

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5650 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

34

# STATE OF ALASKA THE LEGISLATURE

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Mary Van Nimwegen

H. HESS 3-15-89

H. HESS 2-16-89

H. HESS 3-28-89

Original sponsors: Brown and Ellis

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 152 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a geographic information tech-  
7 nology program at the University of Alaska Anchorage;  
8 and providing for an effective date."

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

10 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

11 (1) geographic information systems are useful tools for managing  
12 vast quantities of geographic data essential to natural resources develop-  
13 ment, environmental assessment, urban and regional planning, engineering  
14 design and drafting, land records management, and other activities of the  
15 state and local governments;

16 (2) the effective use of geographic information technology has  
17 the potential to provide substantial benefits to the state and local gov-  
18 ernments through efficiencies from automation, increased capabilities for  
19 analysis, and the provision of better data for decision making;

20 (3) the state and local governments have made major financial  
21 investments in geographic information systems and data bases, but these  
22 efforts have not been coordinated for maximum utility;

23 (4) a need exists to increase public and agency access to digi-  
24 tal geographic information, and to increase the capability for data inte-  
25 gration and exchange among agencies;

26 (5) a demand exists in state and local agencies and private  
27 industry for trained technicians and professionals in the field of geo-  
28 graphic information technology;

29 (6) the establishment of a geographic information technology

1 program at the University of Alaska Anchorage will provide educational and  
2 local employment opportunities for Alaskans in a rapidly growing, multi-  
3 disciplinary field that has many applications in the state and will provide  
4 state and local agencies and the public with access to advances in geo-  
5 graphic information technology;

6 (7) the establishment of a geographic information technology  
7 program at the University of Alaska Anchorage will enhance the curricula in  
8 a number of program areas throughout the university system, including  
9 surveying, the natural sciences, civil and mineral engineering, geography,  
10 computer sciences, agriculture and land resources management, fisheries,  
11 and ocean sciences;

12 (8) the establishment of a geographic information technology  
13 program at the University of Alaska Anchorage is consistent with the uni-  
14 versity's missions of conducting and sponsoring research in applied tech-  
15 nologies, and offering relevant educational opportunities in growth fields,  
16 and will assist the university in its efforts to analyze global environ-  
17 mental problems such as arctic haze and ozone depletion.

18 \* Sec. 2. AS 14.40 is amended by adding a new section to read:

19 Sec. 14.40.083. ESTABLISHMENT OF GEOGRAPHIC INFORMATION TECH-  
20 NOLOGY PROGRAM AT UNIVERSITY OF ALASKA ANCHORAGE. The University of  
21 Alaska shall establish a geographic information technology program at  
22 the University of Alaska Anchorage. The geographic information tech-  
23 nology program may

24 (1) develop and expand the geographic information system  
25 curriculum of the University of Alaska at its various campuses, in-  
26 cluding the possible establishment of undergraduate and masters pro-  
27 grams;

28 (2) develop and sponsor land record and geographic informa-  
29 tion system training workshops and continuing education seminars;

1 (3) undertake applied research projects that apply geo-  
2 graphic information technology to state issues and problems;

3 (4) provide information on the availability of federal,  
4 state, municipal, and other sources of geographic information, includ-  
5 ing aerial photography and digital data bases related to surveying and  
6 land records, natural resource inventories, and related data;

7 (5) prepare and publish on a regular basis information  
8 relating to automated geographic and cartographic information, data,  
9 and capabilities;

10 (6) assist state agencies and municipalities in the devel-  
11 opment of policies, procedures, and capabilities for public access to  
12 automated geographic information;

13 (7) recommend, in consultation with the Telecommunications  
14 Information Council and affected state and local agencies and advisory  
15 boards, model standards and strategies relating to the implementation,  
16 indexing, documentation, mapping, data exchange, and other aspects of  
17 land records management and geographic information system development;

18 (8) report annually to the legislature and the Telecommuni-  
19 cations Information Council regarding the coordination, consolidation,  
20 and improvement of mapping and geographic information system services  
21 and programs in the state.

22 \* Sec. 3. AS 14.40.083 is repealed.

23 \* Sec. 4. Section 3 of this Act takes effect July 1, 1994.

24 \* Sec. 5. Except for sec. 3 of this Act, this Act takes effect July 1,  
25 1989.

HB

153

Original sponsors: Brown and Ellis

Funding Information  
General Fund \$335,000  
Other Funds -0-  
\$335,000

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 153 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making special appropriations to the Univer-  
7 sity of Alaska for the geographic information tech-  
8 nology program; and providing for an effective date."

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

10 \* Section 1. The following sums are appropriated from the general fund  
11 to the University of Alaska for the purposes expressed for the geographic  
12 information technology program

13 (1) at the University of Alaska Anchorage:

14 (A) \$144,000 for

15 (i) a half-time faculty, half-time program director;

16 and

17 (ii) a senior geographic information system analyst;

18 (B) \$65,000 for the cost of staff training, publication  
19 development, supplies, and program support;

20 (2) at the University of Alaska Fairbanks:

21 (A) \$66,000 for a faculty position in basic and advanced  
22 geographic information systems instruction;

23 (B) \$60,000 for a geographic information systems techni-  
24 cian.

25 \* Sec. 2. The unexpended and unobligated balances of the appropriations  
26 made by this Act lapse into the general fund June 30, 1990.

27 \* Sec. 3. This Act takes effect on the effective date of the section of  
28 an Act enacted by the Sixteenth Alaska State Legislature that establishes a  
29 geographic information technology program at the University of Alaska.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
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Mary Van Nimwegen

H. HESS 2-16-89  
H. HESS 3-28-89

HB

155

# HOUSE COMMITTEE REPORT

(7)

Date Referred: April 10, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 4/24/89

The HEALTH, EDUCATION, & SOCIAL SERVICES 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:

- [X] be replaced with CS HB 155 (HESS) [X] the same title  
[ ] a new title  
[ ] have attached amendment(s)  
[X] 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 \_\_\_\_\_  
[ ] zero fiscal note \_\_\_\_\_  
[ ] zero with analysis \_\_\_\_\_

- [X] fiscal note(s) 4/14/89 Labor  
[ ] zero fiscal note(s) \_\_\_\_\_  
[ ] zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

[Signature] Ellis

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

[Signature] GOLL  
[Signature] JACKO

<u>[Signature]</u> Davis		✓	

[Signature] Ellis  
Chairman's Signature

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 155 (L&C)  
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 Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		51.0	51.0	51.0	51.0	51.0
TRAVEL		6.0	6.0	6.0	6.0	6.0
CONTRACTUAL		5.4	5.4	5.4	5.4	5.4
SUPPLIES		0.4	0.4	0.4	0.4	0.4
EQUIPMENT		1.2	0.0	0.0	0.0	0.0
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	64.0	62.8	62.8	62.8	62.8

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		64.0	62.8	62.8	62.8	62.8
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	64.0	62.8	62.8	62.8	62.8

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

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, 1989 is assumed.

