendar year;
- (7) "state" includes the University of Alaska and the executive, legislative, and judicial branches of state government including public and quasi-public corporations and authorities established by law.

SECTION 5 AS 23.40.200 is amended by adding a new subsection to read

- (g) Notwithstanding any provisions of AS 23.40.070 - AS 23.40.260 to the contrary, an agreement between an employer subject to AS 23.10.500 - 23.10.550 and an employee bargaining organization that conflicts with the benefit provisions of AS 23.10.500 -

23.10.550 is void unless the agreement provides benefits at least as beneficial to the employee as those provided by AS 23.10.500 - 23.10.550.  
(Prior HESS version required "comparable" benefits.)

SECTION 6 AS 39.20.225 (b) (4) is amended to read:

- (4) Pregnancy and childbirth is a medical reason for a female officer or employee to take personal leave. (deletes language limiting leave to a maximum of nine weeks immediately preceding and following childbirth.)

SECTION 7 AS 39.20 is amended by adding a new section, 39.20.305  
FAMILY AND HEALTH LEAVE

- (a) an employee who is otherwise qualified for a leave of absence may take family leave for a total of 18-workweeks during any 24-month period. The employee shall use accrued personal leave. After exhausting accrued personal leave, the employee may take unpaid leave for the balance of the 18-week period.

If the employee is entitled to a longer period of time under AS 23.10.500(a), then the longer period applies.

An eligible employee is entitled to take family leave

(1) because of pregnancy, the birth of a child of the employee, or the placement of a child, other than the employee's stepchild, with the employee for adoption. The entitlement to leave expires at the end of the 12-month period beginning after the date of the birth or placement; the department or agency may require that an employee using family leave under this paragraph take the leave in a single block of time;

(2) in order to care for the employee's child, spouse or parent who has a serious health condition; in this paragraph, "child" includes the employee's biological, adopted, or foster child, stepchild, legal ward, or a child to who the employee stands in loco parentis; and

(3) the employee's own serious health condition.  
(Prior HESS version did not provide this benefit.)

- (b) Requires employee to give department or agency head prior notice of an expected need for leave in a reasonable and practical manner if the necessity for leave is foreseeable based on an expected birth or adoption, or on planned medical treatment or supervision.

If the need for leave is foreseeable based on planned medical treatment or supervision, the employee shall also make a reasonable effort to schedule the treatment or supervision at a time that will not unduly disrupt the operations of the employer, subject to the approval of the health care provider of the employee, or the employee's child, spouse, or parent.

- (c) notwithstanding (a) of this section, if a parent or child of two employees employed by the state has a serious health condition, the state is not required to grant family leave to both employees simultaneously.

- (d) an employer may refuse to grant an employee family leave under (a) of this section if the employer establishes that

(1) the employee's salary is in the top 10% of employees within that department or agency; and

(2) the employee has skills, knowledge, or experience that cannot be satisfactorily provided by other employees, including temporary employees or persons available for temporary employment, during the period of the proposed leave and that are necessary to the department or agency during that time to meet a business necessity. (Prior HESS version did not require consideration of using temporary employees.)

- (e) In this section, "child," "health care provider," "parent," and "serious health condition" have the meanings given in AS 23.10.550.

SECTION 8

Notwithstanding AS 14.20.590(b), enacted by sec. 3 of this Act, AS 23.10.500 - 23.10.550, enacted by sec. 4 of this Act, and AS 23.40.200(g), enacted by sec. 5 of this Act, a collective bargaining agreement in effect on the effective date of this Act that contains terms that do not comply with AS 23.10.500 - 23.10.550 remains valid until the agreement expires. However, the contract may not be extended by agreement or renewed unless it complies with AS 14.20.590(b), AS 23.10.530, or AS 23.40.200(g), as applicable.

January 22, 1990  
Rep. Kay Brown

STATUTES REFERENCED  
IN CS HB 155 (HESS) AND CS HB 155 (PROPOSED FINANCE)

SECTION 3

14.20.590: TEACHERS AND SCHOOL OFFICIALS - Grievance Procedures

14.20.550 -.610: TEACHERS: Negotiation, Bargaining, Mediation  
Grievance

23.10.500-.550: LABOR & WORKERS COMPENSATION (TITLE 23)  
Chapter 10: Employment Practices & Working Conditions

Authorizes for Teachers standard consistent with Labor  
& Workers amendments in Section 4 of this bill

SECTION 4

23.10.500 - .550: LABOR & WORKERS COMPENSATION (TITLE 23)  
Chapter 10: Employment Practices & Working  
Conditions

New sections setting standards for family leave benefits

SECTION 5

23.40.200: LABOR & WORKERS COMPENSATION (TITLE 23)  
Chapter 40: Labor Organizations - Arbitration  
Chapter 40.070-.260: Labor Organizations -  
Public Employees Relations Act

Affecting workers with bargaining unit: new  
sub-section standard consistent with  
Labor & Workers amendments in Section 4 of this bill

SECTION 6

39.20.225(b)(4): PUBLIC OFFICERS AND EMPLOYEES (TITLE 39)  
Chapter 20: Compensation and Allowances - Use of  
Personal Leave

For State employees: amending language authorizing  
standard consistent with Labor & Workers amendments in  
Section 4 of this bill

SECTION 7

39.20: PUBLIC OFFICERS AND EMPLOYEES (TITLE 39)  
Chapter 20: Compensation and Allowances-Use of Personal  
Leave

amendments authorizing standard for state employees  
consistent with Labor & Workers amendments in  
section 4 of this bill

SECTION 8

14.20.590(b) TEACHERS AND SCHOOL OFFICIALS  
23.40.200(g) LABOR AND WORKERS COMPENSATION  
23.10.500-.550

Affecting workers with bargaining units: an effective  
date authorizing standard consistent with Labor & Workers  
amendments in Section 4 of this bill

# Kay Brown

## Alaska State Legislature House of Representatives

DATE: January 15, 1990

TO: Representative Ronald L. Larson, Co-Chair  
Representative Lyman F. Hoffman, Co-Chair  
House Finance Committee

FROM: Representative Kay Brown *Kay*

RE: Scheduling HB 155 (HESS), An act relating to Family Leave for a hearing in the House Finance Committee.

I am submitting to you a request for a hearing on HB 155 (HESS), legislation that would establish a family leave policy for Alaska. Briefly, HB 155 (HESS) would,

- o allow an employee to take up to 18 weeks of unpaid leave of absence within a 12 month period for each birth or adoption in a family;
- o allow an employee to take an unpaid leave of absence for up to 18 work weeks in a single block of time within a 24 month period in order to care for the employee's child, spouse or parent in the event of a serious health condition.
- o require that an employer reinstate the employee in the same or a substantially similar position at the end of the leave;
- o protect the health of a pregnant woman and her baby by requiring that an employer transfer a pregnant employee to a less hazardous or strenuous position if an unfilled position exists in the same administrative division, and if the transfer is requested by a health care provider;
- o require an employer to maintain coverage under any group health plan for an employee taking family leave at the employee's expense.

P. O. Box 20-2661  
Anchorage, AK 99520-2661  
(907) 272-0207

During Session:  
P. O. Box V  
Juneau, AK 99811  
(907) 465-4998

I would also note that HB 155 (HESS) is responsive to concerns expressed by the National Federation of Independent Business in so far as it would exempt small businesses with less than 21 employees.

During the interim I have had a draft committee substitute prepared for consideration by the Finance Committee. The proposed committee substitute would make one major change in the HESS version. The draft committee substitute would apply the proposed unpaid leave provisions to the employee in the case of his or her own serious health conditions.

