OMB notes

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OPTION ONE: Instruct DOL to Issue New Program Guidance. DOL would issue a program letter that revises DOL's position on the UI availablity requirement by deeming the requirement ~~met~~ for FMLA-covered leave. The guidance would cabin [??] as closely as possible the future ability of States to make other policy modifications to the availability requirement.

<u>PROS:</u>

- Represents the fastest way to allow States the option of providing UI benefits to FMLA-covered leave takers.
- Carefully crafted guidance could interpret narrowly the DOL policy shift and assert DOL's authority to reject future applications for policy modifications.

CONS:

- Administration recommendations for the design of the State program, *i.e.* in data collection and cost-sharing, would not be binding.
- May undercut DOL's future ability to stave off States attempts to carve objectionable exceptions to the availability requirement.
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Carl Haacke 05/19/99 07:53:51 PM

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Thank you very much.

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MEMORANDUM FOR THE DIRECTOR

FROM: Barbara Chow

SUBJECT: UI and Paid Family and Medical Leave

We have spoken briefly about the idea of using the unemployment insurance (UI) system to pay Family and Medical Leave Act (FMLA) benefits. DPC is now pushing for a decision on this issue due to the President's upcoming speech at Grambling University on Monday. Below is the background on this issue as well as the policy, operational, budgetary and regulatory questions regarding this proposal.

Background on Paid Parental Leave and State UI Proposals.

The idea of paid parental leave was discussed the last two years as a possible budget initiative, but did not make it through the process in either year. As it was developed in 1997, the Administration's paid parental leave proposal would have provided eligible new parents $200 a week in paid leave, funded by the Federal government, for up to six weeks. Eligibility was based on income and time in the workforce. This initiative would have used the UI system to deliver the leave payments, but would not have used UI funds to pay for these benefits. The policy goal was to offer persons who cannot afford to take leave after the birth or adoption of a child an option to stay at home, versus child care. It was estimated to cost $1 billion annually.

DOL raised the issue again recently because of interest by the Hill, specifically Sen. Kennedy, in the Administration's position on paid parental leave. Four states have introduced legislation that would allow use of UI trust funds to pay individuals some form of family and medical leave (Vermont, Massachusetts, Maryland, and Washington). DOL has opposed this proposed use in the past because the individuals receiving the benefit are not available for work -- a fundamental requirement of the UI program known as the "availability test." Federal law does not contain an explicit requirement that UI claimants be available for work, and DOL has relied for many years on the legislative history of the UI program to enforce its availability interpretation.

Absent a change in its long-standing interpretation, DOL would declare any State law using UI trust funds for family and medical leave to be "out of conformity" with Federal requirements.

DPC is currently running a policy process to determine if States should have the flexibility to use UI funds for paid family and medical leave. The options for implementing this policy are laid out later in this memo (see DPC Options).

Policy Questions

What is the size of the problem that we are trying to address with this policy? The data on the need for or use of paid parental leave are scant and were collected very soon after FMLA was passed. We do not have data on recent experience. I understand that a survey conducted by the Commission on Family and Medical Leave found that 3.4 percent of respondents did not take unpaid leave when needed. Of those 64 percent (or 2 percent of the overall sample) cited affordability as the main reason they did not take advantage of unpaid leave when they needed it. Of the respondents who stated they did not take unpaid leave for birth or adoption of a child, 100 percent (0.2 percent of the overall sample) cited affordability as the main reason. By offering paid leave, the Administration could try to address this problem. It is also important to note that while the policy under consideration may be characterized as a paid parental leave proposal, only 17% of those who took FMLA covered leave did so for maternity leave..

Is there a substitution effect? If States implement this proposal, employers may decide to offset their costs by decreasing current benefits such as annual leave, paid parental leave, or even lowering wages. In addition, employers may lobby States to modify their state workers compensation programs to only allow for maternity disability after the UI benefit is exhausted. At one of the meetings, CEA raised the possibility that this policy could result in increasing hiring discrimination against women in the child bearing years.

What are the implications for the UI program? The UI system is designed to pay benefits only to workers who lose a job through no fault of their own and who continue to be unemployed because no other work is available. The major concern of DOL is that a change in the Department's long-standing position on availability -- because it is not in Federal law -- would create a "slippery slope" for other aspects of the UI program. States might decide to pay benefits to other people not available for work because of vacations, sick leave, sabbaticals, or retirement. In addition, DOL believes that employers may push to turn UI into a mean-tested program to reduce costs. DOL also fears that any attempt to create limited State flexibility in using UI funds for family and medical leave will end up eliminating any DOL control over State UI programs except for provisions explicitly in Federal law.

Will this be seen as circumventing the legislative process in order to expand FMLA coverage? The Administration has tried to lower the current 50 employee threshold for coverage under FMLA to 25. Administration support for paid leave may undercut support for expansion of unpaid leave under FMLA. Given UI covers all employers regardless of size, with limited exceptions, employees not currently covered by FMLA could receive paid leave benefits.

Operational Questions.

The following questions must be addressed in designing a program for paid family and medical leave. These questions can be left to individual States to answer as they design their own family and medical leave programs or they can be addressed through Federal policy guidance or model legislation. However, if we decided to issue guidance or regulations, it is unclear whether we have the legal authority to compel States to follow these guidelines.

Should this benefit be universal or targeted to lower income persons? UI is a non-means tested program – it is insurance against wage loss when involuntarily unemployed regardless of current family income or assets. The FMLA proposals discussed in 1997 and 1998 would have limited the benefit to those with incomes below a certain amount – as initially discussed the limit was a family income of $50,000, then it was $36,000. An income test could be interpreted as the first step to welfarizing UI. This may be preferable from a policy perspective, but is inconsistent with UI policy.

What should the length of benefits be? Currently, FMLA provides job-protected unpaid leave for 12 weeks. UI benefits are available for up to 26 weeks. The State proposals we have seen would have chosen the shorter duration but there is no particular reason to adopt that duration.

What type of leave will be covered? The Administration's budget initiatives were focused on paid parental leave. Some of the State proposals (including Massachusetts) cover all family and medical leave under State law, which is much broader than parental leave – including leave for the person's own health or to care for a sick parent or child. Of those who took FMLA covered leave in 1995, 60 percent did so due to personal illness. UI coverage for intermittent leave may be very difficult to administer and enforce.

Should the individual be required to exhaust current leave options first prior to seeking UI benefits? Currently, most employees receive annual and sick leave from their employers. FMLA does not require the individual to exhaust other avenues prior to taking advantage of unpaid leave. Any requirement that individuals use all of the leave available to them for this purpose prior to seeking the UI benefit would be difficult to track and enforce.

Budgetary and Regulatory Questions.

What would the proposed program cost the Federal Government? The options under consideration are designed to permit interested States to provide paid family and medical leave; there will be no Federal mandate. Because there will be no Federal legislation, there will be no legislative PAYGO requirements. The intended effect of these options is to increase spending from the Unemployment Trust Fund, which is on budget. But State UI taxes will increase over time in response to the higher benefit outlays, so over the longer term paid family and medical leave will be deficit neutral. We are trying estimate the effects of this policy on a year by year basis but the estimate will be very soft and difficult to construct.

Only rough estimates of potential program costs are available. If paid family and medical leave were implemented in every State with the current Federal thresholds, DOL estimates that the costs would be $2-$9 billion a year, compared with current UI benefits of $23 billion a year. The low end assumes no behavioral changes; the high end assumes behavioral changes by workers and employers, including shifts from currently paid leave to the new program. For the Massachusetts proposal, which covered all family and medical leave for all sizes of firms for 12 weeks, three independent estimates concluded costs would be about $200 million a year, compared with current UI benefit payments of $750 million in that State. We would anticipate that over time States would increase taxes, so over the years the program would be deficit neutral.

Would this be subject to Congressional review under the Small Business Regulatory Enforcement Fairness Act (SBREFA)? Yes. If DOL issued either a program letter or a proposed regulation, it would be subject to Congressional review.

DPC Options.

DPC is currently developing three options. All are permissive, not mandates, and would rely on State legislation to change State UI laws.

1. Instruct DOL to Issue New Program Guidance (interpretative rule).

Pros:

- Guarantees a specific policy outcome.
- Could be done quickly and does not require public comment.
- Could include Federal parameters on the structure of the program.

Cons:

- Compromises DOL's "availability" standard.
- More susceptible to legal challenge and therefore could be easily overturned.
- Subject to Congressional review under SBREFA and would likely be categorized as "major."
- More susceptible to future policy changes.
- Could provoke an appropriations rider or other legislative action.

2. Instruct DOL to Issue New Regulations.

Pros:

- Creates a sounder legal basis and is less susceptible to legal challenge.
- Provides for public comment.
- Offers time for "fine tuning" Federal guidance on the parameters of UI coverage of family and medical leave.
- Less susceptible to future policy changes.

Cons:

- Compromises DOL's "availability" standard.
- Could result in changes to the policy based on public comment.
- Regulations require more time – delays State adoption of program and allows opposition to mobilize.
- Subject to Congressional review under SBREFA and would likely be categorized as "major."
- Could provoke an appropriations rider or other legislative action.

3. Instruct DOL to Produce Model State Legislation for Separate UI-FMLA Fund. States could create a separate State tax to fund parental leave (that would not be part of the UI trust fund) and could reduce their State UI taxes to make this new program revenue-neutral for employers. Several States have already established separate taxes for training or for employment security administration. DOL could use the UI system to administer this new program.