Prepared by: Tom Stuart, Director Phone: 264-2452  
Division: Labor Standards & Safety Date: 3/30/89

Approved by Commissioner: Jim Sambson Date: 3/30/89  
Agency: Department of Labor

Distribution (by preparer) :

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

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		Justification		
1	2	3		
Salary	<b>\$37,356</b>	<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>		
Benefits	<b>13,735</b>			
Premium Pay				
Other				
Total Personal Services		<b>\$51,091</b>		
Travel		<b>6,000</b>		
Contractual		<b>5,400</b>		
Commodities		<b>400</b>		
Equipment		<b>1,200</b>		
Other				
Total Cost		<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				

**Request For  
New Position**

Agency Labor  
 BRU Labor Standards & Safety  
 Component Wage & Hour

Page 2 of 2  
 Revised Date

**FY 89**

**STATE OF ALASKA 1989 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:**

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Revision Date: \_\_\_\_\_ Bill Version: HB 155  
 Title: An act relating to employee health insurance coverage... Publish Date: 2/8/89  
 Sponsor: Brown, Ulmer, Gruenberg... Agency Affected: Alaska Court System  
 Requestor: House HESS BRU: Trial Courts  
 Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

**CAPITAL** . . . . .

**REVENUE** . . . . .

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

POSITIONS:							
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8228  
 Division: Alaska Court System Date: 03/07/89  
 Approved by: *Arthur H. Snowden, II* Arthur H. Snowden, II, Administrative Director Date: 03/07/89  
 Agency: Alaska Court System

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

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
Title: \* \_\_\_\_\_ BRU: Personnel

Sponsor: Brown, Ulmer, Gruenberg, Ellis Components: Centralized Administrative  
Requestor: and Spinnoff Services

\* An Act Relating to Employment Rights based on Pregnancy, Childbirth and Related Conditions and Adoption.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	2	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. Although full implementation of this legislation would result in costs throughout state government, these costs cannot be quantified accurately.

Prepared By: David K. F. Otto, Director *DKFO* Phone: 465-4430  
Division: Personnel Date: \_\_\_\_\_

Approved by Commissioner: John M. Andrews *JMA* Date: 3/7/89  
Agency: Department of Administration

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

CONTINUATION of FISCAL NOTE ANALYSIS

HB 155

Current law, AS 39.20.225(b)(4), entitles female employees to a maximum of nine weeks of leave for childbirth. Collective bargaining agreements are consistent with this statute. HB 155 would:

1. Increase the maximum leave entitlement associated with childbirth to 18 weeks;
2. Provide an 18 week leave entitlement for adoption;
3. Entitle male employees to take leave in association with birth or placement of a child;
4. Entitle an officer or employee to 18 weeks of leave to care for a child, spouse or parent who has a serious health condition.

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. This legislation does not require that employees take the 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.

Prepared by:  
Rep. Kay Brown  
April 18, 1989

By: Brown, Ulmer, Gruenberg,  
Ellis, and Spohnholz

**CS HB 155 (L & C), "An Act relating to employment rights based on pregnancy, childbirth, and related conditions, and family leave."**

CS HB 155 (L & C) would allow family leave for the birth or adoption of a child, and to care for a sick child, spouse or parent. It would grant re-employment rights to employees taking unpaid family leave, and would promote the stability and economic security of families. Leave for the birth or adoption of a child would enable a parent to develop emotional bonding through participation in the child's early development and childrearing.

The "family leave" bill has been modelled after H. R. 925, federal legislation by Rep. Pat Schroeder of Colorado.

**The bill balances the demands of the workplace with the needs of families:**

- allows up to 18 weeks of unpaid leave within a 12-month period for each birth or adoption in a family;
- allows up to 18 weeks of unpaid leave to care for a sick child, spouse, or parent during any 24-month period;
- allows both male and female employees family leave benefits;
- requires that an employer reinstate the employee in the same or a substantially similar position at the end of the leave;
- protects 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;
- allows pregnant employees accrued sick, disability, or other leave if it is available to other temporarily disabled employees;

- requires that labor negotiation agreements provide comparable benefits and leave for pregnancy, childbirth, related medical conditions, and family leave; and
- provides for investigation and conciliation of complaints by the Department of Labor.

**The bill accomodates the legitimate interests of employers, and includes the following "pro-business" provisions:**

- applies only to employers with 21 or more employees;
- requires that an employee work part-time at least 17-1/2 hours per week for 12 consecutive months, or full-time at least 35 hours per week for 6 consecutive months to qualify for family leave;
- disallows simultaneous leave to care for a sick family member if both parents work for the same employer;
- allows the employer to require the employee to use up any accrued, paid leave;
- requires the employee to give reasonable prior notice of anticipated leave;
- exempts employer from reinstating the employee in the same or a similar position after returning from family leave if the employer's business circumstances have changed to make it impossible or unreasonable; and
- allows for denial of leave requested by key employees in the top 10% salary range if they possess skills, knowledge or experience necessary to the employer, and that other employees can't provide, in order to meet a business necessity.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3901

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 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

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 50-1*05	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).

# ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

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## POSITION PAPER ON HB 155 FAMILY LEAVE

The Alaska Women's Lobby welcomes the introduction of HB 155 which would establish a statewide family leave policy.

This legislation would guarantee job security for all workers who require unpaid leave to care for their newborn or newly adopted children or to care for their seriously ill family members.

This important, pro-family legislation is long overdue. It is time the workplace changed to accommodate the changing workforce.

Statistics show that half of all mothers of children under three work outside the home and that 85% of all women in today's workforce are likely to become pregnant during their working years. The majority of mothers who work do so out of economic necessity.

The two-job family is no longer the exception, it is the norm. The old image of the statistical family of four - Mom at home with the two kids and Dad at work - has faded to invisibility. According to recent reports only 3.7% of our families still fit that traditional mold.

If we are to keep the family unit strong, parents must not be made to choose between their baby and their job. When members of a family fall seriously ill, someone must be able to take leave to care for them. Infant children, whether newborn or adopted, need a period of close parental bonding.

We are the only industrialized country (aside from South Africa) that has not faced up to what is happening to young families as they try to cope with working and raising children.

Thirteen other states\* already provide some job protection to new parents. Even these protections pale when compared to those in nations such as Sweden, West Germany and France, where workers get from 4} to 9} months of parental leave with pay of up to 90% of their salary.

# Older Alaskans Commission

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

## POSITION PAPER - HB 155

### LEAVE FOR FAMILY CAREGIVERS

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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.)



# ALASKA STATE MEDICAL ASSOCIATION

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

March 1, 1989

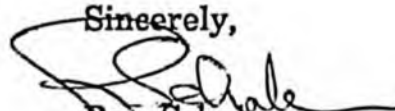
Honorable Kay Brown  
House of Representatives  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

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 Schalow  
Executive Director

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Our disappointing record in supporting families and children suggests that we are one of the least child - oriented societies in the world.

Businesses that pay attention to the family concerns of their employees are already reaping rewards. Studies demonstrate that employees of such firms display less burn-out, less absenteeism, more loyalty to the company and significantly more interest in their jobs.

A survey of 400 major U.S. companies found that 65% offered up to three months unpaid leave with the guarantee of a job upon return and 46% guaranteed a comparable job. Many Alaskan public and private sector employers already provide leave for childbirth.

The legislation being considered should not cause undue hardship on small businesses. Covering only those employers with over 15 employees will exempt over 84% of Alaskan employers while at the same time providing protection to over 80% of Alaskan employees.\*\*

Family leave is not a radical idea, but it is an important step towards ensuring that families can function in today's environment. Society can no longer view the workplace and the family as two completely separate parts of an employees life.

The rise in teen suicide, pregnancies and crime should warn us that we are paying a dreadful price for not facing the needs of families early on. We are endangering both the present and the next generation.

House bill 155 will accommodate family life in the workplace, and will result in more productive workers and in healthier families.

We appreciate your consideration of this bill and urge its speedy passage.