The proposed measure has a fiscal note of \$62,800 for the enforcement functions assigned to the Department of Labor.

\* \* \* \*

I appreciate your consideration in scheduling HB155 at the earliest possible date. If you have any questions regarding this legislation please let me know or contact Mary Core of my staff at 465-4998.



## Older Alaskans Commission

Box C  
Juneau, Alaska 99811-0209  
907/465-3250

### POSITION PAPER - HB 155

#### LEAVE FOR FAMILY CAREGIVERS

The Older Alaskans Commission supports this bill in concept. The OAC views it as pro-family and pro-employee legislation designed to encourage "eldercare" by family members. In light of the high private and public cost of alternatives to family caregiving for the elderly, namely, institutionalization, this is also a cost-effective proposal.

Work place policies which accommodate caregivers' need for leave or flex-time work make good management and business sense. In the case of caregivers to the elderly, the employee caregivers are usually over the age of forty, and thus are usually experienced employees with a high replacement value. They are often middle or top level managers.

Retaining experienced employees, and keeping them at their most productive and healthy functioning level will benefit employers. Numerous research studies have shown that full-time employee caregivers of the elderly provide 12 to 35 hours a week of care giving services. This results in considerable stress to the employee, which in turn shows up as decreased production at work, unscheduled absences, and increased costs to the employee health benefit program. (See Attachment A)

Under HB 155, most major employers in the state would be required to simultaneously offer these new caregiver leave benefits. This is an equitable solution to this social problem, as all competitors in any field would be operating under the same public policy.

Proposed federal legislation similar to HB 155 was studied by the Government Accounting Office which found that the cost to the national business community of providing family leave is only one-seventh (1/7) the cost to the taxpayers of unemployment and welfare payments resulting from lack of caregiving leave. (See Attachment B.)

HB 155 will benefit three groups of Alaskans:

"...\* the employees whose health and well-being are preserved;

\* the employer who profits from their continuing productivity and their lower utilization of health care and other benefits; and

\* the dependents for whom the employee's support is essential."

(Employer Support for Employee Caregivers, The New York Business Group on Health, Inc., p. 2, Attachment C)

The Older Alaskans Commission understands that there may still be details to be worked out in this legislative proposal, and the OAC would be supportive of compromises that meet the needs of both employers and employees. (Indeed, the OAC Legislative Subcommittee was split on the issue of whether to support this bill, with a majority of the committee strongly in favor, and the third committee member preferring to hold back on support of this bill until the issues have been more fully developed.)

Although HB 155 may benefit from some refinements, the concept of the workplace making an accommodation to the leave needs of family caregivers is supported by the OAC.

Approved by:

Reviewed by:

*for* Connie & Lise  
Mellie Terwilliger, Chair  
Older Alaskans Commission

John M. Andrews  
John M. Andrews, Commissioner  
Department of Administration

Date: April 3, 1989

Date: 4/3/89

# The Corporate Response to the

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by Michael A. Creedon, D.S.W.

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**O**f the many changes in the family which could affect family care of the elderly, perhaps the most obvious is the rapid increase in the number of dual-career couples. Today, in some 60 percent of families, both spouses work. A recent Bureau of National Affairs report on *Employers and Eldercare* (1988) suggests that 75 percent of women between 45 and 60 will be in the workforce by the year 2000.<sup>1</sup>

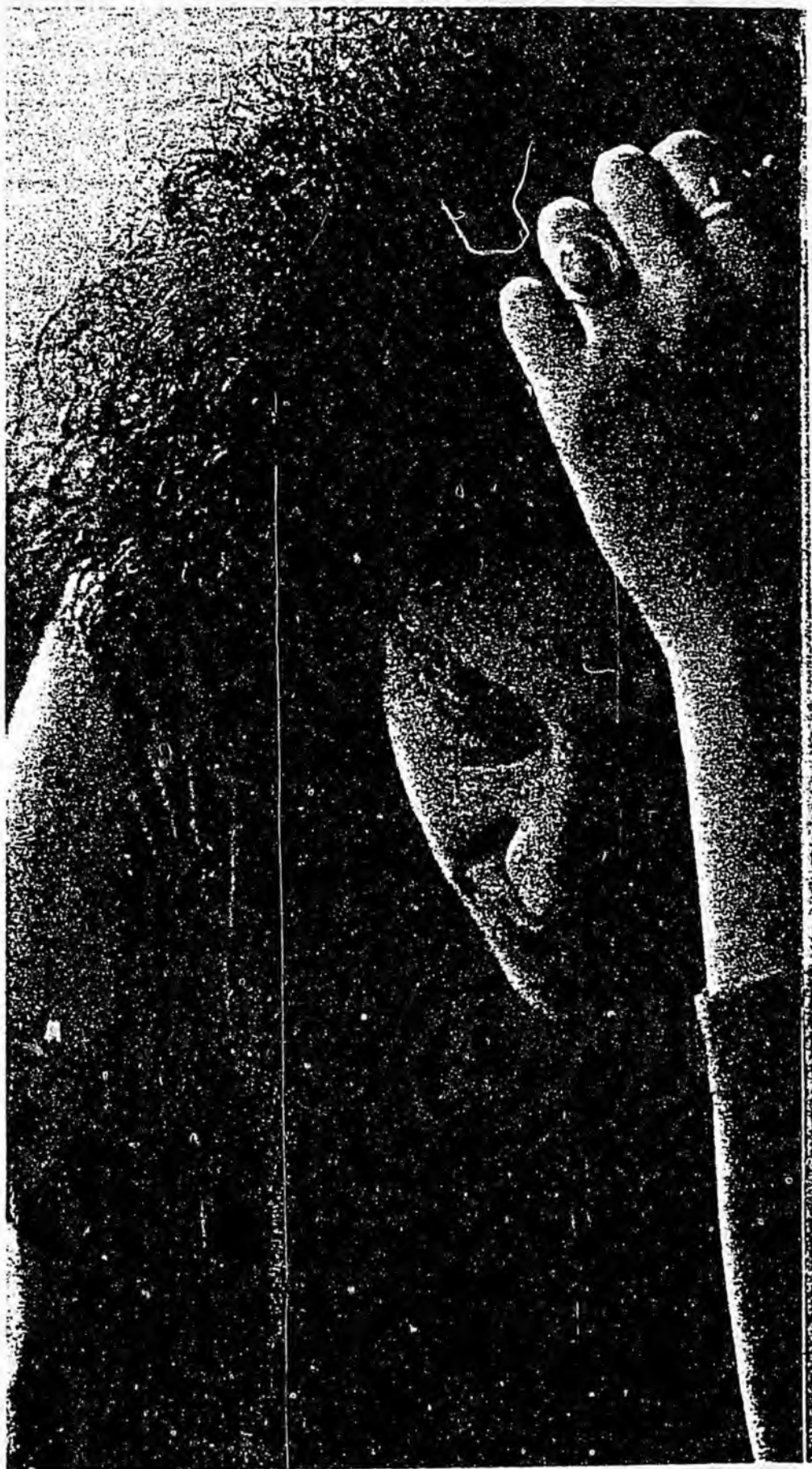
Until recently, work and family conferences have focused almost exclusively on child care, and the corporate response to the child care concerns of employees has steadily increased. Help from employers to ease the situation of the employee caring for an elderly person, however, has been much slower to develop. This has been the case even though researchers have been affirming for the past 20 years that the family is the primary support system for the elderly.