Pros:

- Achieves States objective of providing paid leave.
- Provides assistance to States without compromising DOL's "availability" standard.
- Easier because no Federal administrative actions are necessary.
- Designing model legislation could be done relatively quickly.

Cons:

- Appears less pro-active.
- Less responsive to State initiatives in this area.
- Less attractive to States due to the requirement of a new tax.

Recommendation. I recommend Option 3. By supporting this option, the Administration can show its strong support for paid parental leave without compromising the fundamental requirements of the UI program. In addition, other alternatives should be explored such as creation of a new tax credit, use of State temporary disability programs, or creation of a Federal program of paid parental leave like the 1997 proposal.

DRAFT #2 OF OPTIONS MEMORANDUM

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

The DPC has led a policy process to explore what responsible action the Administration could take to promote this approach, while also protecting the integrity of the UI system and and preserving DOL's authority to guard against ill-advised changes that States might propose (such as restricting benefits).

<u>Background</u>

States have flexibility in designing and running their own UI systems. With some variation in implementation, the States determine UI eligibility with three general tests: (1) involuntary separation from work; (2) ongoing work search; and (3) availability for suitable work. Because DOL does not interpret federal law as setting specific requirements for the first two tests, States are free to carve exceptions as they see fit (*e.g.*, claimants who are going to be recalled to their old employer need not seek work; claimants may quit work if they have good personal cause such as illness; temporary ill claimants need not seek work). However, DOL has long interpreted federal law as mandating a specific "availability" requirement, *i.e.* workers have to be able and available for work to claim benefits. DOL has used this interpretation of the same Federal law provisions to wall off regressive proposals by States to limit benefits. DOL *could* revise its policy to address FMLA by constructing a rationale that asserts that the UI availability requirement is met during FMLA-covered leave. States would then have the option of providing UI benefits to this new category of claimants, through some change to State law. This is, however, not a simple and straightforward exercise. no ital

Taking a non-legislative step to advance paid FMLA-protected leave for American workers would be a bold way to enable workers to spend more time with their families in important times – to care for a newborn or adopted child, to attend to their own serious health needs, or to care for a seriously ill parent, child or spouse. The 1996 FMLA Study, *A Workable Balance*, found that 40 percent of leave-takers report that they cut their leave short due to lost wages, and 64 percent of respondents who did not take leave when needed (3.4 percent of respondents) cite cost as a barrier. Furthermore, the study found that lower-skilled, poorer workers are far less likely to have any wage replacement for FMLA leave; for instance, hourly employees, who are more likely to have lower incomes and lower levels of education, are four times as likely as salaried

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Proper design of a State system to provide these new benefits would be critical. For instance, how FMLA leave-takers would be accounted for in the count of initial claims (a leading economic indicator) is an issue that must be considered. Also, while currently most UI tax collection is "experience rated" (meaning that employers whose workers claim UI benefits pay into the system proportionately), it would be important that the cost of this new policy is borne as broadly as possible to guard against unintended labor force repercussions on women of child-bearing age. Other program design issues would need to address the substitution effect, whereby workers or employers might try to shift from currently paid leave to the new UI-FMLA program. In addition, there would be important implications for the UI program, such as: the potential for opening up UI to other people "not available for work" (*e.g.*, those on sick leave or sabbaticals), moves to means test the program, and generally reducing the control we have over the program. for all states?

On the policy and budget front, some might see this as an attempt to circumvent the legislative process in order to expand FMLA coverage, and it could result in bill riders (arguably a good fight to have). The budget costs are uncertain, but potentially are large in the near term, if States took this option (costs could range from $2 to $9 billion annually, compared to about $23 billion nationwide in UI annually). Several estimates ~~of the effect~~ of the effect of the Massachusetts proposal put it in the $200 million range. However, over the longer term, State UI taxes would be adjusted upwards to respond to the increased benefits so the program would be deficit neutral. These non-legislative approaches will also be subject to congressional review under the Small Business Regulatory Enforcement Fairness Act prior to going into effect.

Options for non-legislative action

OPTION ONE: Instruct DOL to Issue New Program Guidance. DOL would issue a program letter that revises DOL's position on the UI availablity requirement by deeming the requirement met for FMLA-covered leave. The guidance would cabin as closely as possible the future ability of States to make other policy modifications to the availability requirement.

PROS:

- Represents the fastest way to allow States the option of providing UI benefits to FMLA-covered leave takers.
- Carefully crafted guidance could interpret narrowly the DOL policy shift and could assert DOL's authority to reject future applications for policy modifications.

CONS:

- Administration recommendations for the design of the State program, *i.e.* in data collection and cost-sharing, would not be binding.

- May undercut DOL's future ability to stave off States' attempts to carve objectionable exceptions to the availability requirement.
- Could provoke considerable congressional opposition and legislative riders.

OPTION TWO: Instruct DOL to Issue New Regulations. DOL would promulgate regulations that set parameters for providing UI benefits to FMLA-covered leave takers. The rule would allow States to deem the UI availability requirement met during FMLA-covered leave and would set specific program design requirements, to ~~the extent~~ allowed by law.

PROS:

~~to the extent allowed by statute~~

- Empowers DOL to design program parameters and data collection requirements.
- Provides DOL with greater leverage to guard against future objectionable State efforts.
- Provides opportunity for public comment, more involvement of other federal agencies, and time for fine tuning the many program issues.

CONS:

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- Could also provoke strong congressional opposition and legislative riders.
- Would be a time-intensive process, taking ~~at least~~ a year to finalize and requiring States to wait for regulations to take action.

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- Also subject to SBREFA process of congressional review.

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PROS:

- Provides DOL with the greatest ability to minimize risks to the solvency and integrity of the UI system.
- Model legislation would be based on successful State efforts to create separate funds for training and reemployment assistance.
- No administrative or regulatory actions are needed.

CONS:

- Could be ineffective in promoting State action, as States may be concerned about the appearance of creating a new tax structure to cover FMLA benefits.
- Groups supporting DOL policy change will view this option ~~of~~ as weak (they may well prefer that the Administration do nothing than advance this approach).

Recommendations:
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___ INSTRUCT DOL TO ISSUE REVISED PROGRAM GUIDANCE

___ INSTRUCT DOL TO PROMULGATE REGULATIONS

___ INSTRUCT DOL TO DEVELOP MODEL LEGISLATION FOR STATES

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The DPC has led a policy process to explore what responsible action the Administration could take to promote this approach, while also protecting the integrity of the UI system and and preserving DOL's authority to guard against ill-advised changes that States might propose (such as restricting benefits).

Background

States have flexibility in designing and running their own UI systems. With some variation in implementation, the States determine UI eligibility with three general tests: (1) involuntary separation from work; (2) ongoing work search; and (3) availability for suitable work. Because DOL does not interpret federal law as setting specific requirements for the first two tests, States are free to carve exceptions as they see fit (*e.g.*, claimants who are going to be recalled to their old employer need not seek work; claimants may quit work if they have good personal cause such as illness; temporary ill claimants need not seek work). However, DOL has long interpreted federal law as mandating a specific "availability" requirement, *i.e.* workers have to be able and available for work to claim benefits. DOL has used this interpretation of the ~~same~~ Federal law provisions to wall off regressive proposals by States to limit benefits. DOL *could* revise its policy to address FMLA by constructing a rationale that asserts that the UI availability requirement is met during FMLA-covered leave. States would then have the option of providing UI benefits to this new category of claimants, through some change to State law. This is, however, not a simple and straightforward exercise.

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May 20, 1999

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___ LET'S DISCUSS

Paul D. Glastris
05/20/99 11:50:53 AM

Record Type: Record

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

cc:
Subject: latest grambling draft

Draft 5/20/99 11:45 am
Glastris/Shih

PRESIDENT WILLIAM J. CLINTON
"NEW TOOLS FOR PARENTS IN THE NEW ECONOMY"
COMMENCEMENT ADDRESS
GRAMBLING STATE UNIVERSITY
GRAMBLING, LOUISIANA
MAY 23, 1999

When I heard that I'd been invited to Grambling State University, there wasn't much discussion about whether or not I would be here today. I told my staff in Washington, a place where everybody **thinks** they're somebody, that I wanted to go to a "Place Where Everybody **is** Somebody." [*school motto*] And I was not about to miss a chance to see the "Best Band in the Land" -- the Grambling State Marching Tigers -- play without having to buy a ticket to the Super Bowl [*they have played in four*].

It is an honor to join the last Grambling class of the 20th Century on this very important day in your lives. In so many ways, the story of this fine institution embodies the African American experience in our 20th century. In 1901, not a single school in this part of Louisiana would welcome an African-American student into its classrooms.

But the visionary farmers of this community -- the children and grandchildren of slaves -- were determined to give their children the education, the pride, and the power to rise above bigotry and injustice. They raised some money for a school -- and wrote to Booker T. Washington, asking him to send a teacher from the Tuskeegee Institute to establish it.

Out of that determination and vision, Grambling has grown into a university for the 21st Century. This beautiful campus has nurtured some of America's best educators and lawyers, pastors and public servants, nurses and business leaders. Of course the NFL recruits here -- a legacy of your legendary coach Eddie Robinson and his successor, Superbowl MVP Doug Williams. America's top technology firms do too, because Grambling State is first among all four-year colleges in conferring Computer and Information Science degrees to African-Americans.