\* Connecticut, Hawaii, Kansas, Montana, New Hampshire, Ohio, Washington, Massachusetts, California, Minnesota, Oregon, Rhode Island and Tennessee.

\*\* Alaska Department of Labor statistics 1986.

Prepared for The Alaska Women's Lobby by Sherrie Markin Goll

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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:

*for* Connie F. Lipe  
Mellie Terwilliger, Chair  
Older Alaskans Commission

Date: April 3, 1989

Reviewed by:

[Signature]  
John M. Andrews, Commissioner  
Department of Administration

Date: 4/3/89



# ALASKA STATE MEDICAL ASSOCIATION

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

March 1, 1989

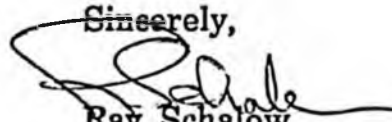
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House of Representatives  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

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Sincerely,



Ray Schalow  
Executive Director



An Affiliate of the American Civil Liberties Union

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

Office Location:  
310 K Street  
Anchorage, Alaska  
(907) 276-2258

Jamie Bollenbach  
Executive Director

Date: March 7, 1989  
To: House Labor and Commerce Committee  
From: Jamie Bollenbach, 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 ACLU 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



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.

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



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.



TESTIMONY ON HB 155, FAMILY LEAVE  
April 18, 1989

By Rosemary van der Laan, President American Association of University Women (AAUW), Alaska Division, 3549 Spinnaker Drive, Anchorage, AK 99516. Tel: 345-4644

The approximately 300-member American Association of University Women in Alaska supports HB 155. Family leave is a positive response to the social and economic reality that the majority of parents - both fathers and mothers - work outside the home.

The scope of the bill does not apply to employers with under 21 employees and has adequate provisions to protect the employer. It expressly acknowledges that leave may be unpaid, but guarantees maintenance of health insurance during the leave period provided the employee pays the costs. It is vitally important legislation which will contribute to the protection and stability of a family. It is a necessary step toward helping families find a healthier balance between work and family responsibilities - responsibilities which for women, as primary household care-givers, often means taking care of two generations simultaneously - the young and the old.

Because of the increasing numbers of single-parent, two-working-parent households and the young age of our Alaskan population, AAUW believes that it is essential to enact Family Leave policy. Legislators in the State of Alaska need to acknowledge the changes and needs of Alaskan families. Every other Western industrialized nation has more generous policies. In total seventy-five countries, including many developing nations as well as industrialized countries, EXCEPT the United States, provide some kind of job-protected maternity leave with some amount of wage replacement.\*Alaska can be a force in modeling US policy by adopting the legislation expressed in HB 155.

\* On a personal note, members of the International Federation of University Women, cannot understand that such legislation is not in place in the United States, a country which is perceived as the leader of the world in equality and freedom. These IFUW members I meet from different countries simply cannot believe this.

# NFIB Alaska

National Federation of  
Independent Business

Thursday 19 April

House HESS 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 (PARENTAL LEAVE).

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 Sullivan

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



The Guardian of  
Small Business

# Parental Leave

**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

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.

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# Parental Leave

National Federation of Independent Business

## NFIB



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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:

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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.

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.

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 "CCRA" 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.

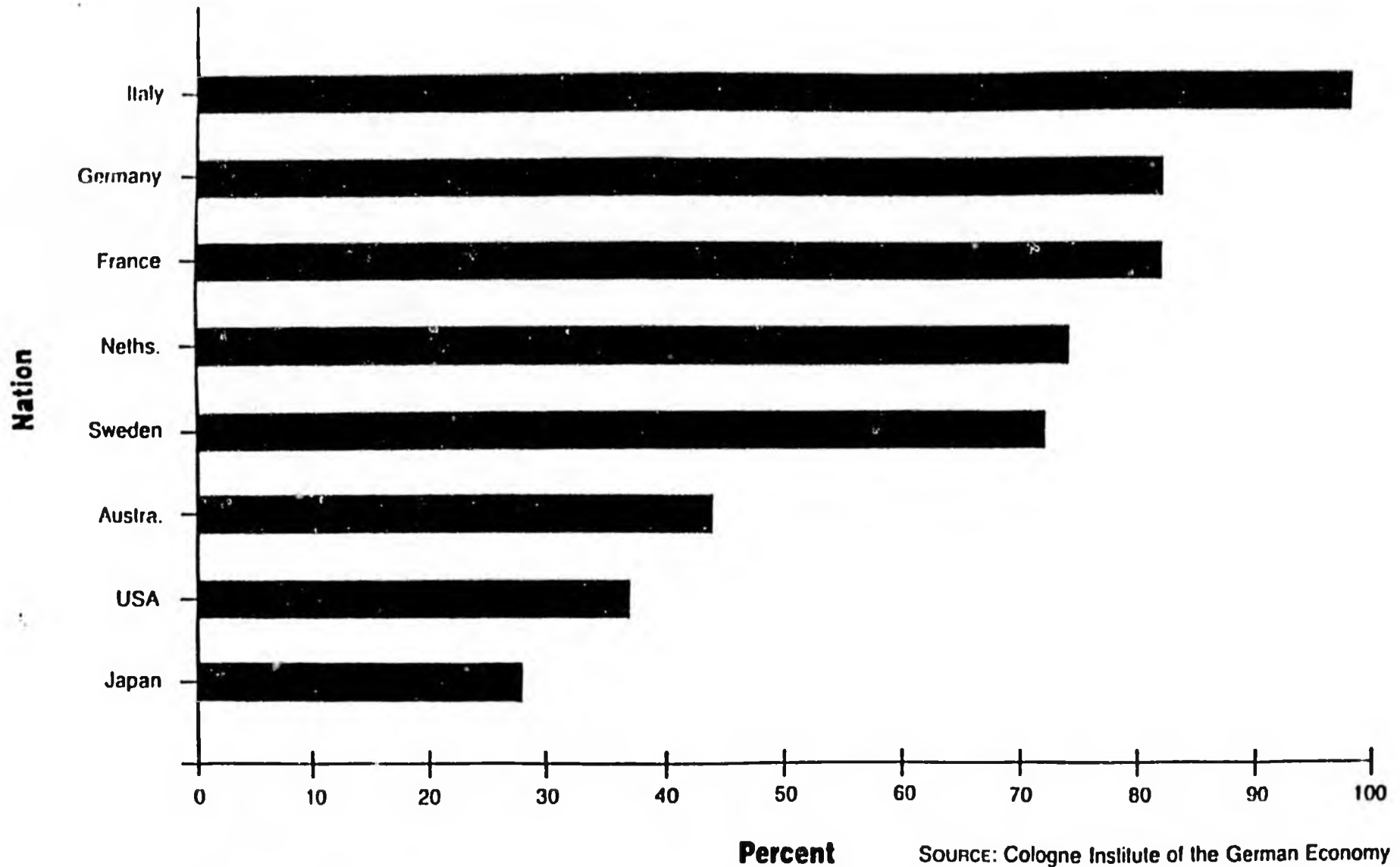
While parental leaves are excellent benefits, they are only one option among many. For instance, small firms are more flexible and more likely to offer part-time jobs that allow women to work and still be at home with their children.

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.