## Research Findings

Perhaps the central finding in recent series of research projects on employees and eldercare was the large proportion of employees with eldercare responsibilities. The Traveler's Employee Caregiver Survey in 1985 reported that among employees over 30, some 20 percent were caring for an older relative or friend.<sup>2</sup> Four additional work force studies undertaken recently by corporations and univer-

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# Working Caregiver

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*One study suggests working caregivers use health services more often and are more subject to anxiety and depression.*

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sities have shown that the proportion of employees caring for an elderly relative ranged from 20 to 30 percent.<sup>3,4,5</sup>

The second striking research finding is the amount of service provided to the elderly by working caregivers. Enright and Friss (1987) reported an average of 35 hours per week of care provided to brain-damaged adults.<sup>6</sup> Travelers (1985) reported 12 hours per week of care of elderly relatives (16 hours for females). The National Association of Area Agencies on Aging (NAAAA) reported (1987) 15.9 hours per week of care.<sup>7</sup>

What kind of services were the caregivers providing? In the NAAAA study, female caregivers, reported that they were providing emotional support, daily or weekly visits, shopping, cooking, banking, personal care and transportation. The University of Bridgeport Corporate Eldercare project cited transportation (73.6%), making appointments (64%), providing meals (66.4%), visiting (54.4%), home maintenance (54.4%), personal care (29.6%), filling out forms (62.4%), searching for a new residence (9.6%) and financial assistance (63.2%).<sup>8</sup> Regardless of the mode of assistance—personal care, paid care or management of care—employee caregivers invest heavily in the care of older relatives.

From a corporate perspective, the most important research finding is the impact of caregiving on work performance. Employee caregivers make great efforts to carry out both responsibilities faithfully (Brody, et al, 1987).<sup>9</sup> An AARP survey of employees found that only 5 percent of caregivers said that caregiving interfered regularly with job performance.<sup>10</sup> However, one survey reported that 75 percent of employers noted lateness and

unscheduled days off among the effects of caregiving, while 64 percent noted excessive use of the telephone.<sup>11</sup> In another employer survey, 57 percent of respondents received requests from caregivers for time off. Days lost from work are an important cost to the employer.

Many caregivers are forced to choose between employment and caregiving. Brody suggests that 12 percent of caregivers leave the workforce early. Enright and Friss (1987) report that many caregivers reduce their work hours. Finally the University of Bridgeport project suggests that employee caregivers use health services more often and are far more subject to anxiety, depression, headaches and weight gain or loss.<sup>12</sup>

The research reviewed here documents the large proportion of today's workforce affected by eldercare responsibilities. It also suggests that there are corporate costs associated with caregiving, ranging from lost days to lowered productivity to higher health costs to lost employees. The American workplace will be increasingly affected by eldercare as we move into the 21st century, and employers will find that they will need to address the special needs of working caregivers.

## **Barriers to Workplace Support**

The eldercare obligations and stresses on the two-career family have been slow to gain recognition because of several factors. First may be the lack of executive awareness of this problem. Just two years ago, the vice president for human resources of one major defense contractor stated to this author that he had never heard of the problem of eldercare in his workforce, despite an average age of more than 40 among the employees and a female

proportion of more than one-third.

Such an executive response may very well be attributable to the fact that many employees may not want managers to be aware of their eldercare concerns, and may not see their employers as a possible source of support. In some cases, working caregivers may not even be aware that they can get help from others. Clearly, awareness of eldercare as a fact of life for employee caregivers is the first necessity for corporate response.

Employer resistance to the development of new benefits is another barrier to be overcome. Retirement Advisers, Inc., reported in 1987 that a typical executive response to inquiries regarding eldercare was that stirring up new demands was bad. "Leave well enough alone," was the attitude.<sup>13</sup> In the highly competitive business world, providing a new benefit needs rigorous justification for the corporate bottom line.

In short, low awareness of employees' eldercare burdens, lack of employee demand, tight budgets, and executive resistance to new benefits all contribute to a lack of support in the workplace.

### Current Initiatives

Nonetheless, a variety of eldercare efforts are underway in major U.S. corporations. For instance, I.B.M. implemented in January, 1988 a nationwide telephone assessment and referral service for

employee caregivers (see article on p.26 in this issue). In 1986, Pepsico, Inc. provided employees with "Eldercare", a resource guide which discusses normal aging, problems of aging and resources for helping the elder and the caregiver.<sup>14</sup> Champion International provided a booklet on caregiver resources to their employees and implemented a 6-month leave of absence policy for various family problems, including eldercare emergencies.<sup>15</sup>

Remington Products of Bridgeport, Conn. in November 1987 introduced an experimental program in which the company and the employee share the costs of respite care. A full-time caregiver can obtain respite care on weekends or evenings for a minimum of four hours through the Visiting Nurse Association, with care provided by a home health aide or a senior companion. Other corporate programs include a self-directed support group for caregivers at the Travelers Companies in Hartford, Conn. and a Counseling Service for caregivers offered by Family Services of Kansas City for Hallmark Cards employees.

Perhaps, the most frequent response, and the most necessary from a caregiver perspective, has been liberal leave policies and flexible work options. A recent survey of employers found that 57 percent received requests from working caregivers for time off, 39 percent for leaves of absence and 26 percent for work schedule

changes.<sup>16</sup> A large number of of the employers stated that their companies made such options available to their workforce.

This review of support programs would be incomplete without reference to the Dependent Care Assistance plans offered by many companies. This benefit option allows employee caregivers to set aside up to \$5,000 of salary pre-tax for a targeted caregiving purpose. Presently, most users are providing support for childcare partly because current federal regulations for the plans were developed with a childcare model in mind. The requirements state that the caregiver must provide 51 percent of the cost of care and that the dependent must live with the caregiver at least 2 days a week and be declared a "dependent" on the employee's tax return.

The employer who offers a Dependent Care Assistance plan must also inform the caregiver of tax credit options (which may be more relevant to the needs of the lower-level employee). Linda McFarland of Hewitt Associates, an expert on benefit options, estimates that only four percent of employees at any given time are using Dependent Care Assistance Plans. However, these plans offer significant potential support for caregivers.

### Arranging Family Counseling

Many corporations are examining their

1. Crim, Sarah. *Employers and Eldercare*. Washington DC, Bureau of National Affairs, 1988.
2. The Travelers Employee Caregiver Survey. Hartford, Ct.: The Travelers Companies, 1985.
3. Wagner, Donna and Creedon, Michael. "Employed Caregivers" (in press) Bridgeport, Ct.: University of Bridgeport, 1988.
4. Kola, Lenore A. and Dunkle, Ruth. "Caregivers of the Elderly in the Workplace." Unpublished Monograph, Cleveland, Ohio. Case Western Reserve University, 1987.
5. Neal, Margaret. Portland State University. Personal Communication, February 26, 1988.
6. Enright, Robert B. and Friss, Lynn R. "Employed Caregivers of Brain-Damaged Adults: An Assessment of the Dual Role."

San Francisco, CA : The Family Survival Project, 1987.

7. The National Association of Area Agencies on Aging. *Eldercare Employees Survey*. Washington, DC, 1987.
8. Wagner, D.L. "Corporate Eldercare Project Findings." *Issues for an Aging America: Employees and Eldercare*. Edited by Michael A. Creedon, Washington DC.: The National Council on the Aging, Inc., 1987.
9. Brody, Elaine; Klevan, M.H. et al. Work Status and "Parent Care: A Comparison of Four Groups of Women." *The Gerontologist*, Vol. 27(2), 1987. p. 201-08.
10. American Association of Retired Persons. "Caregivers in the Workplace Survey," Washington, DC, 1986.
11. Lucas, Theodore et al. *Employer Support for Employee Caregivers*, New York: New

York Business Group on Health, 1986.