You join in a proud tradition and I congratulate each of you on your achievement. This day marks years of hard work, long hours and late nights. The friends you've made will be your friends for life. The knowledge you have gained will enrich you for life. The possibilities before you are limited only by your dreams.

-- some of you joining your parents and grandparents, others of you the first in your families to earn a college degree.

And I congratulate and honor your parents, who should be proud not only of you, but of themselves. I understand that one of the most beloved Presidents of Grambling, Ralph Waldo Emerson Jones would often say to his students, "When you go home, be sure to kiss everybody, including the mule. Because the mule is the one who pulls the plow and keeps the family going." Well, I'm not asking you to kiss any mules today, but I am asking each of you to thank the people who kept your families going.

To raise a child from infancy to college graduation is no small feat. Every parent has a story -- a story of sacrifice, of love, of late night worries and silent hopes. Joyce Gaines of Vallejo, California, who took on two extra jobs so that her daughter Tieaesha could go to college. Even though she was suffering from five ruptured disks, Ms. Gaines commuted 100 miles each way to work for a company in Sacramento. It was worth it. Today Tieaesha is graduating with a degree in Sociology and plans to open a home for abused children ***[Tk other heroic stories of Grambling parents...a husband and wife who worked double shifts; a "sandwich generation" parent caring for both children and elderly relatives.]*** Today, the burdens of parents are often doubled, as they care not only for growing children but for aging parents. We must do more to lighten their load and help parents succeed at home and at work -- especially now, as we face the new challenges of the new economy.

This spring, in commencement addresses to the class of '99, I will be speaking about how a bold new economy is transforming virtually every facet of our lives. Next month, at the University of Chicago, I will talk about how we must put a human face on the dynamic but sometimes disruptive international marketplace. And today, I want to talk about how we as a nation must respond to the new challenges facing families in the new economy. We must reshape our institutions in ways that give parents more time at home. No government can raise a child. Mothers and fathers do. But we have a duty to help parents -- to give them the tools they need to meet their responsibilities at home and work; and to pass on <u>their</u> values to <u>their</u> children.

The class of '99 is entering an era of unparalleled opportunity and possibility. We all know that this is the strongest peacetime economy in American history. We all know that it is an economy driven by information and fast-paced technological change. But what we are now beginning to understand is that the best may be yet to come. A productivity explosion, powered by technology – from the E-mail that links offices around the world to the computers used to track warehouse inventory – is now being fully felt throughout the economy. America has a tremendous capacity for more growth, greater investment, higher salaries, and even faster technological innovation. With your diplomas in hand, you will have the opportunity to help shape these times, and to lead lives of greater accomplishment and affluence than your parents ever dreamed of. ?

But as your parents can attest, we still have far to go before we have fully adapted to the demands of this new era. In our modern economy, companies compete not just with others down the street, but with firms across the globe. To stay competitive, x jobs

they have had to produce more with fewer employees -- and the pace of work has picked up. Jobs today feel like two jobs. And to make ends meet, many people have had to take on yet another job. Working parents are feeling enormous stress -- and they are bringing that stress home with them.

This will only get worse as the Class of '99 moves through its careers. It may seem a million years away to those of you graduating today, but soon, many of you will become parents -- some of you may already be parents. Working at nine at night may seem routine to you now, but soon enough, you will want to be home at nine at night, putting your children to bed. We must have an economy that allows you to do that.

Last year, I asked the President's Council of Economic Advisers to study the sweeping changes the new economy has brought to our families. It has been said that if every economist on Earth were laid end to end they still wouldn't reach a conclusion. But on this question a team of the nation's top economists has reached a conclusion, one that confirms our common sense and common experience. They found that because more and more parents are working outside the home, they have less time for their children. The percentage of married mothers in the workforce has nearly doubled in a generation, from 38 percent in 1969 to 68 percent in 1996. To African Americans, that is nothing new. African American mothers have <u>always</u> had to work outside the home. Today, all of America is experiencing challenges African Americans have always known.

Because more mothers are working outside the home, and because the number of single parent families has grown, parents in the average family have 22 fewer hours per week to spend at home.

The vast majority of today's parents are doing everything they can to give their children whole and happy childhoods. But no matter how hard they try, they worry that it is still not enough. They worry that waking up early and staying up late to make time for a child might not be enough, when that child still has to go home alone to an empty house after school. They worry that all those Sunday morning sermons about a world of love might not be enough, when the movies their children watch, the music they listen to, the video games they play show a world of hate and violence. They worry that all those nights working overtime to buy a computer so that a child can visit some of the world's finest libraries on the Internet might not be enough, when that same Internet can also lead them to recipes for pipe bombs and explosives. These challenges to parents will soon become challenges to the Class of 1999, as you start your own families. We will have to find ways of solving these challenges, and history will call upon you to be part of the solution.

America has experienced sweeping technological and wrenching social change before -- change that called our government to act to protect families. In the previous century, America moved from farm to factory. Families migrated to cities, husbands went to work in factories, and wives were left alone in cramped apartments, their children roaming the streets or, worse, toiling in dangerous factories. Alarmed by the condition in the cities, America responded with big, practical solutions -- labor unions, settlement houses, child labor laws, and universal elementary education. One hundred years ago, America made the industrial age safe for families. Today, we must make the information age safe for families.

The modern economy has created four great challenges for families.

The greatest and most obvious of these is time. In our round-the world, round-the-clock economy, there just don't seem to be enough hours in the day for parents to do everything they need to at home and at work. I am proud that the first bill I ever signed into law was the Family and Medical Leave Act. Since 1993, millions of Americans have used it to take up to 12 weeks of unpaid leave to care for a newborn or sick relative without losing their jobs. But the current law meets just a fraction of the need. Too many people and too many family obligations are not covered by this law. And nearly two-thirds of all eligible workers do not take advantage of family leave because they simply cannot survive without their paychecks. NO

We must think bigger. In 1935, the federal government created the national unemployment insurance system, which has kept tens of millions of families from losing their homes or falling into poverty when their breadwinners are between jobs. **Another**

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Today, using my executive authority as President, I am taking important steps toward that vision. Just as the federal government was the first major employer to desegregate its workplaces, federal agencies can blaze the path towards paid family leave. That is why I am directing the Office of Personnel Management to allow all federal workers to use the sick leave they have earned for themselves to take time off to care for their sick family members. Currently, the most sick leave a worker can take in these cases is 13 days. With the new policy I am proposing today, federal employees will be able to take up to 12 weeks paid sick leave to nurse an ailing child or parent back to health.

I believe the private sector should do the same. If every company in America that offers sick leave to its workers adopted the policy we are adopting today, TK percent of all American families would have this important benefit.

We must find other creative new ways to help more Americans use benefits they have earned to finance the time off they need for their families. Several states have

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asked the federal government for permission to try a bold experiment: allow employees to tap the unemployment insurance balances they have accumulated so that they can have some income while they are on family leave. This is a promising experiment and today, I am taking the first steps toward granting states that permission. [precise action TK]

I also challenge Congress to do its part. I have proposed expanding family leave to cover more workers and more parental responsibilities. And I call on Congress to act. Parents should not have to fear a boss' wrath because they left work to take a child to the doctor – or call in sick to attend a parent teacher conference or volunteer in a school.

Americans believe in hard work. They put in long hours to get their jobs done -- and they're proud of it. This work ethic is the reason our economy is one of strongest in the history of the world. But, we clearly need to find new ways to give workers more time off families.

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The second challenge parents face in the modern economy is finding affordable, high-quality child care. Today, low-income families spend up to a quarter of their income on child care, and studies show that the quality of uneven that care is usually mediocre. When parents are lucky enough to locate affordable and nurturing care for their children, they face waiting lists that take weeks and months to move. I am supporting ~~greater~~ more child care subsidies and tax credits, invest in quality, better training & inspection better training for caregivers and higher standards of care. And I challenge businesses to do their part by helping their own workers find and afford quality child care.

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The third challenge parents face in the modern economy is that they are physically separated from their children for longer and longer periods of time. We can close that distance by bringing back an old idea: that children can be with parents when they work. I have experienced the benefits of this myself. When I was a boy, living with my widowed mother and her parents in Hope, Arkansas, I spent many happy hours in my grandfather's tiny grocery store. I'd watch him with his customers, black and white, and usually poor. He' d give credit to whoever needed it, and they always paid him back. In that little family business, I absorbed lessons and values that have stayed with me all my life.

As a father, I have had the privilege of living, as it were, "above the store," first in the Governor's Mansion, then in the White House. I can "commute" from my office to the family dinner table in about three minutes when the lights are with me. So I challenge more of America's employers to bring workers and their children closer together during the day, by allowing employees to telecommute -- that is, work from home with a modem. I challenge employers to opening more ~~on-site~~ child care centers. And I challenge them to team up with school districts to build public schools at worksites. Dozens of companies have already built such innovative public schools and I have called for a new federal program to encourage more of them. Employees who enroll their children at these workplace schools can spend more time with their children -- they can commute to work together in the mornings and do homework on the ride home at night. Workplace schools can bring parents and children closer together.

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The fourth great challenge that parents face in the modern economy is cultural. The new economy has enriched our lives with lower-priced electronic gear and a growing variety of medial entertainment. But too often, TV, radio, and the Internet bombard our children with images and ideas that no parent would ever want them to see or learn. We need tools that can protect free speech but also give parents more control over what their children see and read and hear. We are creating these tools. Soon, half of all TV sets sold in America will come with V-chips: devices parents can use to screen out sex, violence, or any program they don't want their children to see. And soon, with just the click of a mouse, 95 percent of all Internet users will be able to make offensive web-sites off-limits to their children.