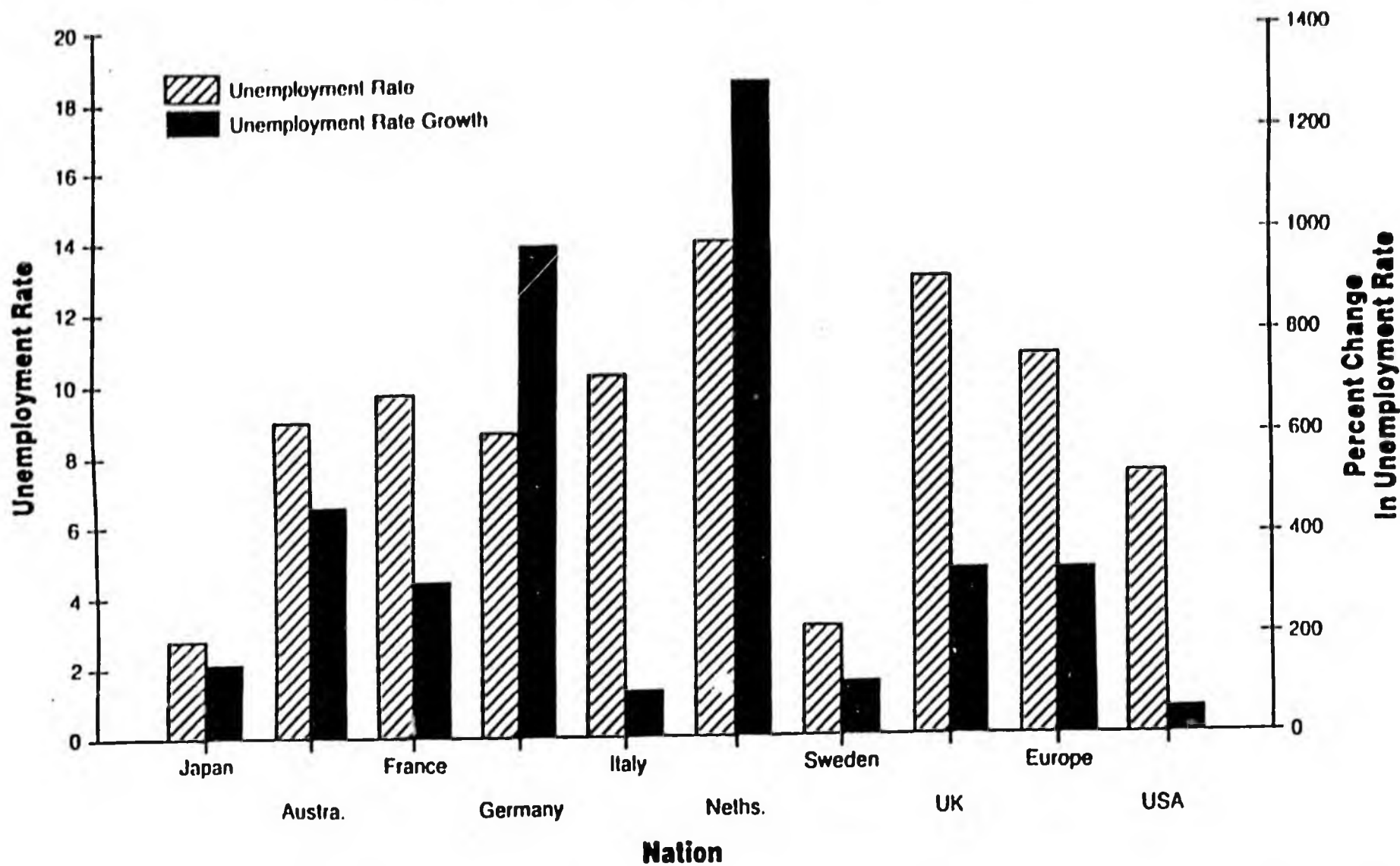
Congress should not attempt to manage the nation's businesses from Washington. It hasn't worked in Europe, and it won't work here.

