

Compensating American Families  
for Births and Adoptions

by  
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\*Economist, the Urban Institute. Opinions expressed in the paper are those of the author and do not necessarily represent the position of the Urban Institute or its sponsors. Helpful comments on an earlier draft were given by Darlyne Bryant, Vicky Lovell and Mike Miller. Any errors are the sole responsibility of the author. Financial support was provided by the Urban Institute. **Note that the cost estimates reported in this paper are considerably smaller than estimates appearing in a version dated February 2001. The lower costs, the result of using a revised methodology, are roughly two thirds of the estimates reported in the February 2001 paper. The conclusions of the earlier version are not changed by the changes in estimated costs**

## Executive Summary

Growth in women's participation in paid employment has been a salient development in the U.S. labor market since 1950. Increased work by married women with small children has been especially noticeable. Somewhat more than half of women now return to work during the year following a birth.

The Clinton Administration issued a rule effective in August 2000 permitting states to compensate families with childbirths and new adoptions through State Unemployment Insurance (UI). Up to twelve weeks (or more if a state opts for a longer potential duration) of UI payments would be permitted in the year following births and adoptions. The rule allows states to voluntarily enact birth and adoption unemployment compensation (BAA-UC). Details of the legislation are to be developed by the states. During 2000, BAA-UC proposals were introduced in 15 states but none were enacted.

This report reviews the BAA-UC proposal and discusses alternative ways to compensate families for births and adoptions. It examines the changes implied for UI programs if BAA-UC is adopted. Three alternatives to BAA-UC are: 1) compensation through state temporary disability insurance (TDI), 2) partial reimbursement to employers who provide paid leave and 3) administration of payments through UI but with no link to the financing or trust funds of existing UI programs in the states. Some comparisons among these alternatives are made.

Enactment of BAA-UC or one of the alternatives implies added costs which must be financed, most likely by payroll taxes or general revenues. The report examines costs in some detail. Overall, had all states offered BAA-UC in 1999, it would have added about 10 percent to the costs of existing UI programs. Since 1999 was a year of unusually low UI costs, the long run cost increase from BAA-UC is probably closer to 6 or 7 percent. The cost increases caused by BAA-UC are larger than for other changes in UI benefits enacted during the 1990s. While considerable uncertainty surrounds the cost estimates, it is clear that BAA-UC implies proportionately larger cost increases for states where UI reciprocity is low and for states where birth rates exceed the national average.

**Note that the cost estimates reported in this paper are considerably smaller than estimates appearing in a draft dated February 2001. The lower costs, the result of using a revised methodology, are roughly two thirds of the estimates reported in the February 2001 paper. The conclusions of the earlier version are not changed by the changes in estimated costs**

## 1. Women in the Evolving U.S. Labor Market

The place of women workers in the U.S. labor market has changed dramatically over the past 50 years. In recent years, over 60 percent of women aged 16 and older have worked in the paid employment compared to just over 40 percent in the early 1950s. In the central years of the life cycle, 80 percent of women now work. Annual hours worked by women have also increased while male annual hours have been stable. As a result of these changes, women now account for more than 47 percent of persons who work each year and more than 42 percent of annual hours worked by the U.S. labor force. Women's share of annual hours worked was only about 25 percent fifty years ago.

The biggest changes in women's work habits have occurred among married women and especially women with young children. Labor force participation rates of all women 25-34 have averaged about 75 percent in the 1990s, and those with children under one year of age now have participation rates of more than 50 percent. Increasingly, young couples are opting for work by both partners even when children are very young.

## 2. Earlier Legislation

Traditionally, decisions to grant unpaid leave or compensated leave for childbirth and/or other medical conditions were made unilaterally by employers through company personnel policies or under the terms of company-union collective bargaining agreements. Private leave arrangements predominated during the 1950s, 1960s and 1970s.

Partly in recognition of the trend towards increased work by mothers with young children, state and federal laws have been enacted to facilitate work and parenting. An important change affecting privately-provided sick leave and short term disability benefits occurred with the Pregnancy Discrimination Act (PDA) of 1978. It broadened the definition of sex discrimination to include pregnancy, childbirth and related medical conditions. Employers with 15 and more workers were precluded from discriminating on the basis of pregnancy and/or childbirth in hiring, termination, provision of disability and medical benefits, sick leave and other aspects of employment.

Starting in the early 1970s and extending into the 1980s many individual states enacted family and medical leave legislation. Employers above a minimum size threshold were required to provide job protected unpaid leave for several weeks in the period just before and after childbirth. A variety of initiatives passed in more than 30 states, but coverage was restricted to employees of state government in about one third of these states.<sup>1</sup> By 1992, twelve states had enacted laws guaranteeing family and medical leave to the majority of workers in the private sector.

National legislation followed in 1993, the Family and Medical Leave Act (FMLA). It provided up to 12 weeks of job-protected unpaid leave for women and men who need to be temporarily away from work for specified medical reasons. Leave could be obtained for maternity disability, care of a newborn, own illness or care of an ill family member. FMLA covers persons with substantial job attachment in large firms. Covered firms have 50 or more employees, and personal eligibility requires 1250 or more hours worked in the previous year. Health insurance coverage is maintained for those on FMLA leave. There was no requirement in FMLA to compensate those on leave (unless covered by collective bargaining) although firms could voluntarily decide to grant financial support.

Information on the utilization of leave has been enhanced by recent research and by a sample survey authorized under FMLA, the Workable Balance survey of households undertaken in 1995. The survey gathered information about utilization of leave for different reasons, e.g., childbirth, care of sick infants, care of ill family members, constraints on leave time allowed and frequency of paid leave. A measurable share of persons utilizing leave feel constrained to return to work sooner than they prefer. The enactment of FMLA appears to have reduced problems of early termination of leave time.

There are several possible effects of FMLA on employment rates, wages, return to work with the previous employer and length of leaves actually taken. While the research findings are to some extent preliminary, a few conclusions have emerged.<sup>2</sup> It appears

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<sup>1</sup> Summaries of state legislation are given in Appendix B of Janet Shelby Hyde and Marilyn J. Essex, Eds., Parental Leave and Child Care, (Philadelphia, PA: Temple University Press, 1991) and Commission on Family and Medical Leave, "A Workable Balance: Report to Congress on Family and Medical Leave Policies," (Washington, D.C.: U.S. Department of Labor, Women's Bureau, 1996).

<sup>2</sup> This summary is based on three studies and is not offered as a thorough review of relevant research. The studies are: Jane Waldfogel, "The Impact of the Family and Medical Leave Act," Journal of Policy Analysis and Management, Vol 18, No. 2 (Spring 1999), pp. 281-302., Katherin E. Ross Labor Pains: Maternity Leave Policy and the Labor Supply and Economic Vulnerability of Recent Mothers, PhD

FMLA has resulted in new mothers taking longer leaves. When leaves are of short duration (two or three months) effects on post-natal employment, return to the previous employer and wages are uniformly small, often indistinguishable from zero. Findings from cross country data show negative effects on womens' wages when leaves are of longer duration. Research on these labor market questions will be fostered as data from the updated Workable Balance survey (completed in late 2000) are examined.

### 3. The Clinton Administration Proposal

In May 1999, the Clinton Administration proposed to make leave related to births and adoptions compensable through the Unemployment Insurance (UI) program. Birth and Adoption Unemployment Compensation (BAA-UC) would provide up to 12 weeks of benefits following childbirths or adoptions of children up to age 18.<sup>3</sup>

The BAA-UC proposal was authorized by the issuance of an administrative rule rather than by legislation. A draft rule was issued in December 1999 and a final rule, including model legislative language, became effective in August 2000. Under this rule, states were authorized to establish BAA-UC with provisions set by the states. The rule gives states broad latitude in many areas whereas the model legislative language gives specifics which states may choose not to follow, e.g., 12 weeks of potential benefits.