12. Wagner, Donna. "Corporate Eldercare Project Findings." Ibid.
13. Retirement Advisers Inc. "Employer Survey on Eldercare." New York: RLI, 1987.
14. Creedon, Michael A. and Wagner, Donna L. *Eldercare*. Purchase, N.Y. : Pepsico, Inc. 1986.
15. Mullady, Sarah. *Caring for the Elderly*, Stamford, Ct.: Champion International, 1987.
16. National Association of Area Agencies on Aging. Ibid.
17. McFarland, Linda. "Financial Support for Employee Caregivers." Proceedings of the National Conference on Issues for an Aging America: Employees and Eldercare. New York: The Conference Board (in press).

options for responding to the eldercare burdens of employees, which may increasingly occur simultaneously with child care obligations. Because of postponement of parenthood, the population cohort now entering their 40's, a particularly large group, is more likely to have young children than previous groups. The members of this cohort are also established in their careers and among the most valued employees. Thus, when an employee is likely to be achieving senior employee or management status, he or she is also likely to experience significant demands from children and/or older adult relatives.

Employee Assistance Programs (EAP's), which offer counseling and other services, are one avenue for providing valuable advice and help to caregivers. While these programs have gradually added child care concerns to their early focus on drug abuse and alcoholism, it is obvious they also need to address the issue of eldercare. When developing EAP contracts with outside providers, human resource executives should include both childcare and eldercare expertise in the contract specifications. If the EAP is developed internally, in-house expertise on a broad range of caregiving issues would be required.

A family session with a counselor, arranged through EAP's, could be very useful to caregivers. Because dependency of an older relative is often of sudden onset, the family response is frequently a "panic" reaction, with little formal consideration of the roles each sibling can play in caregiving. We know that, in practice, care is given by the spouse or a female child, usually the daughter who lives nearest. Professionals frequently note that the "primary" caregiver makes almost all the adaptations while others do very little.

A formal consultation with a counselor could do much to insure broader family involvement—spouse, all adult children, nephews, nieces, etc. A family consultation should be available as part of the three visits with a counselor or psychiatrist that EAP programs usually provide. Extending counseling to other family members would add little or nothing to the cost of the counseling benefit, while maximizing the caregiving capacity of the family net-

work and hence reducing stress on the employee caregiver.

In research conducted by the University of Bridgeport, half of employee caregivers said they were the primary caregiver. Such a high proportion suggests that maximizing the role of other family members could be very cost beneficial for a corporate-based eldercare support program.

### **New Caregiver Services**

Future corporate response to employee caregivers will in part be dictated by the types of "products" and services developed by the private sector. Within the past year, Work Family Directions in Boston has developed a nationwide telephone case assessment and referral system which puts employee caregivers in touch with appropriate services and supports for elderly relatives in any part of the nation. This program was implemented by IBM in January 1988 (see a title on p. 26 of this issue).

Developmental Child Care, Inc., of Westport, Conn., has produced a videotape on "How to Find Appropriate Elder-care" (with a follow-up 800 number) which has been adopted by at least 10 corporations. Eldercare Resources, Inc., also of Westport, has developed a "Pathways to Care" packet for employees which provides employee caregivers with a binder of detailed service information for any region of the country.

These are only three examples of the types of eldercare support products that are being developed. Nonprofit organizations are also involved. For example, the National Council on the Aging (NCOA) in 1987 established a family caregivers unit which provides a continuous flow of state-of-the-art information to the caregiving family for a yearly fee of \$25. NCOA also has available a briefing book for corporate executives on the eldercare issue. AARP has developed a kit of six caregiver workshops for corporate use (See page 26).

### **Ties To Public Agencies**

Corporate support for employee caregivers is clearly related to their work role—the basic rationale being that such programs help retain employees or help them to maintain a high productivity level.

Public sector support has tended to focus almost exclusively on the dependent needing care. Until recently, family care at home was a family responsibility while nursing home or hospital care was often charged to government only.

Clearly, the nation benefits when the family provides the bulk of care. If we were to rely on an institutional approach to care in the 21st century, the costs would bankrupt our society. Consequently, we can expect public policy to focus more attention on the caregiver in the future. An example of this would be current legislative initiatives providing for expanded support for adult day care through Medicare.

It is my belief that the public sector must continue to provide the bulk of formal community care services needed by the elderly—day care, respite care, meals on wheels, home care, etc.—and these services will grow in proportion to the number of frail older adults. The employer, however, can help the employee caregiver to deal with both emotional stresses and needs for information when faced with an eldercare crisis.

Employee assistance professionals and staff in agencies serving the elderly must be in regular contact regarding services, programs, and specific caregivers and their dependent elders.

Earlier in this article it was suggested that this interface depends in part on the presence of eldercare expertise on the corporate human resources staff. Knowledge of eldercare issues in the State Agency on Aging is also important. Likewise State Offices on Aging and Area Agencies on Aging should give some priority to communication with corporate human resources staff. Thus, a budgetary allocation for written materials, brochures, etc. is essential. The Administration on Aging has provided an excellent example of such a commitment through its book "Where to Turn for Help for Older Persons" which it has made available to corporate users. (See article on p. 30 of this issue.)

In addition to corporate and public programs, it is important to realize that voluntary organizations offer a broad range of services to caregivers. The Alzheimers

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**The Corporate Response – continued from page 19**

and Related Disorders Association (ARDRA), for example, has chapters in every sector of the U.S.A. and offers ongoing support to those caring for brain disorder victims. Other national organizations such as The Friends and Relatives of Nursing Home Residents or The Older Women's League also provide support for a wide variety of needs.

On the State and local levels there are a vast array of similar organizations. The Family Survival Project, for example, based in San Francisco involves thousands of families who care for brain damaged adults. Such organizations as The National Council of Catholic Women offer respite care services from volunteers. The Lions Club offers help with eye problems. Syna-

gogues and local churches provide spiritual support, transportation, social activities, weekly home visits and a variety of other assistance.

### **Conclusion**

In businesses and corporations throughout the country, it is important for EAP staff and other human resources personnel to have a basic knowledge of public and voluntary sector programs that support older adults and their caregivers. In each community there is an Area Agency on Aging, and most of these agencies have a service referral list, or booklet, detailing local resources. Such booklets ought to be on the desks of employee assistance personnel.

Often the employee's request for help will come at a time of great stress. Human resources personnel can reduce needless searching for the 'right' source of help and relieve caregivers of much of the anxiety that goes with entering an unknown service system.

Additional resources such as employee support groups, caregiver forums, booklets and service information packages can enhance the basic corporate response. As we enter the 21st century, we face a rising tide of older adults. Employee caregivers will need appropriate corporate support programs and policies. Such corporate efforts will become the norm rather than the exception as all of our social institutions react to the aging of our society. ■

JUDY MANN

## The Leave Act's Costs

**S**ometime this spring, the House of Representatives is expected to vote on the Family and Medical Leave Act—an extremely modest measure by now—which would establish a minimum standard governing leave policies in the U.S. work place for employees who have family caretaking obligations.

Quite predictably, the bill has aroused organized opposition from business led by the U.S. Chamber of Commerce, which grossly misrepresented in congressional testimony the cost of such a measure to business. If the chamber's way with numbers is representative of the business community as a whole, no wonder we have a trade deficit. The chamber told the Senate subcommittee on children, families, drugs and alcoholism that the original bill would cost businesses \$16.2 billion a year. Sen. Christopher J. Dodd (D-Conn.) had trouble swallowing that and the chamber returned with an estimate of \$2.6 billion. The General Accounting Office has priced the bill at less than \$500 million—the cost to employers of providing health coverage for employers who are on unpaid leave.

