

**UNNECESSARY LOSSES:
COSTS TO WORKERS IN THE STATES
OF THE
LACK OF FAMILY AND MEDICAL LEAVE**

by

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**REVIEW OF STATE LEGISLATION GUARANTEEING JOBS
FOR FAMILY OR MEDICAL NEEDS**

by

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AN OVERVIEW

Despite widespread agreement that employment policies should be responsive to the needs of working families, Congress is currently engaged in debate about a national leave policy that would require minimum protections against job loss because of family and medical needs. The proposed policy would provide protection against job loss if a worker takes a short, unpaid leave for the birth or adoption of a child, the care of a seriously ill child or parent, or the worker's own illness. Although some businesses object to the cost of a national policy, the cost to workers, and to society at large, of not having such a policy is often overlooked.

The purpose of this report is to begin to assess that cost on a state-by-state basis, taking into account existing state legislative guarantees of family and medical leave. The cost assessment research was done by the Institute for Women's Policy Research (IWPR) and the review of state legislation by the Women's Legal Defense Fund (WLDF).

IWPR's study of the costs of the lack of leave establishes that parents and other workers are already bearing significant costs in lost wages to deal with family and medical needs. On the national level, the lack of parental leave alone costs working women and their families \$607 million annually. This figure represents the additional earnings lost by those new mothers who return to work, but are unable to return to their former jobs because their employers do not have parental leave policies in place. When these new mothers without job-protected leaves return to work but are unable to return to their former jobs, they experience more unemployment and lower wages than those mothers who return after a period of protected leave.

In addition, working mothers without job-protected leave receive \$108 million more in assistance from such programs as unemployment insurance, supplemental security income, and welfare than do mothers working for employers with parental leave policies. Taxpayers, through their support of these assistance programs, bear some of the cost of employers' failure to provide leave.¹

¹ For a fuller discussion of these estimated losses, see IWPR's earlier study, Roberta Spalter-Roth and Heidi Hartmann, Unnecessary Losses: Costs to Americans of the Lack of Family and Medical Leave, Executive Summary, Washington, DC: Institute for Women's Policy Research, 1988.

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In contrast, the costs of family and medical leave policies to business are minimal. The costs to businesses are often misperceived because the costs of absence from work due to childbirth or illness--which are unavoidable--are confused with the costs of providing family and medical leave. Working parents who have a child or workers who are faced with a serious family illness or are ill themselves will be absent from work and will lose some income--they have no other choice. The question for workers is whether they will have a job to come back to. The question for employers is whether there are any additional costs when they hold jobs open for absent employees, rather than replacing them permanently.

A study of current employer practices by the U.S. General Accounting Office found that employers incur little or no additional replacement costs when they hold jobs open for absent employees. GAO has estimated the costs to employers as solely the cost of maintaining health insurance during the leave, an amount which comes to about \$200 million annually for all covered employers. GAO's study shows that employers replace fewer than one in three absent workers and that the cost of the temporary replacements is similar to or less than the cost of the workers replaced.² Thus holding jobs open for absent workers is not costly. The Women's Economic Justice Center has estimated that the proposed national leave policy will cost the employer only \$6.50 per year per eligible worker.³ Moreover, employers are now sustaining losses through reduced productivity and increased retraining costs, because they do not generally provide job-protected family and medical leaves for their workers. A national leave policy will help businesses by increasing their ability to recruit and retain productive workers.

Some businesses in the United States and many policy makers abroad have already concluded that the small costs of family and medical leave policies are outweighed by the benefits. In fact,

² See U.S. General Accounting Office, GAO's Cost Estimate of the Family and Medical Leave Act Proposal. Statement of William J. Gainer before the Subcommittee on Children, Families, Drugs, and Alcoholism, Committee on Labor and Human Resources, U.S. Senate, February 2, 1989.

³ See National Center for Policy Alternatives, Women's Economic Justice Center, Leadership Brief, Policy Choices in Family and Medical Leave: A Legislative Checklist. Washington, D.C., 1989.