Creating these kinds of tools is the responsibility of government. But the entertainment industry must do its part. I challenge the industry to stop showing guns in any ads children might see, to enforce more strictly their movie rating systems; and to determine whether that system is allowing children to see too much gratuitous violence.

If we provide these tools -- to screen out bad influences, to bring home and work closer, to improve child care, to spend more time at home -- we can help working parents succeed at the most important job of all: the job of raising children.

It is the responsibility of government to make these tools available. But is the responsibility of parents to use them. More working parents must take advantage of tools already available, such as family leave. And all across American society, we must get serious about putting our children first.

In a few years, many of you graduating today will be parents, and some of you already are. To raise your children well, you will have to make many sacrifices. But then, your parents made many sacrifices for you. I want all of you to take a minute to think of how you got to this day. How many of you would have made it if it weren't for your families? If it weren't for the precious hours your mom or dad found between shifts to help you with your homework, or read you a story. If it weren't for mornings your mother rose at the crack of dawn to go to work so that she could be home when you got back from school. If it weren't for the hugs and home-cooked meals that conveyed more powerfully than words, unconditional love, support and faith. Ask your parents today: "Was it worth it?'

last grad class in this century

Until you watch your own child graduate from school, you may never know just how proud your parents are today. But let me just add that all America is proud today. Congratulations.

Message Sent To:

Bruce N. Reed/OPD/EOP@EOP
Cathy R. Mays/OPD/EOP@EOP
Elena Kagan/OPD/EOP@EOP
Laura Emmett/WHO/EOP@EOP
Nicole R. Rabner/WHO/EOP@EOP
Gene B. Sperling/OPD/EOP@EOP
Melissa G. Green/OPD/EOP@EOP
Karen Tramontano/WHO/EOP@EOP
Carolyn T. Wu/WHO/EOP@EOP

Paul D. Glastris
05/20/99 11:50:53 AM

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

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Subject: latest grambling draft

Draft 5/20/99 11:45 am
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Karen Tramontano/WHO/EOP@EOP
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NATIONAL EMPLOYMENT LAW PROJECT, INC.
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FAX TRANSMITTAL

DATE: May 20, 1999

TO: Nicole Rabner

FROM: Maurice Emsellem

TO FAX NUMBER: (202) 456-2878

MESSAGE OR COMMENTS:

As per Donna Lenhoff's request.

Total number of pages: 4 (including cover memorandum)
If you experience any problems receiving this Fax,
please call Maurice at (212) 285-3025, ext. 106.

Nicole -

We understand that an issue has come up regarding the best process DOL should follow in communicating its decision to Massachusetts regarding the proposed UI law providing benefits to claimants on family leave. Our recommendation is that DOL respond to the Massachusetts inquiry immediately by letter given the strict deadlines of the Massachusetts Legislature (as described in the attached letter from the sponsors of the bill). In our view, the letter from DOL should simply state that the Massachusetts bill has been reviewed as requested and found to be consistent with federal UI law. In addition, since this bill raises issues of national UI policy, DOL should also indicate that it plans follow-up the letter with an Unemployment Insurance Program Letter (UIPL) describing DOL's position in more detail. UIPLs are subregulatory guidances used by the Unemployment Insurance Service to communicate national UI policy to the states.

Hope this helps with tomorrow's meeting.

Maurice

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

SENATOR STEPHEN F. LYNCH
FIRST SUFFOLK DISTRICT
STATE HOUSE, ROOM 424
TEL. (617) 722-1150
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COMMITTEES:
COMMERCE AND LABOR (CHAIRMAN)
WAYS AND MEANS
EDUCATION
PUBLIC SERVICE
COUNTIES
ETHICS

May 7, 1999

The Honorable Alexis M. Herman
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Dear Madam Secretary:

As the lead Senate sponsor of Senate Bill 61, *An Act to Provide Unemployment Benefits for Family and Medical Leave Recall*, along with Representative Anne Paulsen, the lead House sponsor of the identical bill, House Bill 1890, we are writing in reference to the U.S. Department of Labor's ("the Department's") interest in these matters.

As you know, the National Employment Law Project and Greater Boston Legal Services, the proponents of this legislation, have been corresponding with your office regarding potential Federal law preemptions posed by these bills. More specifically, we are writing to follow up on their request that the Department issue an opinion regarding these issues. This opinion will allow us to work with the proponents of this legislation to address your concerns.

It is our understanding that the Department's concerns center around a state's authority to define when an employee is "available for work" while collecting unemployment insurance benefits. We have carefully reviewed the March 15, 1999 legal memoranda submitted to the Department and prepared by the National Employment Law Project and Greater Boston Legal Services. Based on these arguments, we are confident that Federal law does not prevent Massachusetts from allowing employees to collect unemployment while on family leave. We further believe that this legislation will more accurately respond to the reality of working life and will enhance the Commonwealth's ability to assist working families while building a strong business climate.

The Joint Committee on Commerce and Labor, of which I am the Senate Chairman, held a well attended public hearing on the legislation on April 7, 1999. The Committee received testimony from a range of experts in the field of family leave, including Dr. Jody Heymann from the Harvard School of Public Health, Dr. Francoise Carre from the Radcliffe Public Policy Institute, and Dr. Ann Bookman, the Executive Director of the bipartisan Family Leave Commission which prepared the 1996 report *A Workable Balance* for Congress. As a result of the hearing, we are in the process of establishing a Working Sub-Committee comprised of legislators, representatives from labor and business, as well as experts in the employment and human resources fields to examine the issues raised by the legislation.

In order for our work to proceed, we respectfully request that you issue a ruling within the next few weeks, as to the legality of this piece of legislation. Due to our Legislative calendar, the deadline for reporting bills from the Committee is fast approaching. Your timely response is very important and appreciated. Should you have any further questions or concerns regarding these matters, please contact our respective offices.

Sincerely

Stephen F. Lynch

STEPHEN F. LYNCH
State Senator

Anne M. Paulsen

ANNE M. PAULSEN
State Representative

cc: The Honorable Edward Kennedy
Robert J. Haynes, President, Massachusetts AFL-CIO

PRELIMINARY DRAFT OF OPTIONS MEMORANDUM

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

The DPC has led a policy process to explore what responsible action the Administration could take to promote this approach, while also protecting the integrity of the UI system and ~~and~~ preserving DOL's authority to guard against ill-advised changes that States might propose (such as restricting benefits).

Background on Unemployment Insurance and FMLA

States have flexibility in designing and running their own UI systems. With some variation in implementation, the States determine UI eligibility with three general tests: (1) involuntary separation from work; (2) ongoing work search; and (3) availability for suitable work. Because DOL does not interpret federal law as setting specific requirements for the first two tests, the Department has allowed States to carve exceptions to them in the past (*e.g.* for illness, "good cause," and recalls). Therefore, the Department is prepared to allow a further exception to these tests for FMLA-covered leave. However, DOL has long interpreted federal law as mandating a specific "availability" requirement, *i.e.* workers have to be ready and available for work to claim benefits. DOL has used this interpretation to wall off regressive proposals by States to limit benefits. DOL *could* revise its policy to address FMLA by constructing a rationale that asserts that the UI availability requirement is met during FMLA-covered leave. States would then have the option of providing UI benefits to this new category of claimants, through some change to State law.

Taking a non-legislative step to advance paid FMLA-protected leave for American workers would be a bold way to enable workers to spend more time with their families in important times – to care for a newborn or adopted child, to attend to their own serious health needs, or to care for a seriously ill parent, child or spouse. The 1996 FMLA Study, *A Workable Balance*, found that 40 percent of leave-takers report that they cut their leave short due to lost wages, and 64 percent of workers who did not take leave cite cost as a barrier. Proper design of such a State system, however, would be critical -- for instance, if States did not collect unemployment data for FMLA leave-takers separately, the unemployment rate could artificially rise. Also, if States did not share the cost of this new UI benefit across all employers, businesses that disproportionately employ women in their childbearing years could discriminate against them hiring and salary decisions.

Options for non-legislative action

OPTION ONE: Instruct DOL to Issue New Program Guidance. DOL would issue a program letter that revises DOL's position on the UI availablity requirement by deeming the requirement met for FMLA-covered leave. The guidance would cabin as closely as possible the future ability of States to make other policy modifications to the availability requirement.

PROS:

- Represents the fastest way to allow States the option of providing UI benefits to FMLA-covered leave takers.
- Carefully crafted guidance could interpret narrowly the DOL policy shift and assert DOL's authority to reject future applications for policy modifications.

CONS:

- Administration recommendations for the design of the State program, *i.e.* in data collection and cost-sharing, would not be binding.
- May undercut DOL's future ability to stave off States attempts to carve objectionable exceptions to the availability requirement.
- Could provoke considerable congressional opposition and legislative riders.

OPTION TWO: Instruct DOL to Issue New Regulations. DOL would promulgate regulations that set parameters for providing UI benefits to FMLA-covered leave takers. The rule would allow States to deem the UI availability requirement met during FMLA-covered leave and would set specific program design requirements.

PROS:

- Empowers DOL to design program parameters and data collection requirements.
- Provides DOL with greater leverage to guard against future objectionable State efforts.

CONS:

- Could also provoke strong congressional opposition and legislative riders.
- Would be a time-intensive process, taking at least a year finalize [DOL – is that right?] and requiring States to wait for regulations to take action.