0310T

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

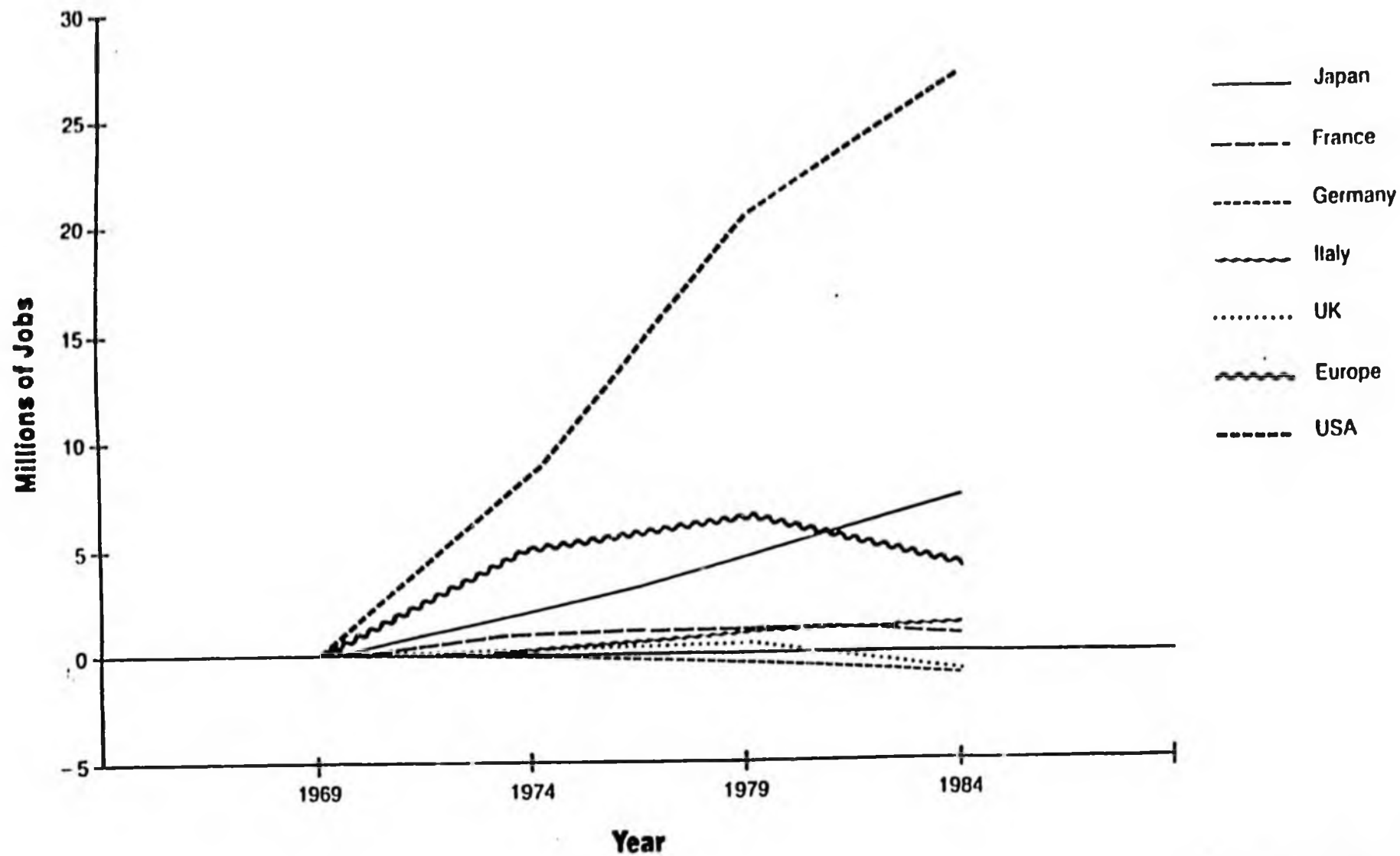


# Unemployment Rate (1984) and Percent Growth In Unemployment Rate (1970-1984) by Selected Nation



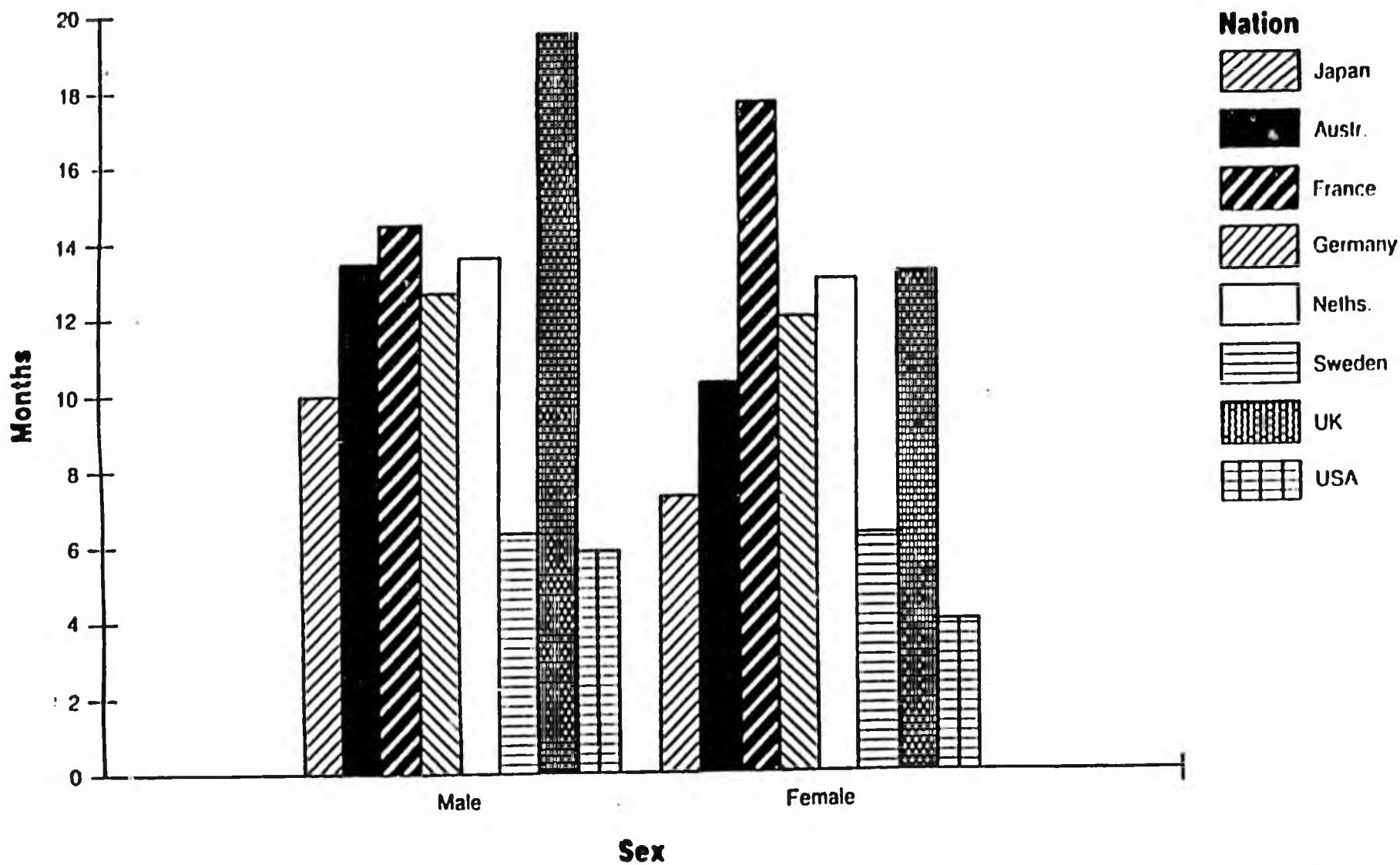
Source: OECD

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



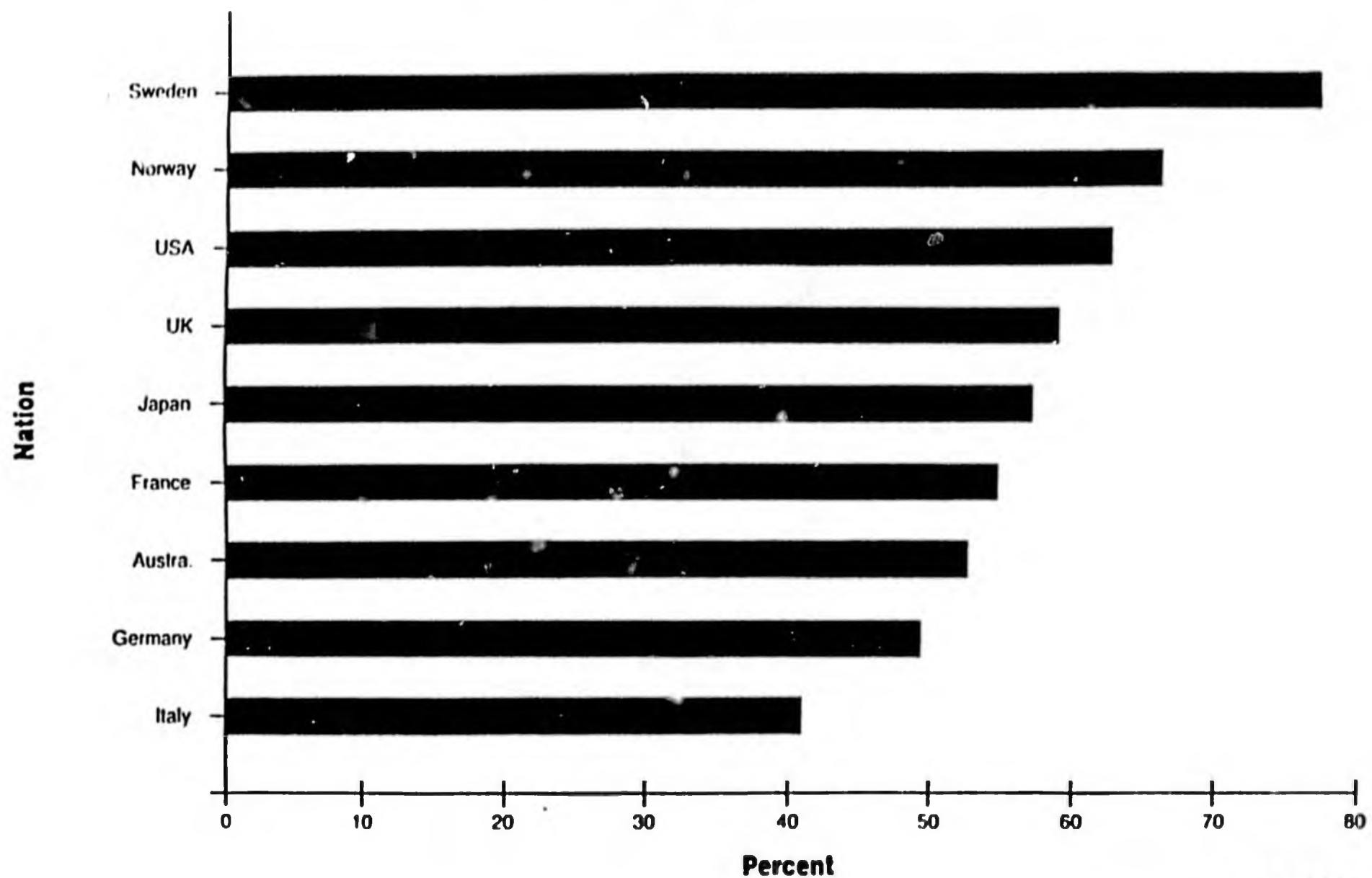
Source: From OECD data

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



SOURCE: OECD

# Female Labor Participation Rates By Selected Nation—1984



Source: OECD

HB

165

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES




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Representative Max F. Gruenberg, Jr.  
District 11  
Spennard, Upper Midtown Anchorage

