**BRIEF ANALYSIS**

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Bad Idea: Paying for Family Leave

At President Clinton's direction, the Department of Labor has published a proposed regulation that would allow states to pay unemployment insurance (UI) benefits to fathers and mothers who take time off for the birth or adoption of a child.

The Family and Medical Leave Act (FMLA), passed in 1993, requires that parents be allowed to take as much as 12 weeks of unpaid leave from their jobs to care for their newborn or newly adopted children, with a guarantee that they will get their old jobs back. The FMLA applies to businesses with 50 employees or more, but the Labor Department regulation would let any new parent, not just those covered by the FMLA, take family leave and draw UI benefits. However, employees of small businesses would have no guarantee they would get their jobs back. Under the regulation, each state could decide whether to pay the benefits.

The FMLA also allows unpaid leave to care for another family member or to recover from one's own serious health condition. However, those who take leave for these purposes would not be eligible for UI benefits.

The Clinton proposal abandons the insurance aspect of unemployment insurance. It also establishes a major, costly program for a minor problem, forces some workers to pay for others' time off and creates incentives not to work.

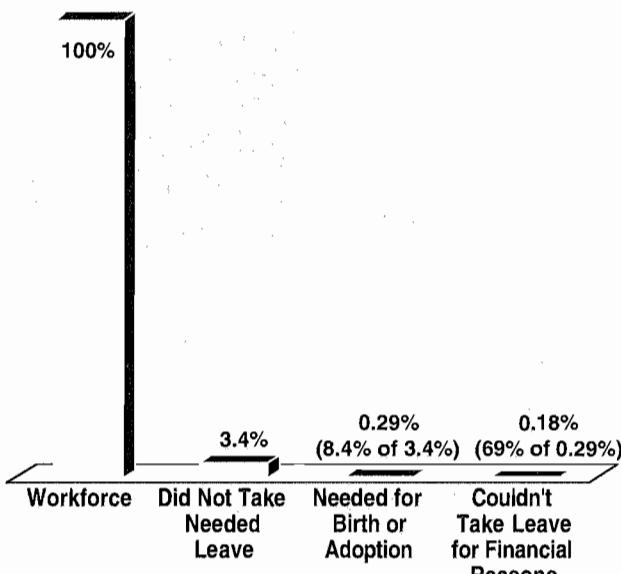
Insurance No Longer. Unemployment insurance is based on the concept that unemployment is an involuntary risk, like the risk of fire or car accidents. The

unemployment insurance system, created by the Social Security Act of 1935, is a joint federal-state program administered by each state and funded through federal and state taxes on employers' payrolls. It is designed to replace part of the income lost by workers who lose their jobs.

The UI law now says that persons drawing UI "must be able and available for work and must not refuse suitable work." Benefits are provided for workers who are unemployed through no fault of their own. By contrast, persons on family leave are not available for work, and they are unemployed by choice. However, through tortuous reasoning, the Labor Department says it has the authority to interpret family leave as falling within the "able and available" requirement.

How Great Is the Need? President Clinton cited a 1996 report by the Commission on Family and Medical Leave that said lost pay was the most significant barrier to parents wanting to take leave after the birth or adoption of a child. However, the report indicated that only a few parents faced this barrier, as Figure I shows:

FIGURE I
Percent of Workforce Who Needed Leave But Could Not Take It



Source: Calculations based on 1996 report by Commission on Family and Medical Leave.

- 3.4 percent of the nation's total work force—about 4.5 million—said they needed leave but were unable to take it.
- But of this group, only 8.4 percent—about 375,000—needed leave for birth or adoption, with the remainder needing leave for family illness and other reasons.
- Of the 375,000, 63.9 percent—about 240,000—cited financial need as the reason for not taking leave. (The next most cited reason was "work too important.")

Thus only 18 one-hundredths of 1 percent of the workforce needed family leave but didn't take it for

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financial reasons. Yet more than five million people each year — 24 times as many as said they needed UI benefits — would be able to draw them.

Parents would be allowed to draw UI benefits for family leave any time within the first year of a child's birth or the effective date of adoption. If a baby is born in January, the father could take family leave, with benefits, in the fall so he could go deer hunting, if he chose.

Endangering UI Funds. Most states' unemployment insurance systems are currently in good financial condition, but past recessions have put strains on those funds. During the 1980-82 recession 33 states borrowed more than \$33 billion from the federal government. Employers are still paying a 0.2 percent surcharge on the federal part of the unemployment tax instituted in 1977 after the federal unemployment account ran out of money. The Labor Department has estimated that allowing people on family leave to draw UI benefits would cost no more than \$68 million a year, but the Employment Policy Foundation has estimated that the cost would be a minimum of \$14.4 billion annually.

Encouraging Employers to Reduce Benefits. Many employers already pay employees who take leave under the FMLA. The 1996 report said 52 percent of those taking leave received full pay and another 22 percent received partial pay. [See Figure II.] The FMLA/UI proposal allows that cost to be shifted to the UI system, so employers are likely to cut back on their own pay — workers will not be allowed to collect both UI benefits and sick leave. Model legislation proposed by the administration would leave a company's UI tax rates unaffected by employee usage of family leave, so a company would have every incentive to substitute public UI funds for the payments they have been making.

The UI System Needs Reform — or Abolishment. UI currently provides benefit payments to only 38 percent of the unemployed. Its sister program, the Employment Service, has not been able to document any effectiveness whatsoever at getting people working. As it now exists, the UI system encourages lengthy spells of unemployment. For example:

- Economists Mark Gritz of the Battelle Institute and Thomas MacCurdy of Stanford University found that people who are eligible for UI have longer spells of unemployment than those who are not eligible.
- University of Minnesota economist Brian McCall has found that high UI payments relative to previous wages increase the average duration of unemployment.

Instead of expanding the unemployment insurance system, policy makers should consider abolishing it. The American Institute for Full Employment has proposed replacing UI with a version of its Full Employment Plan, which 14 states have used successfully in welfare reform. Instead of paying unemployment insurance benefits, the plan would provide a tax-subsidized job as a backstop for those who cannot find work. The institute says such a plan would actually help more jobless people while reducing the unemployment insurance tax rates significantly.

Making UI benefits part of the FMLA may be politically appealing, but it takes public policy in entirely the wrong direction. It requires a costly expansion of an unemployment insurance program that already fails to do well what it was designed to do. A more constructive step would be to replace UI with a program that works.

This Brief Analysis was prepared by William B. Conerly, president of Conerly Whelan Inc., a Portland, Ore., investment management firm, and a consultant to the American Institute for Full Employment of Klamath Falls, Ore.

FIGURE II
Leave Taken Under FMLA