The BAA-UC proposal has six key elements. 1) Cash benefits are to be paid by State UI programs for up to 12 weeks (or possibly longer) during a 52 week period following a birth or adoption. The monies are to come from the state trust funds maintained at the U.S. Treasury. 2) Both parents are eligible to receive compensation if otherwise eligible for UI benefits. 3) Most of the rules governing monetary eligibility and nonmonetary eligibility in the regular UI program were to govern BAA-UC.<sup>4</sup> 4) The rules concerning work search in the regular UI program could be waived while BAA-UC

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disseration, Syracuse University, (July 1999) and Christopher Ruhm, "The Economic Consequences of Parental Leave Mandates: Lessons from Europe," Quarterly Journal of Economics, (February 1998), pp. 285-317.

<sup>3</sup> Twelve weeks were specified in model legislative language. States could opt for more weeks. Throughout the discussion, reference will be made to twelve weeks, but a state could opt for a longer potential duration.

<sup>4</sup> Regular UI is the program that can compensate up to 26 weeks during a 52 week period following a job separation, termed a benefit year. The model legislative language suggested but did not require states to use the same eligibility rules as for regular UI.

is received. 5) States could decide how to finance the program's costs although it was suggested that the benefits be "non-charged." This meant that the cost would be imposed on employers proportionally (to their UI taxable wages) and not in reference to the amount of BAA-UC benefits paid. 6) Firms covered by the regular UI program would be covered by BAA-UC. This encompasses both taxable employers (mainly private, for-profit firms) and so-called reimbursable employers (in the state and local government and non-profit sectors).

An analysis of the costs of the proposal was undertaken at the U.S. Department of Labor (USDOL). The analysis suggested the program would typically add from six to nine percent to the costs of existing UI programs in the states. Cost estimates are discussed further in Section 7.

During the first half of 2000 bills were prepared in 15 states, but not one was enacted. With the referral of a proposed bill to committee for further study in Massachusetts in August, the legislative score for the year was zero. In fact, only three proposed bills passed even one state legislative chamber (one chamber in Indiana and Vermont and both chambers in Massachusetts). However, many states are currently examining the costs and other issues related to BAA-UC. More bills will be introduced in 2001.

The employer community has mounted a vigorous campaign opposing BAA-UC. One Washington, D.C.-based organization representing employers (UWC – Strategic Services on Unemployment and Workers' Compensation) has been especially active in opposing the proposed program. Some opponents have suggested that the costs would be much higher than the costs projected by USDOL.

In June 2000 a court suit was lodged in the Federal District Court of the District of Columbia challenging the legal authority of USDOL to establish BAA-UC through federal rulemaking. Thus, even if BAA-UC legislation were passed in one or more states, it might not survive this court challenge.

Besides the employer community and its representatives, opposition has also come from UI administrators and other parties "interested" in the UI program. The opposition has emphasized not only costs but also a change in UI philosophy that the enactment of

BAA-UC would represent. Traditionally UI benefits are paid to claimants who are immediately able and available for work.

While the opponents of BAA-UC prevailed in the legislative sessions of 2000, the issues surrounding the proposal are not likely to disappear. Supporters will continue to emphasize the gains in welfare for affected families. Opponents will emphasize costs and the change in UI philosophy represented by BAA-UC. Legislation seems likely to be enacted in some states during the next few years.

#### 4. A Crossnational Perspective

The high-income western economies besides the U.S. generally provide some form of employment leave and cash support to employed parents of new infants. The support is provided through maternity leave, parental leave and/or family leave programs.<sup>5</sup>

Consider, for example, the other six members of the so called group of seven: Canada, France, Germany, Italy, Japan and the United Kingdom. Each of the six provide maternity benefits to new mothers. All but Italy require a substantial commitment to employment prior to the birth with the woman being eligible for either UI or health insurance. The potential duration of maternity benefit extends from 12 weeks (Germany) to 21 weeks (Italy). Five determine benefit levels using prior (taxable or total) earnings with replacement rates ranging from 55 percent (Canada) to 100 percent (France and Germany). The sixth country, the United Kingdom, provides flat rate benefits. Generally, maternity benefit levels in these countries are much more generous than UI benefits in the U.S. (and by extension BAA-UC benefits).

Besides maternity benefits to new mothers, the support systems in four of these countries (all but Japan and the U.K.) also provide for parental/child rearing benefits for one parent. In most of these countries, maternity benefits are part of a social safety net with several strands.

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<sup>5</sup> Maternity leave refers to the weeks immediately before and after a childbirth. Parental leave refers to payments that may extend over several years. Eligibility for parental leave often extends to either parent. These programs should be distinguished from programs paying child allowances and/or family allowances. The latter are typically universal in coverage regardless of the employment status of the parents.

One pattern in utilization of parental/child rearing benefits is generally observed in countries where such benefits are available. While either parent is eligible to receive payments, actual utilization is much higher among eligible women than men.<sup>6</sup> This is relevant to the U.S. where both parents could be eligible under the BAA-UC. To the extent that men as well as women utilize BAA-UC benefits, costs would be higher.

While comparative data are of interest to many in discussions of BAA-UC, cross country differences in social protection systems are wide, and the U.S. is unusual in several ways. For example, the U.S. places much greater reliance on private provision of old age and disability pension benefits than other countries. While most countries finance UI with payroll taxes levied on both employers and employees, the US taxes just employers. Also, UI in the U.S. is unique in its reliance on experience rating to assign the costs of benefit payments to individual employers. Thus, the absence of a public program for providing maternity and parenting benefits in the U.S. probably would not affect attitudes of many parties interested in BAA-UC, particularly those opposed to it.

## 5. State TDI Programs

Five states (California, Hawaii, New Jersey, New York and Rhode Island) and Puerto Rico provide compensation for medical disability related to pregnancy and childbirth through Temporary Disability Insurance (TDI). Program provisions vary widely across the jurisdictions.<sup>7</sup> All were all created more than thirty years ago. Because three of these states are large, roughly one U.S. worker in five is covered by TDI. The programs in California, New Jersey, Rhode Island and Puerto Rico are closely linked to the UI program, e.g., eligibility is based on earnings in UI covered employment, they use the same base period as for UI and contributions are obtained through the UI revenue collection apparatus.

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<sup>6</sup> In Germany and Finland eligible fathers accounted for only 1 to 2 percent of all leave days used. See footnote 13 in Shelly Phipps, "Potential Access to Maternity/Parental Benefits in Canada," Department of Economics, Dalhousie University, May 1995. Ruhm also comments on low utilization by eligible men, 7 percent in Sweden and 1 percent in Germany. See footnote 14 in Christopher Ruhm, "The Economic Consequences of Parental Leave Mandates: Lessons from Europe," Quarterly Journal of Economics, (February 1998), pp. 285-317.



Expectant mothers can collect TDI benefits some weeks before childbirth as well as after childbirth as medically indicated. While maximum benefit duration for new mothers can be for 26 weeks,<sup>8</sup> actual duration is often 10 to 13 weeks for uncomplicated deliveries. A typical pattern of payments spans the four weeks before birth and four to eight weeks after birth. Except in New York, TDI weekly benefits are higher than UI benefits. The differential is especially large in California where weekly TDI benefits averaged \$231 in 1999 compared to \$158 for UI.

In California, New Jersey and Rhode Island, states where data are readily available,<sup>9</sup> TDI is paid to a measurable share of new mothers. For selected years between 1985 and 1999, the compensated proportions of live births were as follows: California – 0.26-0.32, New Jersey – 0.16-0.21 and Rhode Island – 0.38-0.45. Although women need to satisfy only modest base period earnings requirements in these states, all annual reciprocity proportions (based on 17 state-year observations) fell below 0.50.