March 13, 1989

## MEMORANDUM

TO: Members of the House HESS Committee

FROM: Representative Max Gruenberg 

RE: HB 165, "An Act relating to the disposition of property including anatomical parts of the body; and providing for an effective date."  
(Uniform Transfers to Minors Act [UTMA])

This bill updates the Uniform Gifts to Minors Act (UGMA) and makes several changes. The UGMA presently requires that property given to minors terminate at age 18. The UTMA will extend the date to 21, unless the donor specifies otherwise. The donor can specify any age between 18 and 25.

The UGMA is presently limited to securities, life insurance policies, life insurance annuity contracts and money. The UTMA covers all types of property.

The UGMA covers only outright gifts made during a donor's lifetime. The UTMA will cover a number of transfers, including trusts, estates, guardianships and debtors.

The bill will also add a technical amendment to the Uniform Anatomical Gifts Act, easing restrictions on organ donations.

Similar legislation, HB 468, passed the House last year, but died when session adjourned.

There is no known opposition to the bill. At least 28 states have already adopted the UTMA. Alaska will be the 29th.

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 13, 1989

Mark T. Handley, Esq.  
House Judiciary Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

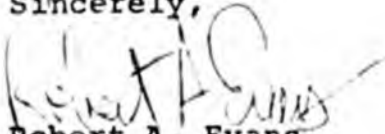
Dear Mark,

I understand that Representative Gruenberg is proposing an amendment to House Bill 165 which would rectify an unintended result of last year's legislation on distribution of a victim's estate (SB 320).

I have read your proposed language and can offer the Governor's support of it, providing that the words "extraordinary and" are deleted. I have been advised that Representative Gruenberg agrees to that deletion.

Thank you for consulting with the Governor's office on this matter.

Sincerely,

  
Robert A. Evans  
Deputy Chief of Staff/  
Legislative Liaison

A M E N D M E N T

OFFERED IN THE HOUSE

BY GRUENBERG

TO: HB 165

Page 1, following line 9:

Insert a new bill section to read:

"\* Section 1. AS 13.11.305 is amended by adding a new subsection to read:

(h) In the case of an unintentional felonious killing, a court may set aside the application of (a), (b), (c), or (d) of this section if the court makes special findings of fact and conclusions of law that the application of the subsection would result in a manifest injustice and that the subsection should not be applied."

Page 1, line 10:

Delete "\* Section 1."

Insert "\* Sec. 2."

Renumber the following bill sections accordingly.

COMMENTARY TO THE

PROPOSED

Alaska Uniform Transfers to Minors Act

November 1987

Division of Legal Services  
Legislative Affairs Agency  
P.O. Box Y - State Capitol  
Juneau, Alaska 99811

## Preface

The Uniform Transfers to Minors Act (UTMA) revises and restates the Uniform Gifts to Minors Act (UGMA), one of the National Conference of Commissioners on Uniform State Laws most successful products, some version of which has been enacted in every American jurisdiction.

The original version of UGMA was adopted by the Conference in 1956 and closely followed a model "Act concerning Gifts of Securities to Minors" which was sponsored by the New York Stock Exchange and the Association of Stock Exchange Firms and which had been adopted in 14 states. The 1956 version of the UGMA broadened the model act to cover gifts of money as well as securities but made few other changes.

In 1956 and 1966 the Conference revised the UGMA to expand the types of financial institutions which could serve as depositories of custodial funds, to facilitate the designation of successor custodians, and to add life insurance policies and annuity contracts to the types of property (cash and securities) that could be made the subject of a gift under the UGMA.

Alaska adopted the 1966 version of the UGMA in 1967 (AS 45.-60). Many states which adopted the 1956 or 1966 version of the UGMA, have substantially revised their versions of the UGMA to expand the kinds of property that may be made the subject of a gift under the UGMA. A few states permit transfers to custodians from other sources, such as trusts and estates, as well as from lifetime gifts. Some states also permit the transferor to have an option to extend the date the custodial property may be distributed to the minor. As a result, a great deal of non-uniformity has arisen among the states. Uniformity in this area is important, for the Conference has cited the UGMA as an example of an act designed to avoid conflicts of law when the laws of more than one state may apply to a transaction or a series of transactions.

The Alaska Uniform Transfers to Minors act (AkUTMA) follows the expansive approach taken by several states and allows any kind of property, real or personal, tangible or intangible, to be made the subject of a transfer to a custodian for the benefit of a minor (sec. 13.46.990(6)). In addition, it permits such transfers not only by lifetime outright gifts (sec. 13.46.030), but also from trusts, estates, and guardianships, whether or not specifically authorized in the governing instrument (secs. 13.46.040 and 13.46.050), and from other third parties indebted to a minor who does not have a conservator, such as parties against

whom a minor has a tort claim or judgment, and depository institutions holding deposits or insurance companies issuing policies payable on death to a minor (sec. 13.46.060). For this reason, and to distinguish the enactment of this statute from the 1956 and 1966 versions of the UGMA, the title of this Act has been changed to refer to "Transfers" rather than to "Gifts," a much narrower term. Moreover, the AkUTMA permits the transferor or the minor to have an option to extend beyond the age of minority the date the custodial property may be distributed to the minor (sec. 13.46.195).

As so expanded, the AkUTMA might be considered a statutory form of trust or guardianship that may terminate at age 18 or, if the transferor or minor so elects, may be terminated at any age prior to age 25. Note, however, that unlike a trust, a custodianship is not a separate legal entity or taxpayer. Under sec. 13.46.100(b), the custodial property is indefeasibly vested in the minor, not the custodian, and thus any income received is attributable to and reportable by the minor, whether or not actually distributed to the minor.

The expansion of the AkUTMA to permit transfers of any kind of property to a custodian creates a significant problem of potential personal liability for the minor or the custodian arising from the ownership of property such as real estate, automobiles, general partnership interests, and business proprietorships. This problem did not exist under the UGMA under which custodial property was limited to bank deposits, securities, and insurance. In response, sec. 13.46.160 generally limits the claims of third parties to recourse against the custodial property, with the minor insulated against personal liability unless he is personally at fault. The custodian is similarly insulated unless he is personally at fault or fails to disclose his custodial capacity upon entering into a contract.

Nevertheless, the AkUTMA should be used with caution with respect to property such as real estate or general partnership interests from which liabilities as well as benefits may arise. Many of the possible risks can and should be insured against, and the custodian has the power under sec. 13.46.120(a) to purchase such insurance, at least when other custodial assets are sufficient to do so. If the assets are not sufficient, there is doubt that a custodian will act, or there are significant uninsurable risks, a transferor should consider a trust with spendthrift provisions, such as a minority trust under Section 2503(c), Internal Revenue Code, rather than a custodianship, to make a gift of such property to a minor.