The bill is being backed by all of the Democratic presidential candidates. Sen. Albert Gore Jr. (Tenn.) is a Senate cosponsor. The Reagan administration is opposing the bill on grounds that it would hurt small businesses and that the federal government should not be mandating benefits.

The original bill has been compromised in two areas: the length of unpaid leave that workers would be entitled to take, which has been reduced, and the size of the businesses that would be covered, which has been enlarged. The House version of the bill requires public and private employers with 50 or more employees to provide up to 10 weeks of unpaid leave over a two-year period for an employee to take care of a newborn or adopted child, or a seriously ill child or parent. Employees could take up to 15 weeks of unpaid leave if they are seriously ill and would be guaranteed of returning to their jobs or equivalent jobs. The employer would have to pay the employee's health benefits during the leave.

The Senate version provides longer periods of leave and covers employers of 15 or more persons, but it falls dramatically short of the House version in one major aspect: It does not provide for leave to care for a parent who is seriously ill.

The Family and Medical

Leave Act is a response, albeit a limited one, to the changes brought on in the U.S. family by economic pressures that have propelled women out of their homes and into the work force. In 1986 more than two-thirds of U.S. women were in the work force. Caring for dependent children and parents, however, remains principally a job done by women.

An analysis by the Institute for Women's Policy Research by Robert M. Spalter-Roth and Heidi I. Hartmann looks at the cost to workers and taxpayers of not having a national leave policy. The researchers used data gathered by the Institute for Social Research at the University of Michigan from a survey of 7,000 households that are interviewed each year.

The study found that new mothers who had no leave other than vacation "were in significantly worse economic circumstances" than mothers with leave policies in the year before the birth and that their circumstances continued to decline. "When those losses are generalized to estimate the costs to all employed women who give birth without leave, this loss amounts to \$607 million annually . . . Taxpayers bear an additional \$108 million in assistance costs for those not covered by some form of parental leave."

The study found that black people, in particular, suffered heavy, long-term financial losses when they or members of their families had long-term illnesses and they did not have the right to reemployment. Unemployment hours for everyone nearly doubled after an illness. The study estimated that this resulted in an additional \$8 billion in transfer payments borne by taxpayers. "The medical leave aspect of the [act] would mitigate these costs because it would ensure the right to reemployment, thus shortening or eliminating the amount of time unemployed workers receive income assistance," the researchers suggest.

GAO estimated that the cost to business of providing parental leave under the House version at \$102 million a year. The study found that a lack of leave and the resulting unemployment costs workers and taxpayers \$715 million a year. Opponents of the bill don't want the government mandating employee benefits. Under the present system, however, the government has mandated an employer benefit in that taxpayers are subsidizing leave policies that result in unemployment and welfare.

*Attachment  
B*

*Employer Support  
for*



*Employee Caregivers*

The New York Business Group on Health, Inc.  
622 Third Avenue - 34th Floor  
New York, New York 10017  
(212) 808-0550

*Attachment  
C*

*Additional copies: Members \$15.00; Non-members \$30.00*

The purposes of this study are: to assess the awareness of corporate members of the NYBGH about the problems of employees who have responsibility of caring for an incapacitated dependent family member at home, and to determine the programs and policies used in companies to deal with employee caregiver problems. During the 1960's, precipitated by the influx of women into the labor force, companies were forced to consider employer-supported child care, and attention to this issue continues today. More recently, a second issue, also related to the growing female workforce, has emerged concerning the care of chronically disabled or incapacitated family members (such as an impaired child, an elderly or disabled spouse or parent). The increase in numbers of individuals requiring some form of dependent care (notably, the elderly and impaired children), coupled with the diminishing capability of the family (particularly, women) to meet this need, creates a situation in which other institutions within our society must attempt to fill the gap.

The NYBGH survey is an important first step in examining the role of business and industry in regard to these issues. Three dimensions have been studied:

- knowledge — the degree to which responding companies have identified the needs of employee caregivers and the prevalence of work-related problems;
- attitudes — the degree to which responding companies believe that they are responsible for the personal and family problems of workers;
- behavior — the degree to which responding companies have initiated and implemented policies and programs for employee caregivers.

Findings from this descriptive study of a relatively small number of companies in the Greater New York area suggest that there is some disparity among these three dimensions of the employer's perspective. Overall, most companies feel that the employer should be responsible for meeting the needs of employees, and at least half say they know of employees with caregiving problems; yet, very few have provisions or policies specifically for these employees. The most consistent finding is that corporate awareness, attitudes, and behavior regarding the needs of employee caregivers are associated with a variety of organizational characteristics, including: size (number of employees and annual gross volume) and composition of workforce (age and sex). In general, the largest companies (2500 or more employees and annual gross volume of \$10 million or more) and those with a predominantly female (greater than 50 percent) and younger (greater than 50 percent under age 45) workforce are more likely than others to identify caregiver needs, report a prevalence of work-related problems, feel responsible for meeting the needs of employees, and provide policies and programs to meet these needs.

Because these findings point to organizational characteristics associated with caregiver needs and programs, they also suggest that companies should examine their own workforce composition, the extent of caregiver problems, and mechanisms for dealing with these problems. A company policy toward employee caregivers should be considered and guidelines for handling such problems developed and disseminated. Sharing information with other companies may be helpful in devising strategies to respond to current societal needs.

# Introduction

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The quality of worklife, productivity, the relationship of people to work, and the effects of stress on employee well-being seem to be established as issues of the 1980's. Employers have learned that, while their primary focus is on what happens at the workplace, they must also be cognizant of the personal problems arising in the employees' family life and in the community (NYBGH, 1983). With this, some employers have begun to realize that the traditional benefit plans, initiated during the post-war period, may no longer be sufficient to meet the needs of all or, perhaps, most employees (Bloom and Martin, 1983).

One issue which has received virtually no organized worksite attention involves employee caregivers, those who are responsible for the care of an incapacitated or chronically disabled dependent family member (for example, a parent, spouse, or child). Traditionally, the role of caregiver has been assigned to women. A number of social and demographic changes in our society within the past decade suggest that the demand for the care of dependent family members is increasing at the same time that traditional caregivers, women, are becoming less available to fill that role. While employee caregivers have yet to be recognized as a significant problem in the workplace, there is reason to believe that this issue is becoming increasingly more important.

## THE EMPLOYEE CAREGIVER PROBLEM

Family provided home care for dependent family members has a long established history in our society (Horowitz, 1981; Sanders and Seelback, 1981; Soldo and Myllyluoma, 1983). The demand for the care of family members is increasing due to some demographic and social changes in our society within the last decade:

- (1) There has been a notable increase in two segments of the population who are most likely to need some form of dependent care:
  - the elderly (age 65 and older)
  - individuals with some form of activity limitation
- (2) The family's traditional role as caregiver may be threatened due to:
  - increased participation of women in the workforce
  - increased geographic mobility
  - decreased size of American families
- (3) Concurrent efforts to reduce institutionalization in favor of home care may put further pressure on families. There is both a shortage of inpatient facilities to house all the people who might be eligible for them and an inability to afford such expensive care for all those who might wish to have it. At the same time, there is growing awareness that with formal (e.g., home care agencies, meals-on-wheels, day care centers) and informal (e.g., family, neighborhood and community groups) support systems, such individuals can live healthier, happier, and more meaningful lives in their own homes with much less of a drain on their own and governmental financial resources.