Perhaps the low reciprocity of TDI childbirth benefits is not surprising. In Canada maternity benefits are provided by the UI program to women who meet the base period employment requirements (700 hours in the past year). One analysis of Canadian data found that first time mothers were much more likely to satisfy base period eligibility requirements than mothers of second and later children.<sup>10</sup> The decline in eligibility following the birth of a first child is undoubtedly relevant in the U.S. and would affect the expected costs of BAA-UC.

TDI programs in these states are all longstanding and compensation for births does not seem to create controversies. Only women are compensated. In the four TDI programs closely linked to the UI programs, employee contributions are a major source of program financing: 100 percent in California and Rhode Island, over 80 percent in Puerto Rico and roughly 50 percent in New Jersey. The fact of employee financing probably makes these programs inherently less controversial than BAA-UC.

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<sup>7</sup> TDI coverage, benefit and financing provisions by state are summarized in Table 600 of U.S. Department of Labor, “Comparison of State Unemployment Insurance Laws 2000,” (Washington, D.C.: U.S. Department of Labor, 2000).

<sup>8</sup> Longer maximum durations apply in California and Rhode Island, 52 and 30 weeks respectively.

<sup>9</sup> The data to be reported in the text are based on annual reports from the three states.

<sup>10</sup> See Phipps, *op.cit.*.

## 6. Some Issues in BAA-UC

One frequently-voiced criticism of BAA-UC is that it would provide compensation to persons who are not active participants in the labor market. Recipients would not be immediately available for work and would not be seeking work while receiving benefits. This would change the basis for eligibility where UI recipients traditionally must be able to work, available for work and actively seeking work. Supporters of BAA-UC note that recipients would be job attached and would not need to search for work since most will return to their former jobs. Proponents note the waiver of job search is akin to temporary layoffs where active search is not required of recipients.<sup>11</sup>

To illustrate the change in the terms of UI eligibility implied by BAA-UC, it may be helpful to compare four situations: permanent layoffs, temporary layoffs, voluntary quits and BAA-UC. Chart 1 will assist in making a comparison.

Chart 1. UI Eligibility in Four Types of Job Separations

	Permanent Layoff	Temporary Layoff	Voluntary Quit	BAA-UC
Initial Claims Eligibility Determinations				
Monetary Determination	Yes	Yes	Yes	Yes
Determination of a Separation Issue	No	No	Yes	No
Continuing Claims Eligibility Determinations				
Able to Work	Yes	Yes	Yes	No
Available for Work	Yes	Yes	Yes	No
Actively Seeking Work	Yes	No	Yes	No
Deductible Income	Yes	Yes	Yes	Yes

<sup>11</sup> In the proposed rule for BAA-UC four situations are identified where recipients currently do not have to actively search for work: temporary layoffs, illness in middle of a compensated spell of unemployment, jury duty and participants in approved training.

To receive UI benefits a claimant must satisfy two types of eligibility requirements: initial (entry) eligibility and continuing eligibility. A claimant cannot simply collect benefits for a succession of weeks without any reciprocal obligation. The most important obligation for continuing eligibility is, in the common shorthand phrase, to be able and available for work.

Permanent and temporary layoffs are termed clean separations by UI program administrators. For both, the employer initiated the separation, and if the person satisfies base period earnings requirements, he or she will typically be eligible to collect benefits (after serving a one week waiting period in most states).

Chart 1 shows that to meet the requirement for continuing eligibility the person on permanent layoff must satisfy three work activity conditions: able to work, available for work and (in nearly all states) actively seeking work. Additionally, there may be deductible income to be counted against UI benefits in determining the weekly UI benefit payment. Severance pay and pensions are two kinds of deductible income that may reduce UI if received in the same week.

The important difference between permanent and temporary layoff situations is that a person on temporary layoff is still job-attached. There is a definite date of recall, typically less than 30 days into the future, when the claimant will have the option of returning to the former job. Therefore, active search for work is not required because a job will exist at a specified future date. Note, however, that the person on temporary layoff is both able to work and available for work. Should the employer undertake a recall before the recall date, the person will be able to return to work at that time.

With voluntary quits the worker initiates the job separation. When a quit is followed by a claim for benefits, the outcome in about 70 percent of the cases is a disqualification. Most states will compensate a quit only if it resulted from some job-related cause, e.g., the employer moved the worker to another shift or made some other unilateral change in the terms of employment. Some states will allow compensation following quits for good personal reasons, but even here the UI agency will review the quit to ascertain its appropriateness. Hence Chart 1 shows there is a determination on a separation issue to establish eligibility following a quit.

For quits that are compensated, the same three work search requirements (able to work, available for work and actively seeking work) apply as for a permanent layoff. To receive benefits, the person must be actively trying to secure reemployment and available to take a suitable job if offered. However, because most voluntary quits are *prima facie* disqualifying acts, a comparatively low proportion of persons file for UI benefits. Among voluntary leavers, however, availability to take another job is required for any week when benefits are received.

For recipients of BAA-UC, eligibility requirements are quite different. As with temporary layoffs, recipients are job attached. Hence there is no need for a separation determination. The expectation in most situations is that the person will return to the former job. For continuing eligibility, note there is no requirement to be able to work or available for work. Should a suitable job be offered, there is no requirement to accept it. Because they are job attached, there is no need to be actively seeking work.

Being unavailable for work is not unique to potential BAA-UC beneficiaries. Persons serving on jury duty and those participating in approved training are not available. The latter situations are both temporary, but eventually the person will be available for work. For some period immediately following childbirth, however, the BAA-UC recipient would not be able to work. The situation of a new mother is akin to a temporary disability, but the analogy is not perfect. Physical recovery from childbirth is comparatively rapid, but parental concerns about the well being of the new infant also mitigate against being able to work and available for work. Paying compensation would expand the scope of UI to situations where persons are not physically job ready and, perhaps more important, not psychologically job ready.

Cost considerations aside, does this situation represent a major change in the effective scope of UI coverage? Serving on jury duty and participation in approved training are similar. The claimant in these situations will soon be able and available for work with the same employer. This also describes the situation for most new parents who may be available for work and may return to work sooner than someone participating in approved training. Even if the time away from work exceeds the twelve (or possibly more) weeks of paid leave made possible by BAA-UC, the new parent can be expected to return to the former job in the majority of cases. While the exact proportion of returns

cannot be known in advance, estimates in the 60-96 percent range exist in the research literature for returns within six to twelve months after childbirth.<sup>12</sup> To the extent that the woman does not return to the former employer, there would be added force to the argument for noncharging BAA-UC benefit payments.

Noncharging BAA-UC payments seems appropriate. The rationale for experience rating is to assign costs to employers in situations where they initiate job separations, i.e., layoffs. One objective of experience rating is to influence employers to undertake fewer layoffs. For BAA-UC, the initiative for the (temporary) absence from work resides with the worker. Noncharging BAA-UC benefits would provide the same treatment as for most voluntary quits. Benefit payments would be financed by some form of a shared, as opposed to experience rated, benefit charges.

## 7. BAA-UC Costs

Because BAA-UC expands eligibility for UI benefits, its enactment will raise UI program costs. Cost estimates made at USDOL suggest that cost increases will fall into the 6-9 percent range for states that implement a program with provisions similar to those in the model legislative language suggested by the Clinton Administration, i.e., with 12 weeks of potential benefits.

Much higher cost estimates were made by the Employment Policy Foundation (EPF) in April 2000. They estimated that universal adoption of BAA-UC as proposed would increase UI costs by 70 percent or by \$14.4 billion relative to a national total of roughly \$20.0 billion. The EPF estimate is about ten times the size of the USDOL estimate. The higher costs reflect both higher take-up and longer duration in benefit status vis-à-vis the USDOL estimate.