Finally, the AkUTMA restates and rearranges rather than amends, the 1966 version of the UGMA. The addition of other forms of property and other forms of dispositions made adherence to the format and language of the prior act very unwieldy. In addition, the 1966 version of the UGMA closely followed the language of the earlier model act, which had already been adopted in several states, even though it did not conform to Conference style. It is hoped that this re-writing and revision of the UGMA will improve its clarity while also expanding its coverage.

## ALASKA UNIFORM TRANSFERS TO MINORS ACT

### Sec. 13.46.010. SCOPE AND JURISDICTION.

This section has no counterpart in the 1966 version of the UGMA. It attempts to resolve uncertainties and conflicts-of-law questions that have frequently arisen because of the present nonuniformity of the UGMA in the various states and which may continue to arise during the transition from the UGMA to the UTMA.

The creation of a custodianship must invoke the law of a particular state because of the form of the transfer required under sec. 13.46.080(a). This section provides that a choice of the AkUTMA is appropriate and effective if any of the nexus factors specified in subsection (a) exists at the time of the transfer. The AkUTMA continues to govern, and subsection (b) makes the custodian accountable and subject to personal jurisdiction in the courts of Alaska for the duration of the custodianship, despite subsequent relocation of the parties or the property.

Subsection (c) recognizes that residents of Alaska may elect to have the law of another state apply to a transfer. That choice is valid if a nexus with the chosen state exists at the time of the transfer. If personal jurisdiction can be obtained in Alaska under other law apart from the AkUTMA, the custodianship may be enforced in Alaska courts, which are directed to apply the law of the state elected by the transferor.

If the choice of law under subsection (a) or (c) is ineffective because of the absence of the required nexus, the transfer may still be effective under the UTMA of another state with which a nexus does exist. See sec. 13.46.200.

### Sec. 13.46.020. NOMINATION OF CUSTODIAN.

This section is new and permits a future custodian for a minor to be nominated to receive a distribution under a will or trust, or as a beneficiary of a power of appointment, or of contractual rights such as a life or endowment insurance policy, annuity contract, P.O.D. account, benefit plan, or similar future payment right. Nomination of a future custodian does not constitute a "transfer" under the AkUTMA and does not create custodial property. If it did, the nomination and beneficiary designation would have to be permanent, since a "transfer" is irrevocable and indefeasibly vests ownership of the interest in the minor under sec. 13.46.-100(b).

Instead, this section permits a revocable beneficiary designation that takes effect only when the donor dies, or when a

lifetime transfer to the custodian for the minor beneficiary occurs, such as a distribution under an inter vivos trust. However, an unrevoked nomination under this section is binding on a personal representative or trustee (see sec. 13.46.040(b)) and on insurance companies and other obligors who contract to pay in the future (see sec. 13.46.060(b)).

The person making the nomination may name contingent or successive future custodians to serve, in the order named, in the event that the person first nominated dies, or is unable, declines, or is ineligible to serve. Such a substitute future custodian is a custodian "nominated . . . under AS 13.46.020" to whom the transfer must be made under secs. 13.46.040(b) and 13.46.060(b).

Any person nominated as future custodian may decline to serve before the transfer occurs and may resign at any time after the transfer. See sec. 13.46.170.

#### Sec. 13.46.030. TRANSFER BY GIFT OR EXERCISE OF POWER OF APPOINTMENT.

To emphasize the different kinds of transfers that create presently effective custodianships under the AkUTMA, they are separately described in secs. 13.46.030, 13.46.040, 13.46.050, and 13.46.060. This section in part corresponds to Section 2(a) of the 1966 version of the UGMA and covers the traditional lifetime gift that was the only kind of transfer authorized by the 1966 version of the UGMA. It also covers an irrevocable exercise of a power of appointment in favor of a custodian, as distinguished from the exercise of a power in a revocable instrument that results only in the nomination of a future custodian under sec. 13.46.020.

#### Sec. 13.46.040. TRANSFER AUTHORIZED BY WILL OR TRUST.

This section is new and has no counterpart in the UGMA. It is based on nonuniform provisions adopted by Connecticut, Illinois, Wisconsin, and other states to validate distributions from trusts and estates to a custodian for a minor beneficiary, when the use of a custodian is expressly authorized by the governing instrument. It also covers the designation of the custodian whenever the settlor or testator fails to make a nomination, or the future custodian nominated under sec. 13.46.020 (and any alternate named) fails to qualify.

#### Sec. 13.46.050. OTHER TRANSFER BY FIDUCIARY.

This section is new and has no counterpart in the UGMA. It covers a new concept, already authorized by the law of some

states through nonuniform amendments to the UGMA to permit custodianships to be used as guardianships or conservator substitutes, even though not specifically authorized by the person whose property is the subject of the transfer. It also permits the legal representative of the minor, such as a conservator or guardian, to transfer the minor's own property to a new or existing custodianship for the purposes of convenience or economies of administration.

A custodianship may be created under this section even though not specifically authorized by the transferor, the testator, or the settlor of the trust if three tests are satisfied. First, the fiduciary making the transfer must determine in good faith and in his fiduciary capacity that a custodianship will be in the best interests of the minor. Second, a custodianship may not be prohibited by, or inconsistent with, the terms of any governing instrument. Inconsistent terms would include, for example, a spendthrift clause in a governing trust, provisions terminating a governing trust for the minor's benefit at a time other than the time of the minor's age of majority, and provisions for mandatory distributions of income or principal at specific times or periodic intervals. Provisions for other outright distributions or bequests would not be inconsistent with the creation of a custodianship under this section. Third, the amount of property transferred, (as measured by its value) must be of such relative small amount that the lack of court supervision and the typically stricter investments standards that would apply to the conservator otherwise required will not be important. However, if the property is of significant size, transfer to a custodian may still be made if the court approves and if the other two tests are met.

The custodianship created under this section without express authority in the governing instrument will terminate upon the minor's attainment of the statutory age of majority in Alaska, i.e., at the same age a conservatorship of the minor would end. See sec. 13.46.190 and the Commentary to sec. 13.46.190.

#### Sec. 13.46.060. TRANSFER BY OBLIGOR.

This section is new and, like sec. 13.46.050, permits a custodianship to be established as a substitute for a conservator to receive payments due a minor from sources other than estates, trusts, and existing guardianships covered by secs. 13.46.040 and 13.46.050. For example, a tort judgment debtor of a minor, a bank holding a joint or P.O.D. account of which a minor is the surviving payee, or an insurance company holding life insurance policy or benefit plan proceeds payable to a minor may create a custodianship under this section.

Use of this section is mandatory when a future custodian has been nominated under sec. 13.46.020 as a named beneficiary of an insurance policy, benefit plan, deposit account, or the like, because the original owner of the property specified a custodianship (and a future custodian) to receive the property. If that custodian (or any alternate named) is not available, if none was nominated, or none could have been nominated (as in the case of a tort judgment payable to the minor), this section is permissive and does not preclude the obligor from requiring the appointment of a conservator to receive payment. It allows the obligor to transfer property to a custodian unless the property exceeds the stated value, in which case a conservator must be appointed to receive it.

Sec. 13.46.070. RECEIPT FOR CUSTODIAL PROPERTY.

This section discharges transferors from further responsibility for custodial property delivered to and receipted for by the custodian. See also sec. 13.46.150 which protects transferors and other third parties dealing with custodians. Because a discharge or release for a donative transfer is not necessary, this section had no counterpart in the UGMA.