Japan and West Germany, two of America's most successful foreign competitors, already have some form of national family and medical leave policy. These countries have concluded that family and medical leave makes good economic sense.

FINDINGS FOR THE UNITED STATES

In the United States, with a work force of approximately 111 million employees, an estimated 2.3 million employed women give birth or adopt a child annually, an estimated 3.2 million employed men have wives who give birth or adopt a child, and an estimated 11.4 million women and 8.5 million men are off the job for more than 50 hours due to their own or other family members' illness. These workers lose an estimated 100 billion dollars annually as a result of these compelling family needs. Taxpayers' share of these losses is approximately 8 billion dollars annually, because workers who experience childbirth, illness of family members, or their own illness receive assistance from government programs such as unemployment insurance, supplemental security income and welfare.

The share of these losses that can specifically be attributed to the lack of a national parental leave policy and that would be ameliorated by the proposed federal Family and Medical Leave Act is approximately 607 million dollars annually in costs to families of employed women who give birth or adopt a child, and approximately 108 million dollars to taxpayers (because women who do not have leave lose more earnings and receive more assistance from government programs than new mothers who do have job-protected leaves).

These costs are underestimates, because they do not include the earnings losses and assistance payments to people who lose their jobs due to their own illnesses or those of their children or other family members. Because of the lack of data, estimates of the costs due to the lack of job-protected leave for illness or care of others could not be calculated, but IWPR's 1988 research shows that workers who have experienced above average absence (50 hours or more) from work due to illness subsequently suffer twice the unemployment (compared to workers who had

shorter or no absences). The higher unemployment of workers who had illness-related absences indicates that such workers are looking for work but are unable to find it, because they did not have leave that allowed them to return to their former jobs. IWPR concludes that workers absent from work due to their own or others' illnesses also suffer substantial losses due to the lack of a national leave policy.

Although the proposed Family and Medical Leave Act would not prevent all losses, an estimated 59 percent of male employees and 51 percent of female employees would be covered under the Senate version, and an estimated 52 percent of male employees and 44 percent of female employees would be covered under the House version in the United States as a whole. Of these covered employees, IWPR estimates that approximately 2.4 million employees would take advantage of the law's provisions annually. Although about half of all employees would be covered, only 12 percent of the total of 5.7 million firms would be subject to the provisions of the Senate version of the bill and only 5 percent would be subject to the provisions of the House version.

In sum, IWPR's research shows that United States citizens lose billions of dollars each year as a result of losses in wages, jobs and taxes due to childbirth, family care and illness. A share of these losses would be mitigated by national family and medical leave legislation. The costs of the legislation appear to be significantly less than the losses incurred under the current system, which is characterized by a patchwork of diverse private and state-level policies.

REVIEW OF STATE LEGISLATION GUARANTEEING JOBS FOR FAMILY OR MEDICAL NEEDS

In the past several years, many states have tried to help working families, and the American taxpayer in general, by attempting to enact state-level minimum standards for job guarantees for family and medical needs. Interest at the state level is intense: WLDF's review of legislative action shows that 32 states have considered some form of family or medical leave legislation in 1989 alone, and 14 states are still considering policies. State action has occurred in response to a variety of pressures--a competitive need to bring the standards of the employers in

their states up to the standards of other states and countries; a hard look at the slow pace of employers in providing protections for workers; the needs of children and family members who have no one to care for them; and the political realities of the gender gap.

Even more important, the debates in state legislatures show increasing comprehension of the economic importance of family and medical leave for a workforce that is 47 percent women. State legislatures are recognizing that society cannot afford the forced choice of "love your job or love your family" and that rational public policies must balance the needs of work and family.