## EMPLOYER RESPONSIBILITY

The business community, along with the non-profit service sector, the government, and the public, has begun to identify the needs of employees and their families and to experiment with both long and short-term solutions to create a balance between work and non-work domains. One area which has received considerable attention since the 1960's is employer-supported child care (Burud, et al, 1984). Although the number of employers with child care programs remains small, there is evidence that substantial growth has occurred in more recent years. Current tax legislation, in particular, the Dependent Care Assistance Program of the 1981 Economic Recovery Tax Act (ERTA) has contributed to this growing support by employers. This legislation makes employer contributions for dependent care tax free for employees while still qualifying as a tax deductible business expense for the employer (Anderson, 1983; William M. Mercer-Meidinger, Inc., 1983).

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It has been less well-recognized, however, that the range of family caregiving responsibilities of workers may extend beyond children to include other dependent family members as well. A large, but yet unidentified number of workers, typically women, is responsible for the care of a chronically disabled spouse or an elderly parent. Studies have suggested that such family caregivers are often strained financially, physically and emotionally (Cantor, 1983; NYSOA, 1983). The extent to which the competing demands of work and family care may actually inhibit labor force participation or affect either the quality of family care or job performance has not been adequately explored.

Perhaps the major reason for the lack of attention to this issue by employers has been the focus on the problems of the patient, the recipient of the care. These have been addressed as community, societal and governmental affairs by advocacy groups on behalf of the patients and by government agencies as providers or payers of the care they require. However, except for members of coalitions like NYBGH which do concern themselves with the health care needs of the whole population and the total health care delivery system, employers have avoided involvement in them. (This is beginning to change as employers who provide health care benefits to retirees and their dependents are beginning to recognize the financial implications of that obligation.)

The ability of employee caregivers to perform adequately on the job should be a concern of the employer. These are generally older, mature, senior employees whose knowledge, experience and stability make them valuable assets to the enterprise. Since many are in supervisory or leadership positions, their lapses may be reflected in the performance of those who report to them as well as their peers.

For the employee caregivers themselves, keeping the job by maintaining adequate performance is equally important. Their earnings are important not only to them but often also assist in providing for the care of their dependents. Transcending the financial implications in many instances is the significance of the job in terms of a career, self-realization, or simply as an escape from the confinement of the household.

The issue, then, is what is the responsibility of the employer to assist employee caregivers to play their dual roles and how may that responsibility be most effectively discharged. There are three potential beneficiaries:

- the employees whose health and well-being are preserved;
- the employer who profits from their continuing productivity and their lower utilization of health care and other benefits; and
- the dependents for whom the employees' support is essential.

### *THE NYBGH SURVEY*

To address this issue, the NYBGH initiated a program to determine the extent to which the problems of employee caregivers and their effects on the workplace have been identified and addressed by employers and, based on these findings, to propose strategies for dealing with caregiver problems in the workplace. This paper reports the findings of the initial phase of that program, a survey of NYBGH members which focuses on employers' views of and experience with employee caregivers.

# Alaska State Legislature

Legislative Research Agency



P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 163-3991  
Fax: (907) 163-3351

March 2, 1990

## MEMORANDUM

TO: Representative Kay Brown

ATTN: Mary Core

FROM: Maria Gladziszewski *MG*  
Legislative Analyst

RE: Family and Parental Leave Statutes in Other States  
Research Request 90.252

You asked this agency if any states have passed family or parental leave legislation since March 1989, when a memorandum on family and parental leave was prepared by the House Research Agency (89.320). Attached are updated versions of Tables 1 and 2 from the 1989 memorandum.

The number of states with statutory provisions for family or parental leave has doubled in the past year. Seven state legislatures have passed family or parental leave legislation in the last year, bringing the total number of states that have statutory provisions for family or parental leave to 12.<sup>1</sup> Two states (North Carolina and Vermont) have passed statutory provisions for maternity leave in the past year, bring the total number of states that have statutory provisions for maternity leave to 23.

I hope you find this information useful. If you have any additional questions, please do not hesitate to contact this agency.

Attachments

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<sup>1</sup>As of March 1989, Connecticut, Maine, Minnesota, Oregon, Rhode Island, and Wisconsin had passed family or parental leave legislation. Since then, legislators in New Jersey, North Dakota, Oklahoma, Pennsylvania, Washington, and West Virginia have passed family or parental leave legislation. In addition, the Connecticut legislature passed provisions adding certain private sector employers to the public sector employers already mandated to provide family or parental leave.

**TABLE 1**  
**STATES WITH STATUTORY PROVISIONS FOR FAMILY, PARENTAL, OR MEDICAL LEAVE**

"Family leave" guarantees men & women time to care for a new child or seriously-ill child, spouse, or parent.

"Parental leave" guarantees men & women time to care for a newborn or newly-adopted child; may include care for a seriously ill child.

"Medical leave" guarantees time off for an employee's own serious health condition (including pregnancy and childbirth).

STATE	PURPOSES	WEEKS	EMPLOYERS COVERED	EFFECTIVE DATE OF LEGISLATION
Connecticut 1987 Conn. Pub. Acts 87-291	Family leave	24/2 years	public sector	July 1988
	Medical leave	24/2 years	public sector	
CONNECTICUT*	Family or medical leave	12/2 years (to be raised to 16 beginning 1991)	250+ employees	July 1990
	Family or medical leave	12/2 years (to be raised to 16 beginning 1992)	100-249 employees	July 1991
	Family or medical leave	12/2 years (to be raised to 16 beginning 1993)	75-99 employees	July 1992
Maine Me. Rev. Stat. Tit. 26, Sections 843-49	Family or medical leave	8	25+ employees	July 1988
Minnesota Minn. Stat. Sec. 181.930 -.980	Parental leave	6	21+ employees	August 1987
NEW JERSEY*	Family leave	12	not available	not available
NORTH DAKOTA*	Family leave	16	state employees	not available
OKLAHOMA*	Family leave	To be specified by regulation	state employees	not available
Oregon Or. Rev. Stat. Sec. 659.010-.121 659.360-370	Parental leave	12	25+ employees	January 1988
PENNSYLVANIA*	Parental leave for a new child	24	state employees	not available
	Medical leave	24	state employees	
Rhode Island RI ST 28-48-1 to 9	Parental leave; includes serious illness of a child	13	private sector, 50+ employees; public sector, 30+ employees	July 1987
WASHINGTON*	Parental leave; includes terminal illness of a child	12/2 years	state employees; local governments, 100+ employees; private sector, 100+ employees	September 1989
WEST VIRGINIA*	Family leave	12	state employees	not available
Wisconsin 1987 Wis. Act 287	Parental leave	6	50+ employees	April 1988
	Family leave for serious illness of family member	2	50+ employees	
	Medical leave	2	50+ employees	

**NOTES:**

The California legislature enacted a parental leave bill in 1987 that would have required employers with 25 or more employees to allow 16 weeks parental leave every two years. The bill was vetoed by Governor Deukmejian.

\* States in capital letters were added to this table in February 1990; legislation in these states passed between March 1989 and February 1990.

Source: Women's Legal Defense Fund; National Conference of State Legislators.

Prepared by the House Research Agency, March 1989 (89-320A).  
 Revised by the Legislative Research Agency, February 1990 (90.252A).