This section does not authorize an existing custodian, or a custodian to whom an obligor makes a transfer under sec. 13.46.060 to settle or release a claim of the minor against a third party. Only a conservator, a guardian ad litem, or other person authorized under other law to act for the minor may release such a claim.

Sec. 13.46.080. MANNER OF CREATING CUSTODIAL PROPERTY AND EFFECTING TRANSFER; DESIGNATION OF INITIAL CUSTODIAN; CONTROL.

The 1966 version of the UGMA contained optional bracketed language permitting an adopting state to limit the class of eligible initial custodians to an adult member of the minor's family or a guardian of the minor. This optional limitation has been deleted because it would preclude the use of an individual and uncompensated custodian if no qualified or willing family member is available.

Otherwise, with respect to transfers of securities, cash, and insurance or annuity contracts, this section tracks the cognate provisions of subsection 2(a) of the 1966 version of the UGMA, with one exception. Under sec. 13.46.080(a)(1)(ii), a transfer of securities in registered form may be accomplished without registering the transfer in the name of the custodian so that transfers may be accomplished more expeditiously, and so that securities may be held by custodians in street name. In other words, sec. 13.46.080(a)(1)(i) is not the exclusive manner for making effective transfers of securities in registered form.

In addition, subsection (a) creates new procedures for handling the additional types of property now subject to the Act; specifically:

Paragraph (a)(3) covers the irrevocable transfer of ownership of life and endowment insurance policies and annuity contracts.

Paragraph (a)(4) covers the irrevocable exercise of a power of appointment and the irrevocable present assignment of future payment rights, such as royalties, interest, and principal payments under a promissory note, or beneficial interests under life or endowment or annuity insurance contracts or benefit plans. The payor, issuer, or obligor may require additional formalities such as completion of a specific assignment form and an endorsement, but the transfer is effective upon delivery of the notification. (See sec. 13.46.020 and the Commentary to sec. 13.46.020 for the procedure for revocably "nominating" a future custodian as a beneficiary of a power of appointment or such payment rights.)

Paragraph (a)(5) is the exclusive method for the transfer of real estate and includes a disposition effected by will. Under the law of those states in which a devise of real estate vests in the devisee without the need for a deed from the personal representative of the decedent, a document such as the will must still be "recorded" under this provision to make the transfer effective. For inter vivos transfers, of course, a conveyance in recordable form would be employed for dispositions of real estate to a custodian.

Paragraph (a)(6) covers the transfer of personal property such as automobiles, aircraft, and other property subject to registration of ownership with a state or federal agency. Either registration of the transfer in the name of the custodian or delivery of the endorsed certificate in registerable form makes the transfer effective.

Paragraph (a)(7) is a residual classification, covering all property not otherwise covered. Examples would include nonregistered securities, partnership interests, and tangible personal property not subject to title certificates.

The form of transfer document recommended and set out in subsection (b) contains an acceptance that must be executed by the custodian to make the disposition effective. While such a form of written acceptance is not specifically

required in the case of registered securities under (a)(1), money under (a)(2), insurance contracts or interests under (a)(3) or (a)(4), real estate under (a)(5), or titled personal property under (a)(6), it is certainly the better and recommended practice to obtain the acknowledgment, consent, and acceptance of the designated custodian on the instrument of transfer, or otherwise.

A transferor may create a custodianship by naming himself as custodian, except for transfers of securities under (a)(1)(B), insurance and annuity contracts under (a)(3)(B), and titled personally under (a)(6)(B), which are made without registering them in the name of the custodian, and transfers of the residual class of property covered by (a)(7). In all of these cases a transfer of possession and control to a third party is necessary to establish donative intent and consummation of the transfer, and designation of the transferor as custodian renders the transfer invalid under sec. 13.46.100(a)(2).

Note, also, that the Internal Revenue Service takes the position that custodial property is includable in the gross estate of the donor if he appoints himself as custodian and dies while serving in that capacity before the minor attains the age of 21. Rev.Rul. 57-366, C.B. 1957-2, 618; Rev.Rul. 59-357, C.B. 1959-2, 212; Rev.Rul. 70-348, C.B. 1970-2, 193; Estate of Prudowsky v. Comm'r, 55 T.C. 890 (1971), affd. per curiam, 465 F.2d 62 (7th Cir. 1972).

The AkUTMA has been drafted in an attempt to avoid income attribution to the parent or inclusion of custodial insurance policies on a custodian's life in the estate of the custodian through the changes made in the standards for expenditure of custodial property and the custodian's incidents of ownership in custodial property. See secs. 13.46.120 and 13.46.130 and the Commentary to secs. 13.46.120 and 13.46.130. However, the much greater problem of inclusion of custodial property in the estate of the donor who serves as custodian remains. Therefore, despite the fact that this section permits it in the case of registered securities, money, life insurance, real estate, and personal property subject to titling laws, it is generally still inadvisable for a donor to appoint himself custodian or for a parent of the minor to serve as custodian. See, generally Sections 2036 and 2038 Internal Revenue Code and Rulings and cases cited above; with respect to gifts of closely held stock when a donor retains voting rights by serving as custodian, see Section 2036(b), Internal Revenue Code overruling U.S. v. Byrum, 408 U.S. 125 (1972), rehearing denied 409 U.S. 898.

Subsection (c) tracks in substance Section 2(c) of the 1966 version of the UGMA. However, it replaces the requirement

that the transferor "promptly do all things within his power" to complete the transfer, with the requirement that such action must be taken "as soon as practicable." This change is intended only to reflect the fact that possession and control of property transferred from an estate can rarely be accomplished with the immediacy that the term "promptly" may have implied. In the case of inter vivos transfers, no relaxation of the former requirement is intended, since "prompt" transfer of dominion is usually practicable.

Sec. 13.46.085. NATIVE CORPORATIONS; CUSTODIANS.

This section has no comparable provision in the UGMA or the UTMA. This section is derived from AS 45.60.016 which was added to the Alaska Uniform Gifts to Minors Act in 1972 to address the issue of transfers to minors arising under the Alaska Native Claims Settlement Act.

Sec. 13.46.090. SINGLE CUSTODIANSHIP.

The first sentence follows Section 2(b) of the 1966 version of the UGMA. The second sentence states what was implicit in the 1966 version of the UGMA, that additional transfers at different times and from different sources may be made to an existing custodian for the minor and do not create multiple custodianships. This provision also permits an existing custodian to be named as successor custodian by another custodian for the same minor who resigns under sec. 13.46.170 for the purpose of consolidating the assets in a single custodianship.

Note, however, that these results are limited to transfer made under the AkUTMA. Gifts previously made under the Alaska UGMA or under the UGMA or the UTMA of another state must be treated as separate custodianships, even though the same custodian and minor are involved, because of possible differences in the age of distribution and custodian's powers under those other Acts.

Even when all transfers to a single custodian are made under the AkUTMA and a single custodianship results, custodial property transferred under secs. 13.46.050 and 13.46.060 must be accounted for separately from property transferred under secs. 13.46.030 and 13.46.040 because the custodianship will terminate sooner with respect to the former property since the State of Alaska has a statutory age of majority at 18, which is lower than 21. See sec. 13.46.190 and the Commentary to sec. 13.46.190.

Sec. 13.46.100. VALIDITY AND EFFECT OF TRANSFER.

Subsection (a) generally tracks Section 2(c) of the 1966 version of the UGMA, except that the transferor's des-