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<sup>12</sup> Glass and Riley report a return rate of 70-71 percent after 6 months and 60-63 percent after 12 months. See Table 1 in Jennifer L. Glass and Lisa Riley, "Family Responsive Policies and Employee Retention Following Childbirth," *Social Forces*, Vol. 76, No. 4, (June 1998), pp. 1401-1435. Ross, op.cit. (1999) reports return rates in the 94-96 percent range. Waldfogel, Higuchi and Abe report a return rate of 60 percent for U.S. women covered by FMLA with effects of FMLA being higher for women with lower levels of educational attainment. See Jane Waldfogel, Yoshiro Higuchi and Masahiro Abe, "Family Leave Policies and Women's Retention after Childbirth: Evidence from the United States, Britain and Japan," Columbia University, (June 2, 1998).

The BAA-UC proposal and associated model legislative language is not binding on the states, and some could enact a different program, e.g., extend eligibility to 26 weeks. Under an expansion of eligibility to 26 weeks, the EPF has suggested that costs could increase to \$31.2 billion per year, adding some 150 percent to current UI program costs nationwide.

To frame a discussion of BAA-UC costs, it will be useful to explicitly identify six factors that determine costs. These are: 1) the number of states that enact BAA-UC, 2) the number of live births and adoptions, 3) the take up rate, i.e., the share of live births and adoptions that are compensated, 4) the average duration of payments, 5) the weekly benefit amount (WBA) and 6) offsets for payments that reduce the BAA-UC entitlement.<sup>13</sup> The product of factors 2)-6) determines BAA-UC costs for a given state.

There is greater uncertainty for some of these six factors than for others. The number of live births and adoptions is roughly 4 million per year with adoptions of children up to age 18 accounting for only about 1 percent of the total. There is also comparatively little uncertainty surrounding the WBA. The WBA for women in UI programs is consistently below statewide averages. In 1999, the ratio of the women's WBA to the average WBA ranged from 0.73 to 0.98 across the states, and the nationwide average was 0.88. Similar women's WBAs would be expected for BAA-UC.

The other four factors are inherently more uncertain. The number of states that will enact BAA-UC is not known. The number could be affected by the length of the current economic expansion, with enactment being more likely if the economic expansion endures. If the expansion persists, states could enact UI legislation that included both tax cuts and benefit increases with BAA-UC as a prominent benefit increase.

Recent history may help identify the states where enactment of BAA-UC would be most likely. Map 1 identifies the twelve states that enacted FMLA prior to national FMLA legislation of 1993. Map 2 identifies states enacting one or more of three liberal

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<sup>13</sup> Note that a state might enact provisions that depart from those suggested by the USDOL model legislative language. The cost estimates prepared by USDOL explicitly recognize eleven factors that would affect BAA-UC costs. Compared to the framework shown in the text, the USDOL methodology has greater detail in estimating the take-up rate. They provide explicit estimates of factors such as women's employment rates, the UI coverage rate, participation in BAA-UC by women and by men and rates of monetary eligibility among applicants. All these factors are subsumed under the take-up rate (factor 3) in our estimates. The take-up rate used here is a broader concept than applications by those eligible for UI.

UI provisions in recent years.<sup>14</sup> Map 3 identifies the fifteen states where a BAA-UC proposal was introduced in 2000. While the specifics of the three maps differ somewhat, note that the preponderance of states with the indicated initiatives are located in the North East, the industrial (and Scandinavian) Midwest and the West coast. States in the deep South and the Rocky Mountains are almost all colored white (absence of initiatives) in each of the three maps. The enactment of BAA-UC might be expected to show a similar geographic pattern as these maps.

Estimating take-up rates has another set of uncertainties. 1) While husbands as well as wives would be eligible for BAA-UC under the proposed rule, the international evidence cited earlier suggests that few men would apply. 2) Given the wide variation in overall UI reciprocity rates by state, one would expect some of this to carry over to BAA-UC. This would imply lower take-up for states in the South and Rocky Mountains than elsewhere. 3) Take-up would also be expected to vary according to number of children in the family, being highest for women having their first child and declining with each successive child. This pattern was documented by Phipps (op. cit.) in Canada and would be expected in the U.S. as well. 4) Availability of paid leave from employers and/or TDI benefits would also affect take-up.

Chart 2 displays labor force participation rates in 1998 for three age groups of married women arrayed by the number of children under six years of age. Those with no children had participation rates between 0.80 and 0.90 while those with three children under six had participation rates in the 0.45-0.55 range. Among married women aged 25 to 39 who worked in 1998, hours worked also showed a strong association with number of children under age six. Annual hours averaged between 1750 and 1900 for women with no children but 1100 to 1250 for those with three children.

Based on these patterns of participation rates and annual hours worked, take-up would be lower for women with one child than for first-time mothers and lower for those already with two or more children than for those having a second child. Chart 2 provides an indication of the pattern of decline as the number of children increases. Since first and

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<sup>14</sup> The three are: 1) enactment of an alternative base period, 2) provision for a TUR trigger to activate the Federal-State Extended Benefit program and 3) enactment of Self-employment Assistance. Each of the three provides improved access to UI benefits. Each resulted from state legislation enacted within a framework where federal legislation authorized the states to voluntarily adopt these provisions.

second births account for at least 70 percent of all births, the overall labor force participation rate for women prior to giving birth is likely to lie in the 0.70-0.75 range. This participation rate probably varies across states.

Estimates of take-up would also have to recognize effects of coverage and monetary eligibility requirements in reducing BAA-UC eligibility. While these generally would have only a small effect, eligibility would be reduced more significantly among those with low wages and intermittent work patterns.

Much more potentially important are take-up decisions among persons eligible for BAA-UC. Some would not apply because their employers provide paid leave for some number of weeks. Others will not apply because the financial sacrifice of not receiving their regular wages would cause a rapid return to work. Compared to unpaid leave, availability of BAA-UC would reduce this sacrifice and make leave taking more feasible.

From the preceding and from the observed patterns in states with TDI programs, estimates of take-up would have considerable uncertainty but might not be expected to exceed 0.50. As noted, the take-up rate for pregnancy-childbirth benefits in three TDI states in recent years has been as follows: California - 26-32 percent, New Jersey - 16-21 percent, and Rhode Island - 38-45 percent. Coverage differences between UI and TDI could result in higher take-up in UI than in TDI, but the size of this effect is not certain.<sup>15</sup>

Projecting average duration of benefits also involves uncertainties. Maximum potential duration for the benefit year under the proposed BAA-UC rule is twelve weeks. A sizeable share of new mothers can be expected to utilize their full entitlement. From information in the 1995 Workable Balance survey, we know that many women felt constrained by financial need to return to work sooner than desired. Because it would lessen financial hardships among families, this could lengthen the average duration of BAA-UC benefits. The duration estimate used here is eight weeks of BAA-UC on average among families where there is some payment.

Unemployment insurance reduces or defers payments during periods when otherwise eligible claimants receive disqualifying and/or deductible income. Each state

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<sup>15</sup> Coverage of state employees would account for some difference. State TDI programs generally do not cover state and local employees whereas UI programs do. Nationally, these workers accounted for 18 percent of UI covered employment in 1999. Utilization of BAA-UC by state and local employees would be expected to vary across states, influenced by leave arrangements in their jobs.



UI program has explicit provisions covering the receipt of workers' compensation, severance pay, holiday pay, back pay and pensions. Similar considerations regarding offsets and/or deferrals would have to be addressed in administering BAA-UC payments.