TABLE 2  
STATES WITH STATUTORY PROVISIONS FOR MATERNITY LEAVE

STATE	LEAVE	WEEKS	EMPLOYERS COVERED
Arkansas AR ST 21-4-209	Maternity disability	24	state employees
California 2 Cal. Admin. Code 7291.2(d)(3)	Maternity disability	16	all
Colorado 3 Col. Code of Regs 708, Sec 8	Maternity leave for a reasonable period		all
Delaware 14 Del. C. 1323	Maternity disability	12	public school teachers
Florida Fl St 110.221	Maternity disability	24	state employees
Hawaii Regs 12-23-1 to 12-23-22, 12-12-58	Maternity disability for a reasonable period		1+ employees
Illinois Ill Rev Stat ch 108 1/2 p 17-134	Maternity leave		public school teachers
Indiana IN ST 20-6.1-6-4	Leave of absence up to one year following birth		public school teachers
Iowa Iowa Code 601A.15-.17	Maternity disability	8	4+ employees
Kansas 1 Kans. Admin. Regs. 21-32-6	Maternity leave for a reasonable period		4+ employees
Kentucky Ky. Rev. Stat. 337.015	Adoption of a child under age 7	6	8+ employees
Louisiana LSA-RS 23:1007	Maternity disability	16	26+ employees
Maryland	Maternity leave		state employees
Massachusetts* Mass. Gen. Laws Ch. 149, Sec. 105D	Birth or adoption of a child under age three; Female employees only	8	6+ employees
Missouri MO ST 168.122	Grants Board of Education authority to establish maternity leave policy		public school employees
Montana MT ST 49-2-310 to 49-2-311, 49-2-501 to 49-2-509	Maternity leave for a reasonable period		1+ employees
Nevada NV ST 608.159	Maternity disability		employers who grant medical disability
New Hampshire NH ST 354-A:9-10	Maternity disability		6+ employees
NORTH CAROLINA ***	Maternity disability for period of disability		state employees
Pennsylvania PA Admin Code 41.104, 42.11-141	Adoption		employers that grant leave for childbearing & child care; 4+ employees
Tennessee** TN ST 50-1501 to 50-1505	Maternity disability and nursing	16	100+ employees
VERMONT ***	Parental & pregnancy disability for women	12	not available
Washington Wash. Admin. Code 162-30-020	Maternity leave for period of physical disability		1+ employees

\* The 1972 Massachusetts maternity leave law was amended in December of 1984 to include leave for adoption of a child under age three.

\*\* The Tennessee law as originally enacted required leave for female employees for the birth or adoption of a child. Because of an opinion issued by the Tennessee Attorney General in December, 1988, the Tennessee legislature revised the statute to make it applicable only to natural mothers.

\*\*\* States in capital letters were added to this table in February, 1990.

Source: Women's Legal Defense Fund; National Conference of State Legislators.

Prepared by the House Research Agency, March 1989 (89-320B).  
Revised by the Legislative Research Agency, February 1990 (90-252B).

# Family and Medical Leave

INTERNATIONAL  
COMPARISONS

## GOVERNMENTS WITH MINIMUM STANDARDS FOR PARENTAL OR MATERNITY LEAVE

	Duration of leave (weeks)	Number of paid weeks and percent of normal pay (paid by government and/or employer)
AUSTRIA	16-52	20 weeks / 100%
CANADA	17-41	15 weeks / 60%
FRANCE	18	16 weeks / 90%
FINLAND	35	35 weeks / 100%
W. GERMANY	14-26	14-19 weeks / 100%
ITALY	22-48	22 weeks / 80%
JAPAN	12	12 weeks / 60%
SWEDEN	12-52	38 weeks / 90%

Source: Women at Work, International Labor Office Global Survey

See other side for a full listing of countries with some  
form of Required Parental or Maternity Leave

COUNTRIES WITH SOME FORM OF PARENTAL OR MATERNITY LEAVE

ASIA AND THE  
PACIFIC (18)

Afghanistan  
Australia  
Burma  
Fiji  
India  
Indonesia  
Japan  
Democratic Kampu-  
chea  
Lao People's  
Dem. Republic  
Malaysia  
Mongolia  
Nepal  
New Zealand  
Pakistan  
Philippines  
Singapore  
Sri Lanka  
Thailand

NORTH AND SOUTH  
AMERICA (27)

Argentina  
Bahamas  
Barbados  
Bolivia  
Brazil  
Canada  
Chile  
Colombia  
Costa Rica  
Cuba  
Dominican Republic  
Ecuador  
El Salvador  
Grenada  
Guatemala  
Guyana  
Haiti  
Honduras  
Jamaica  
Mexico  
Nicaragua  
Panama  
Paraguay  
Peru  
Trinidad and Tobago  
Uruguay  
Venezuela

AFRICA (37)

Algeria  
Angola  
Benin  
Botswana  
Burkina Faso  
Burundi  
Cameroon  
Central African  
Republic  
Chad  
Congo  
Egypt  
Equatorial Guinea  
Ethiopia  
Gabon  
Ghana  
Guinea  
Ivory Coast  
Kenya  
Lesotho  
Liberia  
Libyan Arab  
Jamahiriya  
Madagascar  
Mali  
Mauritania  
Mauritius  
Morocco  
Niger  
Nigeria  
Rwanda  
Senegal  
Somalia  
Swaziland  
Tanzania  
Togo  
Tunisia  
Uganda  
Zaire

EUROPEAN SOCIALIST  
COUNTRIES (11)

Albania  
Bulgaria  
Byelorussian SSR  
Czechoslovakia  
German Democratic  
Republic  
Hungary  
Poland  
Romania  
Ukranian SSR  
USSR  
Yugoslavia

EUROPEAN MARKET  
ECONOMY COUNTRIES  
(19)

Austria  
Belgium  
Denmark  
Finland  
France  
Federal Republic of  
Germany  
Greece  
Iceland  
Ireland  
Italy  
Luxembourg  
Malta  
Netherlands  
Norway  
Portugal  
Spain  
Sweden  
Switzerland  
United Kingdom

THE MIDDLE EAST  
(15)

Bahrein  
Democratic Yemen  
Iran  
Iraq  
Israel  
Jordan  
Kuwait  
Lebanon  
Oman  
Saudi Arabia  
Syrian Arab  
Republic  
Turkey  
United Arab  
Emirates  
Yemen

Source: Family Medical Leave Coalition, Washington D.C.

**FINDINGS:**

In the heated debate over the hypothetical costs of a national parental and medical leave policy, this study estimates the current economic costs of the lack of a national policy.

Table 1: Annual Costs of Absence from Work, Wage, and Job Loss Due to Dependent Care and Illness

	Aggregate Annual Earnings Lost to Employees	Aggregate Annual Cost to Taxpayers	Total
Costs of Childbirth Dependent Care, Illness Self or Others	\$ 100 Billion	\$ 8 Billion	\$ 108 Billion

Table 2: Annual Costs of Absence from Work, Wage, and Job Loss Due to Lack of Parental Leave (leave for newborn/newly adopted children)

	Aggregate Annual Earnings Lost to Employees	Aggregate Annual Costs to Taxpayers	Total
Costs of Not Having Parental Leave	\$ 607 Million	\$ 107 Million	\$ 715 Million

These tables show the cost of two kinds of situations. The first is the cost of an event -- childbirth, worker's own illness, children's illness, elder care -- in terms of lost wages to workers and extra costs to taxpayers because those who experience these events receive more assistance from government programs. The second is the cost to women workers and taxpayers of the lack of parental leave (the right to return to jobs) after the birth or adoption of a child.

The calculations of earnings losses and added taxpayer costs are based on comparisons of lost wages and receipt of benefits between those who do and do not experience the events or do and do not have parental leave.

For more information, contact Dr. Heidi Hartmann, Director of the Institute for Women's Policy Research, or Dr. Roberta Spalter-Roth at 202/785-5100.