OPTION THREE: Instruct DOL to Produce Model State Legislation for Separate UI-FMLA Fund. DOL would develop voluntary, model State legislation for creating a fund, separate from but administered by the State UI authority, to provide wage replacement benefits for FMLA-covered leave.

PROS:

- Provides DOL with the greatest ability to minimize risks to the solvency and integrity of the UI system.

CONS:

- Ineffective in promoting State action, as States are unlikely to create a separate tax structure to cover FMLA benefits
- The very groups supporting DOL action may well prefer that the Administration do nothing than advance this approach.

Recommendations:
TO COME

___ INSTRUCT DOL TO ISSUE REVISED PROGRAM GUIDANCE

___ INSTRUCT DOL TO PROMULGATE REGULATIONS

___ INSTRUCT DOL TO DEVELOP MODEL LEGISLATION FOR STATES

___ LET'S DISCUSS

Early draft

DRAFT OPTIONS MEMORANDUM

The purpose of this memorandum is to outline the non-legislative options for action to enable States on a voluntary basis to use the Unemployment Insurance system to provide benefits to workers on FMLA-covered leave. This year, four bills were introduced in State legislatures – Massachusetts, Vermont, Maryland, and Washington – which would use Unemployment Insurance (UI) to pay individuals on some form of FMLA-covered leave. Three of the four States, anticipating conformity problems, have asked for comment from the Department of Labor (DOL).

The DPC has led a policy process to explore what responsible action the Administration could take if a decision were made to promote this approach. The challenge is to protect the integrity of the UI system and DOL's authority to guard against ill-advised changes that States might propose (such as restricting benefits).

<u>Background on Unemployment Insurance</u>
States have flexibility in designing and running their own UI systems. With some variation in implementation, the States determine UI eligibility with three general tests: (1) involuntary separation from work; (2) ongoing work search; and (3) availability for suitable work. Because DOL does not interpret federal law as setting specific requirements for the first two test, the Department has approved States carving exceptions to them (*e.g.* illness, "good cause" for separation, and recalls). Therefore, the Department is prepared to allow an exception to these tests for FMLA-covered leave. However, DOL has long interpreted federal law as mandating a specific "availability" requirement. DOL has used this interpretation to wall off regressive proposals by States to limit benefits. DOL *could* revise its policy by deeming that the UI availability requirement is met during the period FMLA-covered leave.

Below please find a discussion of pros and cons of any Presidential action in this area, and a discussion of three specific options for action.

Presidential Action in this Area:

<u>PROS:</u>

- Responds to significant barrier to leave-taking: 1996 FMLA Study, *A Workable Balance*, shows that of employees who needed but didn't take leave (only 3.4 percent of sample), 64 percent cited cost as the barrier; also 40 percent of leave-takers reported that they cut their leave short to cover lost wages.
- Encourages State innovation at a time when some States have healthy UI surpluses
- Represents a visionary approach to helping families spend more time with their families.
- DOL has received significant pressured for action by State AFL-CIO, some women's groups, and Senators Dodd, Kennedy, Leahy and Murray.

<u>CONS:</u>

- Presidential visibility on this issue is likely to provoke strong opposition by the business community and may motivate congressional legislative riders. Less visible Department-level action that advances this issue runs less risk.
- Without setting strong parameters for DOL shift in policy, could undercut DOL's future authority to guard against unfavorable changes to UI eligibility criteria.
- This new category of UI benefits could raise national unemployment rates if States counted FMLA claimants as "unemployed" and this could have dramatic effects on the markets and those who depend on the data for monitoring trends in the economy.
- Policy implementation could cause some employers to revise or eliminate current worker benefit programs.
- Without cost-sharing of this policy among all employers, women in their child-bearing years could be discriminating against in the workplace in hiring or wages.
- Policy implementation would necessitate greater investment in UI's administrative budget.
- May undercut efforts to promote State UI trust fund solvency and broader UI reform.

Non-Legislative Options for Action:

(1) **DOL Letter**. DOL would issue a program letter that revises DOL's position by deeming the UI availability requirement met during FMLA-covered leave and narrows the parameters of this interpretation.

PROS:

- Timely way of implementing change (avoiding the time-intensity and complexity of rule-making).
- A carefully crafted program letter could attempt to narrowly interpret DOL policy shift in this area and maintain authority DOL authority to reject future applications for exceptions.

CONS:

- A letter risks undercutting DOL's future ability to limit effectively the "slipperly slope" effect of States carving other exceptions to the availability requirement which the Administration may oppose.
- Because a letter is only permissive and not biding, DOL recommendations on data collection or design would likely be ignored due to administrative costs.

(2) **DOL Rule-Making**. DOL would promulgate regulations that set the parameters for providing UI benefits to FMLA-covered leave takers. The rule would deem UI availability requirement met during FMLA-covered leave.

PROS:

- Empowers DOL to design program parameters and data collection requirements, and to preserve integrity of DOL history of interpreting the law.

CONS:

- Public comment likely to generate aggressive opposition from business and Governors
- Runs risk of provoking strong congressional opposition and legislative riders, particularly from those who opposed the FMLA as the first step to paid leave.
- Senate Democrats and advocates may prefer doing nothing to promulgating regulations in this area (NEED TO CHECK).

(3) **DOL Produces Model State Legislation for Separate UI-FMLA Fund**. DOL would develop voluntary, model State legislation for creating a fund, separate from but administered by the State UI authority, to provide wage replacement benefits for FMLA-covered leave.

PROS:

- Provides DOL with the greatest ability to minimize risks to the integrity of the UI system by crafting

CONS:

- Unlikely to inspire State action to create a separate tax structure for FMLA benefits
- May inflame the very groups supporting DOL action on the Massachusetts proposal (the Massachusetts State ALF-CIO, Women's groups and various Senate Democrats) who would see this action as effectively disallowing the Massachusetts approach – may be seen as worse than doing nothing.

United States Office of Personnel Management

FAX TRANSMITTAL SHEET

Date: 5/18 [redacted]	
Number of Pages (including this one)	[redacted] 11

OFFICE OF THE DIRECTOR
1900 E STREET, NW., ROOM 5H09
WASHINGTON, DC 20415-0001

Please Deliver To:

Name: NICOLE RABNER	
Office: DPC	Room:
Telephone: 456-2878	

From:

Name: **Janice Lachance**	
Office: **Director**	Room:
Telephone: **(202) 606-1000**	FAX Number: **(202) 606-2076**

Remarks

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

MEMORANDUM FOR: KAREN A. TRAMONTANO
ASSISTANT TO THE PRESIDENT

NICOLE RABNER
SPECIAL ASSISTANT TO THE PRESIDENT FOR DOMESTIC POLICY AND SENIOR ADVISOR TO THE FIRST LADY

Janice R Lachance

FROM: JANICE R. LACHANCE
DIRECTOR

SUBJECT: **New Tools for Parents in the New Economy**

Attached, as requested, are 1) the draft Executive memorandum to revise Federal regulations to allow employees to use a total of up to 12 weeks of sick leave each year to care for a spouse, son, daughter, or parent with a serious health conditions, and to establish an Interagency Family Friendly Workplace Task Force, and 2) an expanded set of Questions and Answers supporting these initiatives.

Attachments (2)

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: New Tools for Parents and Families in the New Economy

Since my Administration took office in 1993, I have encouraged Federal agencies to adopt a number of family friendly initiatives that would help Federal employees successfully balance their work and family responsibilities. In 1994, I directed the head of each executive department or agency to establish a program to encourage and support the expansion of flexible family friendly work arrangements. In 1996, I directed executive departments and agencies to review their personnel practices and develop a plan of action to use the flexible policies already in place and expand their ability to provide their employees with additional family friendly flexibilities and services.

Initiatives currently being implemented by a number of agencies include on-site child care; flexible working arrangements, including flexible schedules, job sharing, part-time employment; telecommuting; elder care information and referral services; child care resource and referral services; support groups; and policies that promote active inclusion of fathers as well as mothers. Taken together, these family friendly policies provide employees with a range of flexibilities, services, and options that can be utilized throughout one's Federal career.

A number of Federal agencies have taken comprehensive approaches to the challenge of establishing family friendly work environments. Programs include one-stop-service centers, resource centers, information available on the Internet, the formation of mentoring programs, and the establishment of on-site child development centers.

These initiatives have a proven track record for their ability to attract and retain a skilled workforce. Recent evidence suggests that greater loyalty to the agency is an added positive outcome. These policies that are good for families are clearly good for the business of the Federal Government.

My Administration has been particularly supportive of changes in Federal leave policy that are designed to help Federal employees meet their family and medical needs. These efforts began with the enactment of the Family and Medical Leave Act in February 1993. This legislation included separate provisions for Federal employees under which they, like their counterparts outside the Federal Government, may use a total of up to 12 weeks of unpaid leave during any 12-month period for (a) the birth of a son or daughter and care of the newborn; (b) the placement of a son or daughter with the employee for adoption or foster care; (c) the care of a spouse, son daughter, or parent with a serious health condition; or (d) a serious health condition of the employee that make the employee unable to perform the duties of his or her position. I also supported legislation that authorized a permanent Federal leave sharing program, under which employees may donate their annual (vacation) leave individually or through a leave bank to other Federal employees who need additional *paid* time off because of a medical emergency affecting themselves or a family member.