Explicit offset/deferral decisions would also be required for at least three other situations that could affect BAA-UC payments to families. 1) If a company provided some weeks of paid leave or provided short term disability benefits, these could be considered in determining, i.e., reducing, the BAA-UC entitlement. Four weeks of wage continuation payments, for example, could reduce BAA-UC potential eligibility from, say, 12 to 8 weeks. 2) Receipt of TDI pregnancy-childbirth disability payments in states that provide such benefits would presumably preclude families from BAA-UC. 3) Paying BAA-UC through the UI program would establish a benefit year within which BAA-UC payments could be received. If the BAA-UC beneficiary also experienced unemployment in the same year and filed for regular UI benefits, receipt of BAA-UC payments could reduce the regular UI entitlement for that year. In situations where a UI benefit year is already established prior to the birth, the entitlement to BAA-UC could be reduced.

Listing the preceding situations involving overlaps and potential offsets helps to suggest the range of considerations a UI program would have to address. Decisions on these questions would have cost implications. A state that enacted BAA-UC but wanted to ensure a high degree of control over costs could accomplish this in several ways, including the following. 1) Enact a temporary (two or three year) program that automatically sunsets. 2) Restrict maximum potential benefit duration to even less than 12 weeks. 3) Stipulate explicit offset provisions for several types of disqualifying incomes. 4) Restrict eligibility to a single family member.

The preceding discussion gives a flavor of the various reasons for uncertainty surrounding BAA-UC cost estimates. Only with experience in one or more states, could the range of uncertainty surrounding costs be narrowed. Even with a functioning program in one state, there would be uncertainties associated with interstate differences in statutes and the individual cost factors just discussed.

The preceding can be summarized with an illustrative cost calculation. Connecticut has averaged roughly 44,000 live births and adoptions in recent years. Applying a 50 percent take-up, an average duration of eight weeks and a woman's WBA

of \$196, and assuming no offsets, yields a total cost estimate of \$34.165 million for 1999. This represents 9.2 percent of actual (taxable plus reimbursable) benefit payouts in 1999. This estimate is much closer to the USDOL estimate than the EPF estimate noted above.

Recognizing offsets would reduce the preceding estimate. However, the basis for estimating the size of offsets is extremely uncertain. Without offering a strong justification for the exact details, the preceding estimate was reduced by 10 percent in recognition of offsets for combined payments for sick leave, private short term disability payments and wage continuation for some workers. The estimate then decreases to \$30.749 million an increase of 8.3 percent over 1999 payouts.

An 8.3 percent increase in UI benefit payouts represents a large increase relative to other benefit enhancements enacted in recent years. The cost estimates for compensating victims of domestic violence through UI are tiny, 0.1 percent or less. Enactment of an alternative base period (ABP) probably has been the most important optional UI benefit liberalization enacted by states in recent years. The ABP enhances eligibility by utilizing more recent earnings than utilized in a state's standard base period. Twelve states now have ABPs,<sup>16</sup> with the first ones enacted in the late 1980s. For most states, the increase in total benefit outlays due to the ABP falls into the 3 to 6 percent range with Vermont's increase of 9 percent being the highest.<sup>17</sup> Thus BAA-UC represents a bigger increase in benefit costs than other UI benefit changes enacted in recent years.

Given the uncertainties about cost increases, two further considerations seem appropriate. First, any state contemplating enactment of BAA-UC should undertake a careful sensitivity analysis of potential costs. Until actual state experiences are known, there is bound to be a margin of uncertainty about these costs. Estimates that err on the high side should be made since the short run effect on trust funds should not be so large as to pose risks of insolvency. Second, states might consider an eclectic approach to cost estimation. The analysis completed by USDOL is sober and responsible. However, more than one approach might be tested to gain insight into the potential range of costs. Cost

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<sup>16</sup> From east to west the twelve are Maine, Rhode Island, Massachusetts, New Hampshire, Vermont, New York, New Jersey, North Carolina, Michigan, Ohio, Wisconsin and Washington.

<sup>17</sup> Estimates of the added costs due to the ABP are found in two reports. See Wayne Vroman, "The Alternative Base Period in Unemployment Insurance: Final Report," Unemployment Insurance Occasional Paper 95-3, (Washington, D.C.: U.S. Department of Labor, 1995) and Volume 4 of Planmatics, Inc.,

estimation probably will be an active area in the near future, especially in states that have deferred decisions about BAA-UC pending further study.

BAA-UC undoubtedly has different cost implications for different states. To pursue this question, a state-level simulation spreadsheet was developed. It was then used to explore state cost issues in data from 1999. Two simulations were undertaken. Simulation 1 replicated across all 53 State UI programs the previous analysis reported for Connecticut.<sup>18</sup> The number of live births in 1999 (preliminary state estimates) was combined with an estimated take-up rate of 50 percent, an average benefit duration of 8 weeks and the average woman's WBA in each state. As in Connecticut, a 10 percent reduction in BAA-UC costs was assumed in recognition of offsets that would reduce and/or preclude payments to some otherwise eligible families. The national total summed across the 53 programs was \$2.69 billion or 13.3 percent of actual benefit payments for the year (\$20.27 billion).

While the simulated cost increase of BAA-UC was 13.3 percent nationwide, the cost increases in individual states were highly varied. The range was from a low of 4.8 percent in Alaska to a high of 37.1 percent in South Dakota. In states where the cost increases were above-average, two factors were important: low UI reciprocity and high birth rates. There were thirteen states where the estimated cost increases exceeded 20.0 percent. Nine of these states were located in the South and the Rocky Mountains, areas where UI reciprocity is generally below-average. Of the other four states, three are known to have persistently low UI reciprocity as well.<sup>19</sup>

Birth rates show some variation across states but much less than UI reciprocity.<sup>20</sup> Live births per person aged 16 and older averaged 1.91 percent in 1999. Utah's rate of 3.09 was the highest by far with Texas ranking second at 2.34 percent. Of 51 programs,

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"Implementing ABP: Impact on State Agencies, Employers, and the Trust Fund," Unemployment Insurance Occasional Paper 98-4, (Washington, D.C.: U.S. Department of Labor, 1998).

<sup>18</sup> Besides the 50 states, the District of Columbia, Puerto Rico and the Virgin Islands have UI programs.

<sup>19</sup> The measure of UI reciprocity that underlies this discussion is the ratio of UI beneficiaries (weekly average) to persons counted as unemployed in the monthly household labor force survey conducted by the U.S. Census Bureau. The nine (from the top in terms of percentage increases in simulated costs) were Virginia, Colorado, Arizona, Utah, Georgia, Oklahoma, Florida, Texas and Mississippi. The three other states with low reciprocity were South Dakota, New Hampshire and Indiana. Nebraska was the final state.

<sup>20</sup> The standard measure of relative variation is termed the coefficient of variation. This is the ratio of the standard deviation (a measure of dispersion) to the mean (the average). For UI reciprocity the coefficient of variation across 51 programs (50 states and the District of Columbia) was 0.49 whereas for birth rates it was 0.15.

34 had birth rates between 1.70 percent and 2.10 percent. Only ten states had lower birth rates while seven had higher birth rates. Many of the states with low UI reciprocity are located in fast growing areas of the country, areas with above-average birth rates. To illustrate, Texas and New York had similar populations aged 16 and older in 1999, 14.8 million and 14.1 million respectively, a 5.0 percent differential. However, live births totaled 342,000 in Texas but only 258,000 in New York, a 32.6 percent differential. Even if they had similar levels of UI reciprocity (in fact, the UI reciprocity rate in New York is roughly twice the reciprocity rate in Texas), BAA-UC would imply larger potential costs in Texas because of its higher birth rate.