Yet, as WLDF's research shows, state-level protection is extremely limited. Twenty-seven states have no laws guaranteeing leave for family or medical needs. No state guarantees employees the breadth and length of protection that would be provided by the federal Family and Medical Leave Act. Just under half the states (24, to be exact) have any law or regulation on the books that guarantees leave for any sort of family or medical need. Of those, six states' guarantees cover state employees only (Florida, North Carolina, North Dakota, Oklahoma, Pennsylvania, and West Virginia). Ten more are "Mommy-track states" that provide leave only for women, and usually limited to a period of maternity-related disability (California, Hawaii, Iowa, Kansas, Louisiana, Massachusetts, Montana, New Hampshire, Tennessee, and Vermont); one state (Kentucky) has only adoption leave. That leaves only seven states with progressive family and medical leave protections for most employees (Connecticut, Maine, Minnesota, Oregon, Rhode Island, Washington, and Wisconsin).

- o Only three states--Connecticut, Maine, and Wisconsin--provide job protection for private sector employees who themselves suffer serious health conditions ("medical leave"). The law in Connecticut was just enacted and will not even go into partial effect until 1990. The Illinois legislature has just enacted legislation similar to Connecticut's, but the Governor has not signed it and is being lobbied heavily to veto it.
- o These three states are also the only ones that provide job protection for private employees who need leave to care for the serious health condition of a spouse or parent. Because these three are the only states that provide leave for employees' own medical conditions as well as for those of adult family members, they are referred to as the "FMLA states" in this report.
- o Only five states--the three "FMLA states" plus Washington and Rhode Island--assure parents that they can return to their jobs after they take leave from work due to their children's serious illnesses as well as their births and adoptions.

- o In addition to those five, two more states--Minnesota and Oregon--provide leave for fathers and mothers of newborn or newly-adopted children. Kentucky provides gender-neutral parental leave for adoption, but not for childbirth.
- o Even the three "FMLA states," though broad in scope, are very limited in length of leave. In Connecticut, even after a four-year phase-in period, employees will not be entitled to more than 16 weeks every two years for family and medical leave combined. In Maine that number is only 8 weeks (as it will be in Illinois if the Governor signs the bill); in Wisconsin, it is 8 weeks per year for family leave, but only two weeks for medical leave.
- o Of the 32 states which considered bills in 1989, nine passed legislation. Of those nine, two established studies (Georgia and Hawaii); three provided leave protection for state employees only (North Dakota, Oklahoma, and West Virginia); one is "Mommy-track" legislation for women only (Vermont); one is limited to parental leave (Washington); and one is under attack by business opponents and may actually be vetoed by the Governor (Illinois). Only one--Connecticut--has become an "FMLA state."
- o During the same time period, state family and medical leave legislation died or was defeated in 12 states.
- o Since 1987, seven states have not considered any type of family or medical leave legislation at all: Arkansas, Idaho, Nevada, New Mexico, South Carolina, Utah, and Wyoming.

State action is important for innovation, for expanded coverage, and for state competitive advantage. The intense legislative activity in many states attests to public interest in and popular support of family and medical leave legislation. But, as this research shows, state-by-state legislative reaction is slow and leaves many families unprotected for some time. Just as importantly, even the state laws that have been enacted do not meet the minimum standard set by the federal Family and Medical Leave bill.

WHAT THE FAMILY AND MEDICAL LEAVE ACT WILL MEAN IN EACH STATE

This report shows what the Family and Medical Leave Act will mean to working families in each state and the District of Columbia. For each of the 35 jurisdictions⁴ that have no guarantee

⁴ The 35 jurisdictions for which these estimates are provided include the 27 that have no laws, six that have laws that protect state civil service workers only, one that protects adoption only (Kentucky), and one (Vermont) whose newly-enacted maternity leave law only just went into effect.

of any kind of family or medical leave for private-sector employees, the Institute for Women's Policy Research estimates the costs to workers and taxpayers of the status quo--that is, of the lack of family and medical leave rights. Both the costs of family needs themselves (childbirth, family care, and illness) and the costs of the lack of parental leave are estimated. The report also provides information for all 50 states and the District of Columbia on:

- o the size of the work force by sex and age;
- o estimates of the number of male and female workers who experience childbirth and illness annually;
- o estimates of the number of male and female workers and the number of employers who would be covered by the House and the Senate versions of the proposed federal legislation; and
- o the estimated number of workers who are likely to make use of the provisions of the proposed legislation (U.S. Senate version) in a given year.