In 1994, I supported legislation that established a permanent program under which Federal employees may use their paid sick leave for purposes related to the adoption of a child and a separate bill that authorized Federal employees to use up to 7 days of additional paid leave each year to serve as a bone-marrow or organ donor. My Administration issued Governmentwide regulations in late 1994 that authorized most Federal employees for the first time to use up to 13 days of their paid sick leave each year to provide care for a family member who is ill or to arrange for or attend the funeral of a family member. ?

In 1997, I asked Federal agencies to take action to ensure that Federal employees may schedule and be granted up to 24 hours of leave without pay each year for school and early childhood educational activities, routine family medical purposes, and attention to elderly relatives' health or care needs. In addition, Congress enacted legislation proposed by my Administration that authorized the establishment of an emergency leave transfer program for Federal employees affected by a major disaster or emergency.

Today I am taking action to demonstrate more clearly than ever before that the Federal Government, as an employer, is committed to helping its employees meet their obligations to their families. In addition, I am taking action to make sure that both managers and employees are aware of the benefits available to employees to assist them in balancing their work and family needs.

A New Sick Leave Policy for Federal Employees

First, I am directing the Office of Personnel Management to revise its Governmentwide regulations as soon as possible to allow Federal employees to use a total of up to 12 weeks of accrued sick leave each year to care for a spouse, son, daughter, or parent with a "serious health condition," as that term is defined for the purpose of applying the Family and Medical Leave Act of 1993 (FMLA).

The Federal Government already provides its employees with generous amounts of *paid* leave for many of the purposes for which *unpaid* leave is authorized by the FMLA. For example, Federal employees may use a combination of paid annual and sick leave, as appropriate, for absences related to the birth of a child. They may use an unlimited amount of paid sick leave for absences related to the adoption of a child. And, of course, they may use any available paid sick leave for absences necessitated by their own illness or injury and for routine medical, dental, and optical examination or treatment.

Until now, however, the amount of sick leave that could be used to care for a family member who is ill was limited to 13 days a year for most employees. The policy I am directing the Office of Personnel Management to implement by regulation will provide for the use of a total of up to 12 full weeks each year of paid sick leave for the care of a spouse, son, daughter, or parent with a serious health condition–an amount that is equivalent to the amount of *unpaid* leave mandated by the FMLA for this same purpose.

The use of paid sick leave under this policy will be subject to the same conditions as the use of unpaid leave for these same purposes under the FMLA. In particular, the same notification and certification requirements that govern the use of unpaid leave to care for a spouse, son, daughter, or parent under the FMLA will apply to Federal employees who wish to use paid sick leave for this same purpose.

Coordinating Family Friendly Human Resources Programs

Second, I am directing the Office of Personnel Management to establish an Interagency Family Friendly Workplace Task Force within 90 days to be responsible for the promotion, development, and evaluation of Federal family friendly workplace initiatives. The head of each executive department and agency will appoint a family friendly work/life coordinator who will be a member of this task force. The names of these individuals will be forwarded to the Office of Personnel Management (OPM). Agency family friendly work/life coordinators will periodically report on their initiatives, progress, and status to OPM's Interagency Family Friendly Workplace Task Force. Agencies will work collaboratively with OPM to develop and assess new initiatives that support agencies as they create more family friendly work environments.

Conclusion

I believe the new sick leave policy described above, together with a much more visible focal point for the coordination of family friendly programs within each Federal agency, will be a wise investment in the most important resource of the Federal Government–the people who make the Government work on a day-to-day basis. In addition, I believe it is essential for the Federal Government, as the largest employer in the United States, to set an example for other employers to follow. The Family and Medical Leave Act was an important first step in recognizing the needs and protecting the interests of all employees who have family and medical needs that require time away from work. But while much as has been gained from these policies, we must continue the momentum into the new millennium. I therefore urge all employers, both public and private, to follow the example I am setting today and begin the search for ways to ensure that our employees can meet their family obligations without serious financial disruption or hardship.

William J. Clinton

New Tools for Parents in the New Economy

Questions and Answers: A New Sick Leave Policy for Federal Employees

Q. How is the new sick leave policy different from the current policy on using sick leave for family care purposes?

A.. Currently, most Federal employees may use a total of up to 13 days of sick leave for family care purposes, and then must use either annual leave, donated annual leave, or leave without pay, even when they still have sick leave available. The revised regulations would permit employees caring for a spouse, son, daughter, or parent with a serious health condition to use a total of up to 12 weeks of sick leave for this purpose.

This benefit would broaden the options available for employees to meet their family responsibilities. Mothers, fathers, grandparents (who are raising their grandchildren), and employees caring for their spouses and parents would all greatly benefit from this more generous leave benefit. This benefit also would address the dilemmas faced by parents of special needs children when trying to balance their work and family responsibilities.

Q. What is the current leave policy for pregnant employees? How will the new sick leave policy affect pregnant employees?

A. Pregnant employees are entitled to use sick leave for prenatal and postnatal medical appointments, hospitalization, and recovery from childbirth. Complicated conditions may require additional sick leave for periods of incapacitation. In addition, a mother or father is entitled to use up to 12 weeks of unpaid leave under the Family and Medical Leave Act (FMLA) for the birth of the newborn. Unpaid leave under the FMLA may be used within 1 year following the date of birth. In addition, a mother or father may use up to 13 days of sick leave for well baby appointments and to care for a newborn child during minor illnesses.

Under the new policy as well as under the current policy, a new mother may use any available sick leave for any period during which she is incapacitated by pregnancy and childbirth. Under the new policy, a new mother or father may use up to 12 weeks of sick leave to care for a newborn child with a serious health condition. If the new parent has already used 13 days of sick leave for family care purposes, he or she will be entitled to use the balance of the new 12-week entitlement to sick leave.

Q. Does the new proposal permit the use of 12 weeks of sick leave to care for a newborn child?

A. By law, employees may use sick leave only for periods of sickness and other incapacitation or for purposes related to the adoption of a child. OPM has no authority to permit employees to use sick leave for purposes other than those permitted by law. Employees may use annual leave or leave without pay to care for a healthy newborn or newly adopted child.

Q. What is a "serious health condition?"

A. A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves--

(1) inpatient care in a hospital, hospice, or residential medical facility;

(2) continuing treatment by a health care provider for a condition that results in **incapacity of more than 3 calendar days**, or would likely result in such incapacity in the absence of medical intervention, and incapacity caused by:

a. chronic serious health conditions, even if the individual episodes of incapacity are not more than 3 days in duration;
b. pregnancy and childbirth; and
c. permanent or long-term conditions for which treatment may not be effective.

Examples of serious health conditions include, but are not limited to, heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, kidney dialysis, physical therapy, strokes, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, injuries caused by serious accidents on or off the job, clinical depression, recovery from major surgery, final stages of a terminal illness, and Alzheimer's disease.

A "serious health condition" includes ongoing pregnancy, miscarriages, complications or illnesses related to pregnancy (such as severe morning sickness), the need for prenatal care, childbirth, and recovery from childbirth.

Q. How is "son or daughter" defined?

A. A "son or daughter" includes a biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing in *loco parentis* who is under 18 years of age or 18 years or older and incapable of self care because of a mental or physical disability. Children incapable of self care require active assistance or supervision in activities of daily living, such as caring appropriately for one's grooming and hygiene, cooking and/or eating, using a telephone, maintaining a residence, taking public transportation, etc.

Q. How will the new proposal affect new fathers?

A. A new father will be entitled to use a total of up to 12 weeks of sick leave to care for the biological mother while she is incapacitated. This includes prenatal and postnatal doctor's examinations, hospitalization, and recovery from childbirth. In most cases, however, the biological mother's period of incapacitation will not require 12 weeks.

The new father may use up to a total of up to 13 days of sick leave for well baby appointments and to care for the newborn during minor illnesses. If the father has already used 13 days of sick leave for family care purposes, he will be entitled to use the balance of the new 12-week entitlement to sick leave to care for the biological mother or newborn child with a serious health condition.

Q. What requirements apply when an employee requests 13 days of sick leave for family care purposed under the current sick leave policy?

A. An agency may require an employee to receive advance approval to use sick leave to care for a family member receiving medical, dental, or optical examination or treatment, and to the extent possible, for the care of a family member incapacitated by illness or injury. An agency may require an employee to provide administratively acceptable evidence of the need for sick leave to care for a family member.

Q. What must an employee do to request sick leave to care for a spouse, son, daughter, or parent with a serious health condition?

A. Under the new sick leave policy, the requirements for using paid sick leave to care for a spouse, son, daughter, or parent with a serious health condition will be the same as the requirements for using unpaid leave for this same purpose under the FMLA. Generally, an employee must give 30 days advance notice of his or her intent to use FMLA leave, if practicable. In addition, an agency may require an employee to provide medical certification for a serious health condition. If necessary, a second or third opinion from a health care provider may be requested.

Q. Are there any restrictions on the use of sick leave to care for a spouse, son, daughter, or parent with a serious health condition?

A. All employees may use up to 40 hours of sick leave for family care purposes. To use more than 40 hours, an employee must maintain a sick leave balance of 80 hours at all times. This limitation applies to any employee using sick leave to care for a family member.

Q. Will employees who have previously taken leave without pay under the FMLA to care for a spouse, son, daughter, or parent with a serious health condition be able to substitute sick leave retroactively for the leave without pay?

A. No. Under OPM's regulations, an employee may not retroactively substitute paid leave for unpaid leave previously taken under the FMLA. An employee must notify his or her agency in advance of his or her intent to substitute sick leave for unpaid leave under the FMLA.