To summarize Simulation 1, the cost implications of BAA-UC for individual states were highly varied. Under an assumed uniform take-up rate of 50 percent in all states, thirteen would experience UI cost increases of 20 percent or more. In general, the cost increases were proportionately smallest in states with high UI reciprocity and largest in states with low reciprocity. Differential birth rates also contributed to the interstate variation in estimated costs.

Because take-up rates in regular State UI programs vary widely, one could question whether take-up rates for BAA-UC would be uniform across states as assumed in Simulation 1. To examine this further, a second simulation was undertaken which varied BAA-UC take-up rates by state. The basic take-up rate was assumed to be 0.40, but take-up rates in individual states were assumed to vary around this basic rate in accordance with interstate variation in overall UI reciprocity. Under this assumption, BAA-UC take-up rates ranged from a low of 0.20 to a high of 0.76. In recognition of the lower take-up for women having second and later birth-order children, however, the highest take-up rate was restricted to a maximum of 0.50. Thirteen states were affected by this constraint. As in Simulation 1, Simulation 2 assumed a ten percent reduction in BAA-UC benefits due to offsets caused by payments of sick leave, private short term disability insurance and wage continuation.

Nationwide, BAA-UC caused a cost increase of \$2.08 billion or 10.3 percent of actual UI costs in 1999. Compared to Simulation 1, aggregate costs under Simulation 2 were smaller by about 23 percent. However, by assuming similar patterns of take-up for BAA-UC as in the regular UI program, the range of interstate variation was much

smaller. The increases in costs ranged from a low of 4.8 percent to a high of 18.9 percent. Two factors operative in the states with above-average cost increases were high birth rates and short average durations of UI benefits. However, compared to Simulation 1 where 13 states had cost increases of 20.0 percent or more, only seven states now had cost increases that exceeded a 15.0 percent threshold. A second indicator of smaller variation in the cost increases was the coefficient of variation which was 0.29 in Simulation 2 compared to 0.49 in Simulation 1. For both simulations, however, the cost increases attributable to BAA-UC, while larger than the USDOL estimates, were much smaller than the EPF estimates cited previously.

For any state enacting BAA-UC, the associated benefit payouts would be comparatively stable from year to year due to stability in the annual number of births. For the regular UI programs, in contrast, annual costs can vary widely depending on the situation in the macro economy. Thus for the nineteen years between 1980 and 1998, benefit costs as a percent of UI covered payrolls ranged from a low of 0.58 percent (1998) to a high of 1.76 percent (1982). The nineteen year average was 0.97 percent.

The cost estimates in the simulations were derived for the year 1999, a year of very strong labor markets and unusually low UI program costs. Benefit costs for regular UI were 0.57 percent of payroll, the lowest annual cost rate of all the years since World War II. Thus if the costs of BAA-UC were measured relative to the 1980-1998 average of regular UI costs, the increase would be proportionately smaller. The percentage increase in costs for a nationwide BAA-UC implementation from Simulation 2 would be 6.1 percent not 10.3 percent of regular UI costs. Even if regular UI program costs for the 1990s (0.86 percent of payroll) were utilized rather than 1999 costs, nationwide implementation of BAA-UC would imply a cost increase of 6.8 percent. Making comparisons with regular UI program costs in 1999, yields the highest percentage increments for BAA-UC costs for all recent years due to the unusually low level of regular UI costs for the year. From a long run perspective, the costs of a nationwide implementation of BAA-UC would be roughly 6-7 percent, not 10 percent.

To summarize, five comments about BAA-UC costs can be made. 1) The increases are considerably larger than other benefit increases enacted in the states in recent years. 2) Until states develop actual experiences with BAA-UC, there will be

considerable uncertainty regarding the size of the cost increases. The rough simulations undertaken here are no substitute for actual experiences in individual states. 3) Cost increases will be relatively larger in states where UI reciprocity is below-average. 4) Cost increases will be larger in states where birth rates are above-average. 5) Because regular UI program costs were extraordinarily low in 1999, the simulated cost increases attributable to BAA-UC under Simulation 2 (10.3 percent for a nationwide implementation) appear larger than they would if a more normal base year were used to make comparisons with regular UI program costs.

## 8. Options for States

As proposed, BAA-UC is a voluntary modification of UI that states may implement. However, states could also fashion other arrangements to compensate families with newborn infants and newly adopted children. This section identifies and discusses four options, BAA-UC and three alternatives.

To limit the range of possibilities, one important assumption is made. Compensation will be paid only when the new parent has been recently attached to the labor market. Nonworking parents would be ineligible under all options.

The four options are the following. 1) Provide compensation through UI programs along the lines of the BAA-UC proposal. 2) Provide compensation through TDI. This would entail modifying existing TDI programs or (for most states) creating new TDI programs. 3) Reimburse employers that provide paid leave to families with new infants and newly adopted children. 4) Provide compensation through the UI administrative apparatus but with payments and funding completely separate from the UI program.<sup>21</sup>

Three of the four options were proposed in the states during 2000. There were BAA-UC proposals in fifteen states, proposed TDI modifications in two states and proposals for employer reimbursement in two states.

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<sup>21</sup> Other possible arrangements could also be considered but are not examined here. Two generic alternatives are: 1) a federal block grant to states to compensate families with working mothers for new births and adoptions (through TANF or some other means) and 2) provision of birth and adoption benefits to employees of state government. These arrangements would cover only a fraction of all families.

Of the four options, employer reimbursement has the greatest degree of voluntarism. It would be voluntarily adopted by employers in states that choose to enact enabling legislation. A bill in Minnesota (H.R. No. 3869) would have provided compensation for births and adoptions of at least \$100 per week for a minimum period of six weeks (26 weeks of paid plus unpaid leave for employers with 50 or more employees) to be available during the first year of parenting. The compensation had to be in addition to sick leave and vacation pay. Employers providing this compensation would be eligible for reimbursement for half the costs of compensation up to a limit of \$250 per week and a maximum of 26 weeks. Payments were to be financed by an appropriation from the state general fund. Supervision of reimbursement was to be undertaken by the Commissioner of Employment Security (the UI program).

In his veto message of proposed BAA-UC legislation in Massachusetts, Governor Cellucci identified voluntary employer provision of paid leave as one alternative to BAA-UC. Employers would be partially reimbursed through reductions in state income taxes. While no specific legislation with this option has been offered in Massachusetts, this remains a possibility.

Two states (California and New Jersey) had bills introduced in 2000 to provide compensation of new parents through TDI. In New Jersey, the proposal (Assembly Bill No. 2037) had two parts: BAA-UC to be paid by the UI program and other FMLA protections to be compensated through TDI. The California proposal (Senate Bill 656) covered all FMLA protections through TDI with compensation of new mothers but one element of the package. Analysis of this proposal noted uncertainties regarding duration of benefits and the extent of coverage, two factors that would affect costs.<sup>22</sup> The analysis did not provide a separate estimate of the cost of compensating births and adoptions.

In New York a study group was established in mid-year 2000 to examine the costs and other effects of providing benefits for births and adoptions through its TDI program. Recommendations are anticipated in mid-year 2001. Thus the three large states with TDI have actively considered compensation through TDI.

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<sup>22</sup> Employment Development Department, "The Fiscal Impact on the Disability Insurance Fund of Extending Disability Benefits to Individuals Granted Family Leave," (State of California, Employment Development Department, June 2000).

The fourth option draws an analogy current arrangements to compensate victims of natural disasters. Disaster Unemployment Assistance (DUA) is a federally funded program that makes payments to disaster victims through local UI offices. The UI program administers DUA payments and is reimbursed for the costs of benefit payments and administrative costs. A state could elect to make birth and adoption payments in a similar manner. Benefit payments and administrative costs could be financed by a payroll tax or through general revenues.