IWPR's estimates of costs in the states are based on IWPR's national level findings reported in 1988. Those findings have been applied to the states by taking into account the different wage and benefit levels in the states and the size of the state work force in the relevant sex and age groups. In addition, IWPR estimates the number of workers and employers who would be covered by the proposed national legislation in each state by adjusting for the numbers of women and men who work in firms of different sizes and who work the requisite number of hours per week (20 or more) and have been on the job for one year. IWPR's state-level estimates are based on data collected by the U.S. Bureau of the Census, the U.S. Small Business Administration, and the U.S. General Accounting Office, combined with IWPR's national-level findings from the Panel Study of Income Dynamics, a nationally-representative data base of 7000 U.S. families surveyed annually by the Institute for Social Research at the University of Michigan. Further details can be found in the Technical Appendix.

Finally, the report also contains, for each state, a summary of state laws and regulations that guarantee any sort of family or medical leave to employees, including:

- o any existing state law or regulation that guarantees family or medical leave of any type, including pregnancy disability leave laws ("Current Law");
- o a very brief summary of legislative activity in 1987, 1988, and 1989 ("Recent Legislative Activity"); and

- o bills that are now pending, showing their status ("Pending Legislation"). Note that bills that have already died this year, because the legislative session has ended, are not included in this category, but are rather included under "Recent Legislative Activity."

In WLDF's review of related state legislation, the following definitions explaining the various types of leave provided by the states are used:

Family leave--leave to care for family members in certain specified circumstances. Circumstances commonly specified include the serious illness of children and other family members, and the birth or adoption of a child.

Parental leave is a form of family leave, referring to leave to care for employees' children (generally for birth, adoption, and/or serious illness).

Elder-care leave, another form of family leave, refers to leave to care for elderly family members, generally employees' parents, and generally when they are seriously ill.

Spousal-care leave, similarly a form of family leave, refers to leave to care for employees' spouses, generally when they are seriously ill.

Medical leave--leave for employees' own serious illnesses that make them temporarily unable to work.

Pregnancy disability leave, actually a form of medical leave, refers to leave for women only for periods of actual physical disability due to pregnancy, childbirth, or related medical conditions.

Maternity leave--leave for women only, to be used during pregnancy and childbirth and for a period after childbirth, regardless of disability.

Following are the results for all 50 states of the IWPR and WLDF research. After cost estimates of the lack of a national parental leave policy and estimates of coverage by the proposed FMLA are presented for the United States as a whole, estimates of costs and coverage are provided for each of the states, along with the results of the review of laws and legislative action in each state.

INSTITUTE FOR WOMEN'S POLICY RESEARCH

UNNECESSARY LOSSES

EARNINGS LOSSES AND TAXPAYER COSTS

IN UNITED STATES

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

	Aggregate Annual Earnings Lost to Working Women and Their Families	Aggregate Annual Cost to Taxpayers
Costs of Not Having Parental Leave	\$ 607 million	\$ 108 million

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

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

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

INSTITUTE FOR WOMEN'S POLICY RESEARCH

UNITED STATES FACT SHEET

Number of UNITED STATES's Employers, all size firms:¹ 5,701,485

UNITED STATES's Employed Civilian Labor Force²

	Age 16-45	Age 16-55	Ages 16+
Women	35,709,000	43,510,000	50,353,000
Men	42,087,000	51,924,000	61,124,000

State to U.S. earnings ratio (1980):³ Women Men

Childbirth and illness data for workers⁴

Number of Working Women (16-45) Who had Births: 2,321,000

Number of Working Men Whose Wives had Births: 3,236,000

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

Women 11,443,000 Men 8,464,000

Numbers/Percent of UNITED STATES Labor Force/Employers covered under proposed federal FMLA