Q. Won't this proposal encourage the use of sick leave and therefore result in increased costs to the Government?

A. We anticipate that only a small percentage of the Federal workforce will have a need to use large amounts of sick leave for family care purposes. In addition, not all Federal employees will have 12 weeks of sick leave available to use for this purpose. We believe the ability to use additional sick leave will encourage employees to conserve their sick leave as insurance against the possibility that they will need to care for their spouse, son, daughter, or parent in the future.

Q. What is the estimated cost of the new sick leave policy?

A. Based on our experience under the current sick leave program, we estimate that the total cost of the new sick leave policy will be less than $80 million annually. This estimate is based on the assumption that 0.5 percent of the total Federal workforce will use the maximum amount of sick leave provided under the new policy.

Questions and Answers: New Family Friendly Workplace Initiatives

Q. What has this Administration done to improve the quality of workplace arrangements and family life for Federal employees?

A. This Administration has lead the way in introducing new work and family initiatives.

- In his first official act, the President William J. Clinton signed ***The Family and Medical Leave Act*** in February 1993 which entitles employees to a minimum of 12 weeks of unpaid leave within a 12-month period.

- The President signed the ***Federal Employees Leave Sharing Act*** on October 8, 1993, which allows Federal employees to donate annual leave to other employees who have personal or family medical emergencies and who have exhausted their own leave.

- The President issued a directive to Heads of Executive Departments and Agencies on July 11, 1994, calling for expanded use of "flexible family-friendly work arrangements, including job sharing; career part-time employment; alternative work schedules; telecommuting and satellite work locations."

- In February 1995, the President issued Executive Order 12953, calling upon the Federal government to become a model employer in promoting and facilitating the establishment and enforcement of child support.

- On June 16, 1995, President Clinton directed Heads of Executive Departments and Agencies to review all of their programs, policies, and initiatives pertaining to families to ensure that they are father-friendly.

- On June 21, 1996, President Clinton reaffirmed his commitment to creating a family-friendly workplace by issuing a second memorandum to Heads of Executive Departments and Agencies to expand their programs and report back to him.

- On March 10, 1998, President Clinton issued a memorandum to Heads of Executive Departments and Agencies, "Steps to Improve Federally Sponsored Child Care" which directed the General Services Administration, Department of Defense, and OPM to take improved the quality and affordability of Federally sponsored child care centers.

Q. Why should family-friendly work/life coordinators be appointed at every agency?

A. Until now, agencies have had varying successes in implementing family-friendly initiatives. Some have enthusiastically embraced a family-friendly workplace culture while others have actively resisted such change. Even when Federal agencies have adopted family-friendly initiatives, it is not uncommon to learn that managers oftentimes find reasons for not permitting their utilization. Having a coordinator at every agency, will result in an efficient mechanism for disseminating information about family friendly policies and programs and sharing information about overcoming resistance to the adoption of such policies.

Q. What responsibilities will the new family-friendly program coordinator under take?

- Making the full range of flexibilites available to employees to meet their personal and family responsibilities (such as alternative work schedules, telecommuting, part-time employment and job sharing).
- Establishing and promoting parent support groups, elder care support groups, and on-site nursing mothers' programs.
- Providing employees with information about child and elder care resources currently available in their communities.
- Working with local interagency groups, like the Federal Executive Boards, to coordinate Federal and community resources.

Q. Will this encourage more managers to support family-friendly workplace arrangements?

A. Yes, managers will have a contact person who can advise them on the various workplace options, calm their fears, explain their responsibilities as well as those of the employees, and, if the arrangement does not work out for either of the two parties, be there to help dissolve it.

Q. What role will the Office of Personnel Management's new Family-Friendly Workplace Advocacy Office play?

A. The new Family-Friendly Workplace Advocacy Office (FFWAO), established on March 1, 1999, will provide the family-friendly program coordinator with the tools and advice necessary to establish or improve comprehensive family-friendly programs by aggressively supporting the use of flexible work schedules and sites; leave programs; part-time employment/job sharing; telecommuting; Employee Assistance Programs; on-site child development centers; as well as child and elder care issues. In addition, FFWPO has provided technical information to agencies; convened a national summit on child care issues; has made annual awards to agencies with the most comprehensive and progressive family-friendly initiatives; and has served as the Federal leader in promoting the development of these initiatives.

Also, the FFWAO will work with the agency family-friendly program coordinators to respond to their employees' concerns and suggestions regarding the agency implementation of family-friendly programs. The FFWAO will provide information on the laws and regulations which govern family-friendly policies as well as avenues of redress available for complaints. Working with the agency family-friendly program coordinator, it will assist in resolving problems with family-friendly workplace policies; identify administrative or regulatory obstacles to implementing family-friendly policies and practices; and propose regulatory or legislative changes where needed.

Q. Why should OPM create an Interagency Family-Friendly Workplace Task Force?

A. The creation of a Task Force would establish an infrastructure within the Federal government for disseminating information about family-friendly initiatives and for receiving status reports from the agencies. Family-friendly coordinators can successfully network with each other through membership on the Task Force. Mentoring programs can help agencies learn lessons from the past and efficient ways to implement initiatives.

The current system is a hit-or-miss approach since no one agency has the authority to request feedback information. OPM has a proven track record for disseminating information and developing guidance on family-friendly initiatives.

The Task Force can routinely assess the Federal government's response to the President's directives on family-friendly initiatives and can use the results of such studies to broadly disseminate the Federal initiative to make the government a more family-friendly place to work. The results can also be used by the agencies as benchmarks against which their own practices can be measured.

file family leave

A1 Work Week

A Special News Report About Life On the Job — and Trends Taking Shape There

EMPLOYERS' PIERCING issue: to tolerate or ban body jewelry and tattoos.

Seattle-based Starbucks Corp.'s employee manual says earrings must be small, no more than two per ear. No nose rings, other pierced ornaments or visible tattoos are allowed, so as to present "a clean . . . appearance." People seeking work at a clothing store near Pittsburgh who bear tongue or eyebrow piercings are told to remove or cover them, a manager says.

At Powell's City of Books, Portland, Ore., piercings and tattoos abound. The staff's strength is in knowing books, not "physical presentation," says manager Chris Dermody. BankBoston expects employees to look professional and not offend anyone.

An employer can "go quite far" in rules but must be uniform; banning earrings for men, for instance, is arguably sex discrimination, says Victor Schachter, a San Francisco labor lawyer.

FIRING THE YOUNG bank officer could be age discrimination.

So said New Jersey's Supreme Court in ordering a new trial in a case brought by a 25-year-old whom Bergen Commercial Bank in Paramus, N.J., hired as vice president for credit-card operations at a $70,000 salary, then fired five months later. After the young man was hired, the bank's chairman seemed "shocked" to learn his age, the young executive had said. Notified the young man was suing, Bergen Bank charged him with wrongdoing, the court said.

The bank expects to be vindicated, but the decision "opens the door to a flood of age cases," said Angelo Genova, an attorney for Bergen Bank. The court said the state's antidiscrimination law, which lacks a minimum qualifying age, is "broad enough" to cover a claim based on youth. The decision is like ones in some other states with age-discrimination laws that don't designate a minimum, employment attorneys say. The minimum age in many states, and in the federal law, is 40.

SOME HIGH-TECH start-ups eschew recruiters, preferring referrals from staff.

Most companies use recruiters to get new people fast, but OffRoad Capital, a San Francisco firm that uses the Internet to line up investments for business, recently hired 33 of its 40 employees in 61 business days, relying on founders' and staffers' contacts. The firm thus avoided search fees; also, OffRoad's people can better convey excitement about the company's goals, says Denise Thomas, an executive vice president. Ann Senechal, an OffRoad senior writer in Seattle, says she signed on because she had worked with Ms. Thomas before.

PostX Corp., Cupertino, Calif., which provides companies with secure e-mail bill-payment services, has more than doubled its staff since January, using few outside searchers. PostX people can zero in on top-quality people they know, while recruiters "are just looking for heads," says Sheryl Ross, vice president for marketing.

Samantha Phillips, hired away from Visa as PostX product-marketing director, says she made the switch because Ms. Ross impressed her as a "go-getter" when they met at a health club.

THE GLASS CEILING: In a survey of 389 members of the Society for Human Resource Management, 89% of human-resource professionals said they believe women face barriers to career advancement, and 74% said the same about minorities.

EMPLOYERS' prescription-drug benefit costs are expected to climb an average 11.5% for workers and 15.7% for retirees over the next year, a poll of 35 major employers by consultant Watson Wyatt Worldwide, Bethesda, Md., and the Washington (D.C.) Business Group on Health shows.

LATINA STYLE, a Washington, D.C., magazine for Hispanic working women, picks U S West, a Denver regional telephone company, as its No. 1 employer for Latinas' professional opportunities. The magazine's list of top-50 companies is based largely on surveys of more than 500 CEOs, looking at factors like mentoring and the presence of Latina board members.

WOMEN'S GROUP stirs controversy, pushing state payment for family leave.

Lobbying by the National Partnership for Women & Families, with AFL-CIO backing, is largely behind pending legislation in Massachusetts, Vermont, Maryland and Washington state to let anyone taking unpaid family leave get unemployment insurance. Other lobbying efforts have begun in California, Iowa and New York. The Labor Department had said states couldn't pay unemployment for family leave, but President Clinton has told the department to change that rule—as applied to new parents.