While no state has pursued this option, it has attractive features. 1) It would build upon an existing apparatus of payments administration, i.e., the UI program. 2) It would be smaller in scope than a TDI initiative which might be subject to pressures to cover all FMLA contingencies (as in California and New Jersey). 3) Employer opposition would probably be smaller vis-à-vis BAA-UC since it could be financed, at least in part, by general revenues or a payroll tax on employees. 4) Benefits administration would be straightforward since recipients would not be expected to search for work. Eligible new mothers would have jobs and would be receiving paid leave for a temporary period. Monetary eligibility could be determined using the same criteria as in the regular UI program. Comparisons with UI recipients who must be able, available and actively seeking work would be less invidious if there were a separate program. 5) States could decide how generous to make payments, both the weekly benefit formula and the maximum potential duration per new birth or adoption. A state could deliberately start small and then modify benefit provisions in light of actuarial experiences.

Chart 3 provides a brief summary of the four options. It emphasizes three elements of each option: administration, costs and funding. Entries in Chart 3 reflect my judgements about long run costs and likely funding. The State TDI option is shown as more expensive than the BAA-UC option because most TDI programs pay higher benefits than UI in states where both are present. Likely funding with employee payroll taxes is shown in preference to employer payroll taxes under the second and third options because of demonstrated employer opposition to BAA-UC proposals. For a state considering a program to compensate births and adoptions, the costs and the funding source could differ from those suggested in Chart 3.



Three comments about these options may be warranted. 1) Voluntary employer provision would be selective in its coverage. The firms voluntarily electing into the program would most likely be large and high wage firms. Coverage would likely extend more completely to women in higher paid situations. 2) Implementation would be easiest under the BAA-UC and TDI options since the administrative apparatus to determine monetary eligibility and to pay benefits is already in place. 3) Attempts to create a new program administered by UI or a new TDI program might encounter strong pressures to provide coverage for all FMLA contingencies. With BAA-UC and voluntary employer participation, it probably would be easier to maintain a narrower scope of coverage.

Chart 3. Four Options for Compensating New Births and Adoptions

Option	Administrative Agency	Estimated Long Run Costs	Most Likely Funding Source(s)
BAA-UC	UI	6 to 7% of UI costs	Employer payroll tax
New Program Administered by UI	UI	6 to 7% of UI costs	Employee payroll tax or general rev.
State TDI	State TDI	More than 6 to 7% of UI costs	Mainly employee payroll tax
Voluntary Employer Participation	Employer	Less than 6 to 7% of UI costs	Mixed: Employer and general revenue

## 9. Conclusions

Long run evolutionary changes in the U.S. workforce are the driving force behind the BAA-UC proposal. Women now constitute 47 percent of workers and most married women with young children work. This situation is a permanent feature of our workforce.

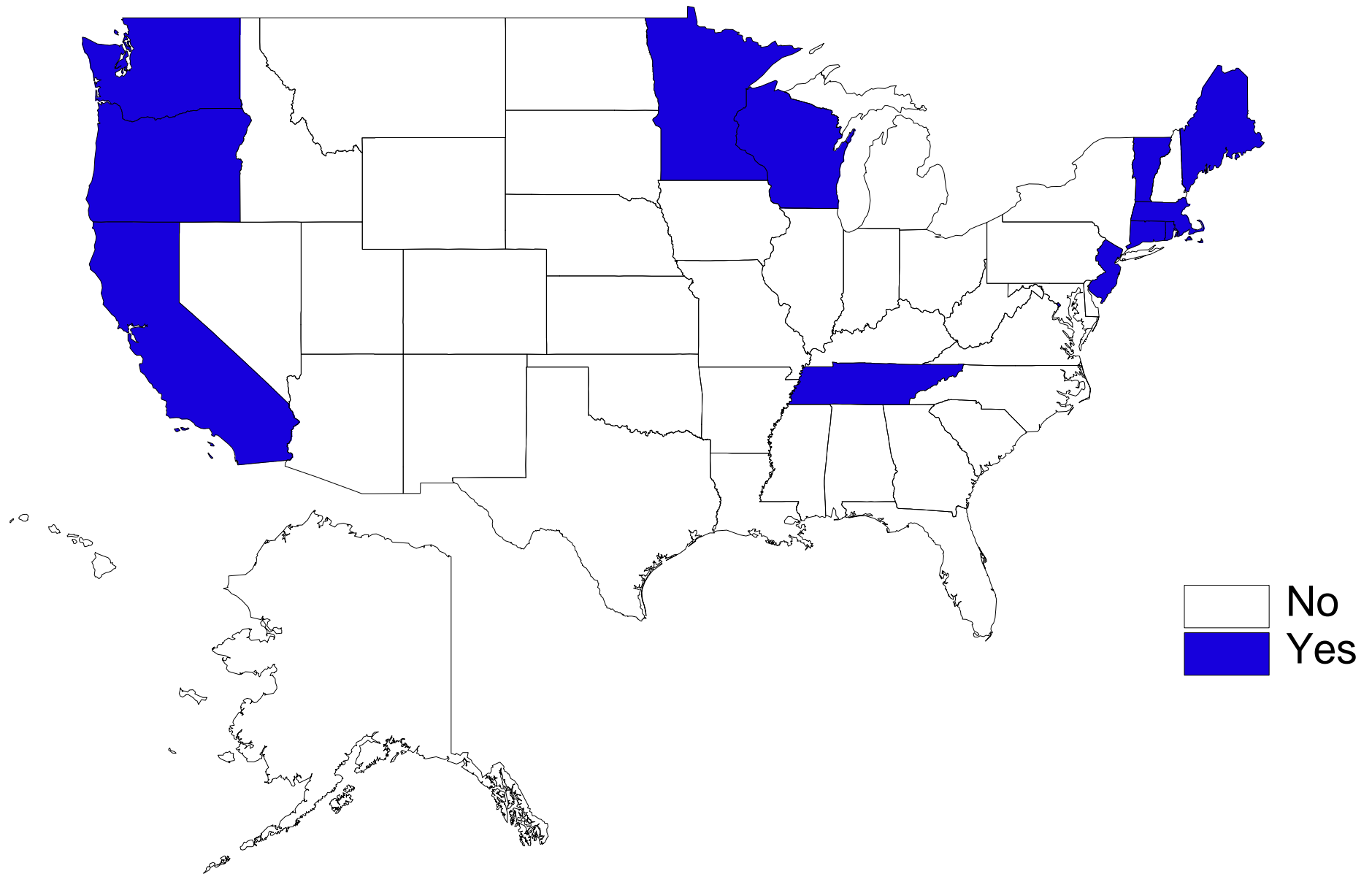
Private employer-provided coverage arrangements for births and adoptions are viewed by many as inadequate. In considering the public policy response, BAA-UC is a

new proposal that many states actively entertained in 2000 and several are doing so in 2001 as well. For individual states, several options should be considered. This report has identified three alternatives to BAA-UC, but has not endorsed any single option.