**9 to 5, New Workforce Policies and the Small Business Sector: Is Parental leave Good for Small Business? A Multi-variate Analysis of Business Employment Growth.**

This study uses data from the Small Business Administration on private sector employment between 1976 and 1986 to compare seven of twenty-one states which currently have some form of parental leave policy, with the seven top-ranked "pro-business" states. The seven parental leave states are California, Colorado, Connecticut, Kansas, Massachusetts, Montana, and Washington. The seven top-ranked "pro-business" states are, in order,

(over)

Indiana, Tennessee, North Carolina, South Dakota, Florida, Missouri, and Nebraska. These states are ranked as having the best general climate for manufacturing by Grant Thornton, Inc., an international accounting and management consultant firm.

**FINDINGS:**

According to the 9 to 5 study, small business employment does considerably better in the parental leave state, growing at a rate of 21% greater than small businesses in states without parental leave policies. \*

Employment growth is higher in all categories in the parental leave states:

\* 46% v. 38%  
= 8% growth.

Employment in firms with fewer than 20 employees grew by 32% in parental leave state compared to 22% in pro-business states.

Employment in firms with less than 50 employees grew by 36% in parental leave states compared to 27% in pro-business states.

Total employment in parental leave states grew by 46% compared to 38% in pro-business states.

The Study results also show that:

There is no negative effect of parental leave policies on small business.

The social costs of NOT providing parental leave are far greater than the costs of regulation.

The policies will not interfere with the United States' ability to compete in the world economy.

For more information, contact Deborah Meyer, 9 to 5, 216/566-9308.

(end)

Family Medical Leave Coalition  
Washington D.C.

FINDINGS FOR THE STATE OF ALASKA

In ALASKA, a state without any state-level leave policy, with a work force of approximately 200,000 employees, an estimated 5,000 employed women give birth or adopt a child annually, an estimated 8,000 employed men have wives who give birth or adopt a child, and an estimated 26,000 women and 18,000 men are off the job for more than 50 hours due to their own or other family members' illness. These workers lose an estimated \$ 128 million dollars annually as a result of these compelling family needs. Taxpayers' share of these losses is approximately \$ 17 million dollars annually, because workers who experience childbirth, illness of family members or their own illness receive assistance from government programs such as unemployment insurance, supplemental security income and welfare.

The share of these losses that can specifically be attributed to the lack of a parental leave policy in ALASKA and would be ameliorated by the proposed federal Family and Medical Leave Act is approximately \$ 2.6 million dollars annually in costs to families of employed women who give birth or adopt a child and approximately \$ 400 thousand dollars to taxpayers (because women who do not have leave lose more earnings and receive more assistance from government programs than new mothers who do have job protected leaves).

These costs are underestimates, because they do not include the earnings losses and assistance payments to people who lose their jobs due to their own illnesses or those of their children or other family members. Because of the lack of data, estimates of the costs due to the lack of job-protected leave for illness or care of others could not be calculated, but IWPR's 1988 research shows that workers who have experienced above-average absence (50 hours or more) from work due to illness subsequently suffer twice the unemployment (compared to workers who had shorter or no absences). The higher unemployment of workers who had illness-related absences indicates that such workers are looking for work but are unable to find it, because they did not have leave that allowed them to return to their former jobs. IWPR concludes that

workers absent from work due to their own or others' illnesses also suffer substantial losses due to the lack of a leave policy.

Although the proposed Family and Medical Leave Act would not prevent all losses, an estimated 50 percent of male employees and 41 percent of female employees would be covered under the Senate version, and an estimated 41 percent of male employees and 34 percent of female employees would be covered under the House version. Of these covered employees, IWPR estimates that approximately 4,000 employees will take advantage of the law's provisions annually. Although about half of all employees in ALASKA would be covered, only 9 percent of the total of 15,354 firms would be subject to the provisions of the Senate version of the bill and only 3 percent would be subject to the provisions of the House version.

In sum, the citizens of ALASKA lose millions of dollars each year as a result of losses in wages, jobs and taxes due to childbirth, family care and illness. A share of these losses would be mitigated by national family and medical leave legislation. The costs of the legislation to employers, as estimated by the U.S. General Accounting Office, appear to be significantly less than the losses incurred under the current system, which is characterized by a patchwork of diverse employer policies.

INSTITUTE FOR WOMEN'S POLICY RESEARCH

UNNECESSARY LOSSES

EARNINGS LOSSES AND TAXPAYER COSTS

IN ALASKA

Table 1: Annual Costs of Additional  
Absence from Work, Wage and Job Loss  
Due to Lack of Parental Leave  
(leave for newborn/newly adopted children)

	Aggregate Annual Earnings Lost to Working Women and Their Families	Aggregate Annual Cost to Taxpayers
Costs of Not Having Parental Leave	\$ 2.6 million	\$ 400 thousand

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This table shows the cost to working women and their families and taxpayers of the lack of parental leave (the right to return to jobs) after the birth or adoption of a child. Women workers who do not have leave lose even more wages and receive even more assistance from government programs after childbirth than women workers who do have the right to return to their jobs. These losses are a portion of the total costs that workers and taxpayers incur due to family needs related to childbirth, family care, and illness.

The calculations of earnings losses and added taxpayer costs are based on comparisons of lost wages and receipt of benefits between those who do and do not have parental leave.

SOURCE: Institute for Women's Policy Research, based on special tabulations from the Panel Study of Income Dynamics adjusted by data from the U.S. Bureau of the Census.

INSTITUTE FOR WOMEN'S POLICY RESEARCH

ALASKA FACT SHEET

Number of ALASKA's Employers, all size firms:<sup>1</sup> 15,354

ALASKA's Employed Civilian Labor Force<sup>2</sup>

	Age 16-45	Age 16-55	Ages 16+
Women	83,000	99,000	103,000
Men	104,000	111,000	119,000

State to U.S. earnings ratio (1980):<sup>3</sup> Women 1.48 Men 1.36

Childbirth and illness data for workers<sup>4</sup>

Number of Working Women (16-45) Who had Births: 5,000

Number of Working Men Whose Wives had Births: 8,000

Number of Workers Who had an Illness of 50 Hours or more (Ages 16-55):

Women	26,000	Men	18,000
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Numbers/Percent of ALASKA Labor Force/Employers covered under proposed federal FMLA

Labor Force <sup>4</sup>	House Version (50 or more employees)		Senate Version (20 or more employees)	
	Number	Percent	Number	Percent
Total Women	35,000	34	42,000	41
Total Men	49,000	41	60,000	50
Employers <sup>1</sup>	500	3	1,400	9

Estimated number of ALASKA workers likely to use provisions of FMLA (Senate version) annually:<sup>5</sup> 4,000

Sources: 1 CBP 2 BLS 3 1980 Census 4 IWPR Study 5 IWPR/GAO

ALASKA

Related State Legislation \*

Current Law

None

Recent Legislative Activity

1987-88 - Parental leave legislation was proposed but not enacted.

Pending Legislation \*\*

H.B. 155

Sponsored by:

Representative Kay Brown  
(907) 465-3784

Type:

Family leave for pregnancy, birth, adoption, illness of child, spouse or parent

Length of leave:

18 weeks per 2 years

Minimum number of employees:

21

Minimum employment time:

6 months for full-time employees, 12 months for half-time employees

Job reinstatement:

Same or substantially similar job

Wage replacement:

None required

Status:

In Finance Committee

Contact:

Ruth Lister  
Alaska Women's Commission  
3601 C Street, Suite 742  
Anchorage, AK 99801  
(907) 561-4227

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\* Prepared by the Women's Legal Defense Fund, 2000 P St., N.W., Suite 400, Washington, D.C. 20036, (202) 887-0364 (July, 1989).

\*\* Information current as of June 22, 1989. The status of pending legislation is subject to change. Legislative updates are available from state contact(s).