Sharon McDougle, who repairs astronauts' suits for a Houston company, used up paid vacation and sick leave in 1994 and 1998 to have babies. (Her employer didn't provide paid maternity leave.) She says she would rather have taken six weeks of family leave but couldn't afford it. Employer groups, fearing unemployment-insurance tax increases, oppose the idea.

Republican congressional leaders also protest and expect to introduce soon a bill blocking the plan.

Nicole — Good work — BR

THE CHECKOFF: America's Job Bank, the Labor Department's big Internet job-listing service, posts its one-millionth job today: video-teleconferencing engineer for a Reston, Va. company. . . . Ford Motor Co. becomes the first U.S. auto maker to make the list of top 100 businesses for policies favorable to gay and lesbian workers, says GLVReports & Communications, New York, a news service for gay men and lesbians.

—Albert R. Karr

THE WALL STREET JOURNAL
TUESDAY, JULY 13, 1999

U.S. and Boeing May Try to Limit Airbus

Pact With Europe on Size Of Jet Maker's Subsidies Could Be Renegotiated

By JEFF COLE and JOHN SIMONS
Staff Reporters of THE WALL STREET JOURNAL

The Clinton administration is expected to push for tougher limits on subsidies that European governments can provide to commercial-jet maker **Airbus Industrie**, according to people familiar with the emerging U.S. position.

The U.S. government's stance is based on complaints of unfairness made by Seattle-based Boeing Co., the Airbus consortium's primary rival, according to several officials and executives. Any U.S. initiative would require a renegotiation of a controversial 1992 bilateral trade agreement with the European Union. The U.S. government is likely to broach the matter in detail during the next round of World Trade Organization talks in November in Seattle.

Clipped Wings?

The House Appropriations Committee is moving to cut all production money for Lockheed Martin's F-22 fighter from the Pentagon budget. Article on page A4.

The 1992 pact, which helped avert a trade war, permits European governments to provide low-cost loans equal to a third of the cost of developing new jetliners. It also commits both sides to "progressively reducing government support." Boeing officials contend that Airbus isn't sticking to its side of that agreement.

If the administration does reopen the terms of the seven-year-old agreement, it would leap beyond any of its efforts to date to force European compliance with the U.S. interpretation of the pact, and would delve into an especially delicate matter for Europeans.

Threat to Airbus's 'Super-Jumbo'

In the near term, a renegotiation would disrupt plans by the European Airbus consortium to develop a new "super-jumbo" airliner capable of carrying 480 to 650 passengers. Airbus is tapping governments in Britain, France and Germany for about $3.6 billion in loans to help develop the new plane, which would compete with the Boeing 747.

The consortium says the new Airbus A-3XX would cost about $11 billion to develop. First deliveries are planned for 2005. The 747 jumbo jet—with about 400 seats in a three-class seating configuration—is the only jumbo jet available for now.

Some Clinton administration officials have already begun broaching the issues with their European trade counterparts. U.S. officials have asked for "improved transparency and getting tighter rules on government support that make sure that the burdens of risk faced by U.S. companies and the European Airbus partners are more equivalent," a U.S. government official said.

Barshefsky's Unsuccessful Efforts

During the last eight months, Boeing has been nervously watching unsuccessful efforts by U.S. Trade Representative Charlene Barshefsky, who has pushed for increased disclosures by European governments to ensure that they are in compliance with the bilateral agreement. One such case involves European support for new, long-range versions of the 300-seat Airbus plane known as the A-340.

U.S. officials say Boeing representatives have stopped short of demanding that the 1992 agreement be scrapped altogether. However, they say Boeing officials are making a case for a significant reduction in the EU aid that is allowed to flow to Airbus.

Chris Hanson, Boeing's vice president of Washington operations, declined to comment on whether the U.S. aerospace giant has urged the government to negotiate tougher limits on subsidies to the four-na-

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tion Airbus consortium. Mr. Hanson said Boeing feels that Airbus isn't honoring the 1992 agreement, or other overarching multilateral agreements, and "we simply want them to be honored. That's the issue."

Several other officials familiar with the Boeing view say company officials believe that the 30-year-old consortium, based in Toulouse, France, is no longer an adolescent enterprise, but rather is "a mature company" that should no longer require any direct subsidies.

A U.S. spokeswoman for the European Union said that the organization "does not believe" that any of Boeing's financial problems in recent years are related to the subsidy provisions of the 1992 agreement.

A U.S. spokesman for Airbus declined to comment directly on the prospect of action by the U.S. government. The spokesman noted that Boeing agreed to the 1992 terms regarding subsidies, and that any effort to rescind the terms could take all sides "right back to square one."

In a recent interview, the chief executive of Airbus, Noel Fourgeard, dismissed Boeing's complaints about the subsidy agreement as "a difficult matter." As for the U.S. complaints about the Airbus A340, Mr. Fourgeard said they were "just ridiculous." In 1992, the European governments contended that Boeing is also subsidized, by virtue of its many defense contracts with the Pentagon.

People familiar with the exchanges between Boeing and the U.S. government said company executives worry that as Airbus proceeds with its planned conversion to a fully private corporation during the next 18 months, certain past loans may be "forgiven" as the new organization is set up.

Another Boeing fear is that as new subsidy loans for the Airbus A-3XX are put in place, any renegotiation of subsidy limits or rules will be increasingly difficult to achieve, say people familiar with the Boeing view. The government of Britain recently began actions toward approving about $700 million in loans for the new plane.

U.S. officials are said to have taken a cautious tack in part because a new administration is taking over in mid-September at the European Union's executive commission, and those officials may be more open to renegotiation of the 1992 bilateral accord. The newly named president of the commission, Romano Prodi, has promised an "era of change."

The Airbus consortium includes **British Aerospace PLC; Aerospatiale Matra SA** of France; the aerospace unit of **DaimlerChrysler AG** of Germany; and **Construcciones Aeronauticas SA** of Spain.

THE WALL STREET JOURNAL
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U.N. Surveys Paid Leave For Mothers

U.S. Among Nations Without a Policy

By ELIZABETH OLSON

GENEVA, Feb. 15 — A United Nations survey of 152 countries has found that the United States is one of only six that does not have a national policy requiring paid maternity leave.

Such disparate countries as the Sudan, Cameroon, and Nepal, for example, mandate that a woman receive her salary while she is caring for her newborn. The majority of countries surveyed provide benefits through social welfare systems, some require the employer to pay, and still others combine both financing sources.

Only the United States, Australia, New Zealand, Lesotho, Swaziland and Papua New Guinea do not require paid leave, according to the review of International Labor Organization member countries.

The 114-page study, "Maternity Protection at Work," is being issued on Monday. It was undertaken, its authors said, because of the importance of women's salary for family survival.

The study found that women contribute half or more of family income in about 30 percent of households in the nations studied. In the United States, the figure is 55 percent, and in Europe, 59 percent.

The agency estimated that by 2010, the figure for women who work during their childbearing years in industrialized countries would rise to about 81 percent, from the current 73 percent. In less developed regions, the study indicated, the figure would rise to 68 percent, from 63 percent.

While rights are written into law in many countries, all is not rosy for women worldwide, said one of the study's authors, Ann Herbert. "There is a huge gap between law and practice," she said, adding that widespread discrimination was found to exist on the job against women who become pregnant.

The study found that only 29 countries, most of them in Africa and Asia, absolutely bar dismissal of a worker during her maternity leave. There is even less protection against dismissal after the mother's return to work. About two dozen countries have some protection, but it ranges from 30 days in Belgium and South Korea to 15 months in Mali and Senegal.

"Working women who become pregnant are faced with the threat of job loss, suspended earnings and increased health risks due to inadequate safeguards for their employment," said F. J. Dy-Hammar, the study's chief author.

The study found that maternity benefits are contingent on a variety of conditions. In some countries, including Britain, benefits can be denied if the pregnancy is not reported by a specified stage. Other conditions include the number of children already in the family, how close they are in age, the length of time a woman has been in the job and whether she works full-time. For example, several countries — Barbados, Egypt, Grenada, Jamaica and Zimbabwe — allow a woman to take maternity leave no more than three times in her working life.

Gambia and Zambia require two years on the job. And some countries require a minimum social security contribution, which can eliminate part-time and temporary workers.

Women who are covered by collective bargaining agreements usually fare better, the study found. Spain's public school teachers in the Basque region, for example, who are unionized, receive more maternity leave than their private school counterparts, who are not, and more than required by Spanish law.

The labor agency adopted its first global standard in 1919 to protect working women who become pregnant. In 1952, the standard was strengthened to call for a minimum 12-week leave with a woman being paid at a certain minimum rate and receiving full health insurance while she is on leave.

But only 36 countries have signed the international accord. The United States, which has outlawed discrimination against pregnant women, is not one of them.

Currently, 119 countries meet the standard of 12 weeks of leave. Of those, 62 allow for a leave of 14 weeks or more.

The countries providing the most paid maternity leave by law are the Czech Republic, with 28 weeks; Italy and Canada, with 17 weeks each, and Spain and Romania, with 16 weeks each. Denmark, Norway and Sweden each provide for paid leave that may be taken by either parent, although a portion must be taken by the mother.

In the United States, the 1993 Family and Medical Leave Act provides for 12 weeks of unpaid leave. Some states — including New York, New Jersey, California, Hawaii and Rhode Island — mandate paid maternity benefits, often treating them as a form of disability compensation.

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