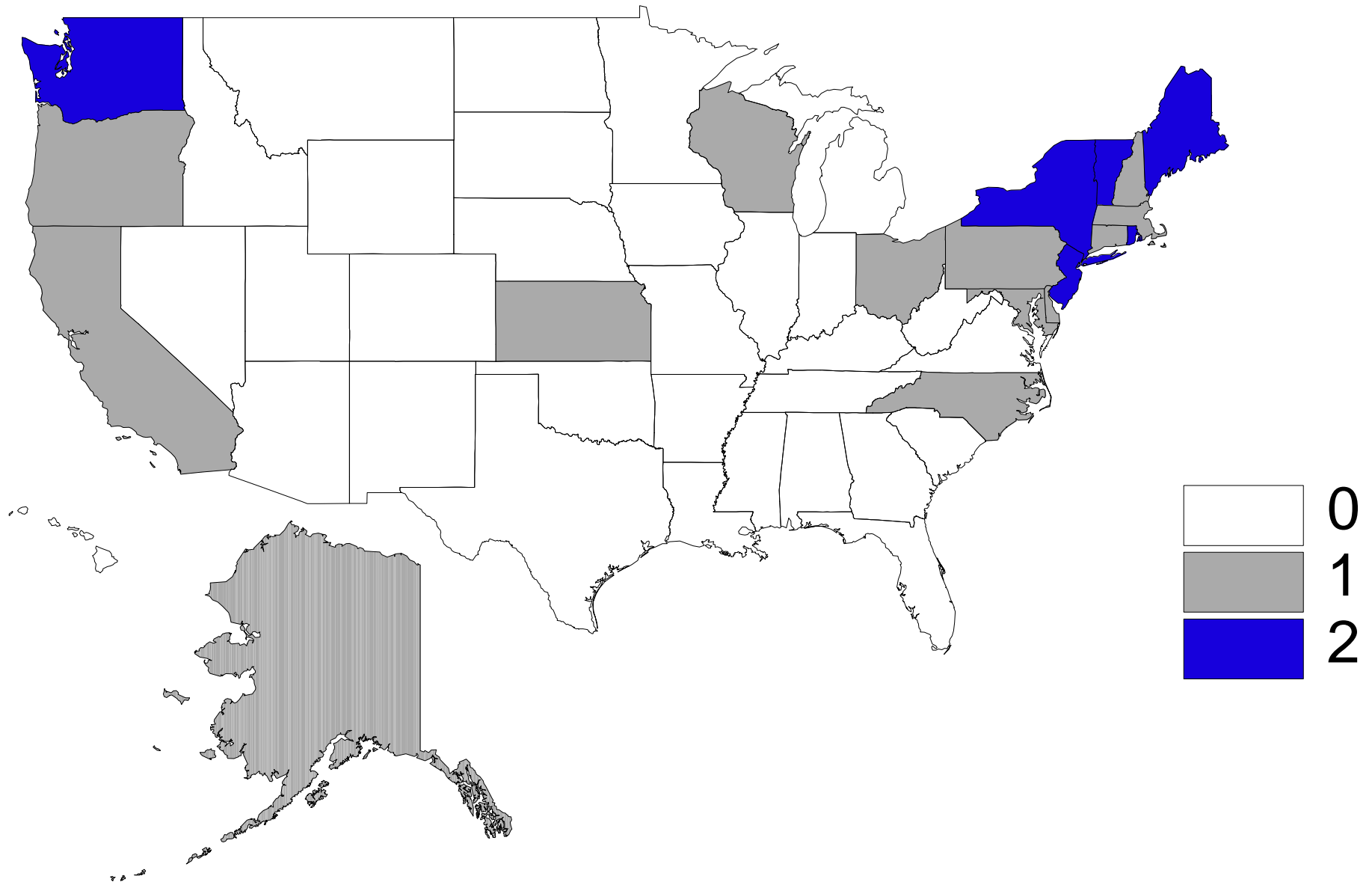
Under all four options, there are uncertainties regarding costs. However, the long run cost increases for BAA-UC proposals are larger than for other UI benefit enhancements enacted in recent years, e.g., ten percent of UI benefit costs. For states that move forward in implementing BAA-UC, the cost increases would be relatively larger in states where UI reciprocity is below-average. Uncertainties about costs will persist until some actual cost experiences have been accumulated.

Probably the single conclusion to emphasize is that states wanting to compensate families for births and adoptions face a wide range of feasible choices in establishing such a program.

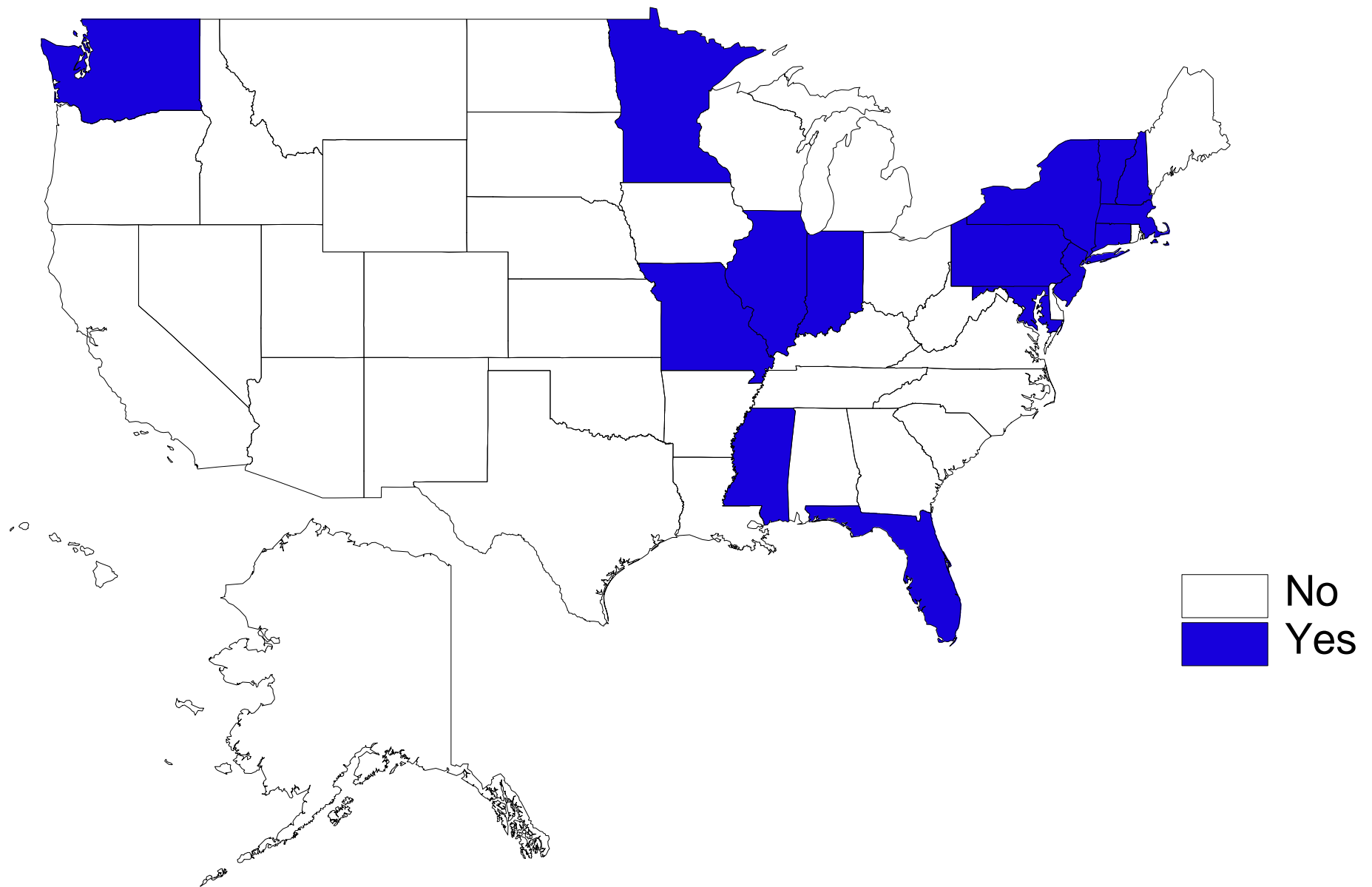
# Map 1. States with FMLA before July 1993



## Map 2. States with Progressive UI Laws Counts of a Possible Three



# Map 3. States with BAA-UC Proposals



## Chart 2. Labor Force Participation of Married Women