Labor Force ⁴	House Version (50 or more employees)		Senate Version (20 or more employees)	
	Number	Percent	Number	Percent
Total Women	22,294,000	44	25,442,000	51
Total Men	31,670,000	52	36,153,000	59
Employers ¹	266,000	5	701,000	12

Estimated number of UNITED STATES workers likely to use provisions of FMLA (Senate version) annually:⁵ 2,402,000

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

FINDINGS FOR THE STATE OF ALABAMA

In ALABAMA, a state without any state-level leave policy, with a work force of approximately 1.7 million employees, an estimated 28,000 employed women give birth or adopt a child annually, an estimated 58,000 employed men have wives who give birth or adopt a child, and an estimated 130,000 women and 136,000 men are off the job for more than 50 hours due to their own or other family members' illness. These workers lose an estimated \$ 528 million dollars annually as a result of these compelling family needs. Taxpayers' share of these losses is approximately \$ 68 million dollars annually, because workers who experience childbirth, illness of family members or their own illness receive assistance from government programs such as unemployment insurance, supplemental security income and welfare.

The share of these losses that can specifically be attributed to the lack of a parental leave policy in ALABAMA and would be ameliorated by the proposed federal Family and Medical Leave Act is approximately \$ 7.8 million dollars annually in costs to families of employed women who give birth or adopt a child and approximately \$ 1.2 million dollars to taxpayers (because women who do not have leave lose more earnings and receive more assistance from government programs than new mothers who do have job protected leaves).

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

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

Although the proposed Family and Medical Leave Act would not prevent all losses, an estimated 64 percent of male employees and 49 percent of female employees would be covered under the Senate version, and an estimated 57 percent of male employees and 44 percent of female employees would be covered under the House version. Of these covered employees, IWPR estimates that approximately 39,000 employees will take advantage of the law's provisions annually. Although about half of all employees in ALABAMA would be covered, only 12 percent of the total of 80,279 firms would be subject to the provisions of the Senate version of the bill and only 5 percent would be subject to the provisions of the House version.

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

INSTITUTE FOR WOMEN'S POLICY RESEARCH

UNNECESSARY LOSSES

EARNINGS LOSSES AND TAXPAYER COSTS

IN ALABAMA

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

	Aggregate Annual Earnings Lost to Working Women and Their Families	Aggregate Annual Cost to Taxpayers
Costs of Not Having Parental Leave	\$ 7.8 million	\$ 1.2 million

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

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

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

INSTITUTE FOR WOMEN'S POLICY RESEARCH

ALABAMA FACT SHEET

Number of ALABAMA's Employers, all size firms:¹ 80,279

ALABAMA's Employed Civilian Labor Force²

	Age 16-45	Age 16-55	Ages 16+
Women	433,000	495,000	774,000
Men	758,000	836,000	972,000

State to U.S. earnings ratio (1980):³ Women 0.85 Men 0.85

Childbirth and illness data for workers⁴

Number of Working Women (16-45) Who had Births: 28,000

Number of Working Men Whose Wives had Births: 58,000

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

Women	130,000	Men	136,000
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Numbers/Percent of ALABAMA Labor Force/Employers covered under proposed federal FMLA

Labor Force ⁴	House Version (50 or more employees)		Senate Version (20 or more employees)	
	Number	Percent	Number	Percent
Total Women	340,000	44	381,000	49
Total Men	550,000	57	619,000	64
Employers ¹	3,700	5	9,900	12

Estimated number of ALABAMA workers likely to use provisions of FMLA (Senate version) annually:⁵ 39,000

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

ALABAMA
Related State Legislation *

Current Law

None

Recent Legislative Activity

1988 - Parental leave legislation was proposed but not enacted.

Pending Legislation

None **

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** None of the sources used by the Women's Legal Defense Fund indicates any pending legislation establishing any type of family or medical leave right.

FINDINGS FOR THE STATE OF ALASKA

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

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

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

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

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

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