

111TH CONGRESS  
1ST SESSION

# H. R. 2339

To establish a program that supports the efforts of States to provide partial or full wage replacement to new parents, so that the new parents are able to spend time with a new infant or newly adopted child, and to other employees, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2009

Ms. WOOLSEY introduced the following bill; which was referred to the  
Committee on Education and Labor

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## A BILL

To establish a program that supports the efforts of States to provide partial or full wage replacement to new parents, so that the new parents are able to spend time with a new infant or newly adopted child, and to other employees, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Family Income to Re-  
5       spond to Significant Transitions Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) ALTERNATIVE BASE PERIOD CALCULA-  
2           TION.—The term “alternative base period” means a  
3           base period that includes the most recently com-  
4           pleted calendar quarter before the start of the ben-  
5           efit year.

6           (2) BENEFIT YEAR.—The term “benefit year”  
7           means the 1-year period beginning with the first day  
8           of the first week with respect to which an individual  
9           files a valid claim for benefits.

10          (3) EMPLOYER; SON OR DAUGHTER; STATE.—  
11          The terms “employer”, and “son or daughter”, and  
12          “State” have the meanings given the terms in sec-  
13          tion 101 of the Family and Medical Leave Act of  
14          1993 (29 U.S.C. 2611).

15          (4) STATES WITHOUT AN EXISTING PRO-  
16          GRAM.—The phrase “States without an existing pro-  
17          gram” refers to States where a program to provide  
18          partial or full wage replacement as described in sec-  
19          tion 3 is not in effect on the date of the enactment  
20          of this Act.

21          (5) STATES WITH AN EXISTING PROGRAM.—  
22          The phrase “States with an existing program” refers  
23          to States where a program to provide partial or full  
24          wage replacement as described in section 3 is in ef-  
25          fect on the date of the enactment of this Act.

1           (6) SECRETARY.—The term “Secretary” means  
2       the Secretary of Labor.

3   **SEC. 3. STATE GRANTS.**

4       (a) GRANTS.—

5           (1) IN GENERAL.—From the amounts appro-  
6       priated under section 4, the Secretary shall award  
7       grants to States to pay for the Federal share of the  
8       cost of carrying out programs that assist families by  
9       providing, through various mechanisms, wage re-  
10      placement for eligible individuals taking leave—

11           (A) to respond to caregiving needs result-  
12      ing from the birth or adoption of a son or  
13      daughter; or

14           (B) for other purposes under the Family  
15      and Medical Leave Act of 1993 (29 U.S.C.  
16      2611 et seq.) or provided under State or local  
17      law.

18       (2) PERIODS.—

19           (A) STATES WITHOUT AN EXISTING PRO-  
20      GRAM.—A State without an existing program  
21      may receive—

22           (i) 1 grant for up to a 3-year period  
23      to fund the activities described in sub-  
24      section (b)(1); and

1 (ii) 1 grant for up to a 3-year period  
2 to fund the activities described in sub-  
3 section (b)(2).

4 (B) STATES WITH AN EXISTING PRO-  
5 GRAM.—A State with an existing program may  
6 receive 1 grant for up to a 3-year period to  
7 fund the activities described in subsection  
8 (b)(2).

9 (3) PRIORITY.—In awarding grants described  
10 in paragraph (2)(A)(ii), the Secretary shall give pri-  
11 ority to States that have not received a grant de-  
12 scribed in paragraph (2)(A)(i).

13 (b) USES OF FUNDS.—

14 (1) STATES WITHOUT AN EXISTING PRO-  
15 GRAM.—States without an existing program shall  
16 use the funds made available through the grant—

17 (A) to implement and develop such a pro-  
18 gram in the State, and to pay for any other ad-  
19 ministrative costs of the program; and

20 (B) to cover the cost of providing partial  
21 or full wage replacement as described in this  
22 section to eligible individuals for not longer  
23 than the first 6 months of the program.

24 (2) STATES WITH AN EXISTING PROGRAM.—  
25 States with an existing program, or States without

1 an existing program who have previously received a  
2 grant under this Act, may use the funds made avail-  
3 able through the grant—

4 (A) to conduct outreach or education pro-  
5 grams that promote such program and educate  
6 the residents of the State about such program;

7 (B) to cover the cost of providing partial  
8 or full wage replacement as described in this  
9 section to eligible individuals;

10 (C) to cover any administrative costs of the  
11 program;

12 (D) to provide incentives to employers in  
13 such State that are not covered by the Family  
14 and Medical Leave Act of 1993 (29 U.S.C.  
15 2614) to provide the employment and benefits  
16 protection described in section 104 of such Act  
17 (29 U.S.C. 2614); or

18 (E) for any other purpose approved by the  
19 Secretary.

20 (3) PARTIAL OR FULL WAGE REPLACEMENT.—

21 (A) IN GENERAL.—In carrying out a pro-  
22 gram under this section, a State shall provide  
23 partial or full wage replacement for not less  
24 than 6 weeks (or some lesser period as deter-  
25 mined by the Secretary) during a period of

1 leave during any 12-month period to an eligible  
2 individual—

3 (i) directly;

4 (ii) through an insurance program,  
5 such as a State temporary disability insur-  
6 ance program or a State unemployment  
7 compensation benefit program;

8 (iii) through a private disability or  
9 other insurance plan, or another mecha-  
10 nism provided by a private employer; or

11 (iv) through another mechanism.

12 (B) ELIGIBILITY CRITERIA.—To be eligible  
13 to receive a grant under this Act, the criteria  
14 a State may use to determine whether an indi-  
15 vidual is eligible for wage replacement under  
16 this section shall—

17 (i) in States that use the alternative  
18 base period in calculating unemployment  
19 benefits—

20 (I) be equal to or less than the  
21 number of hours worked or the  
22 amount of wages earned that are re-  
23 quired to qualify for such benefits in  
24 the State; or

1                   (II) be eligibility criteria that  
2                   lead to an equal or greater number of  
3                   individuals being eligible for wage re-  
4                   placement under this section than the  
5                   number of individuals eligible for such  
6                   wage replacement under the criteria  
7                   described in subclause (I);

8                   (ii) in States that do not use the al-  
9                   ternative base period in calculating unem-  
10                  ployment benefits—

11                   (I) be equal to or less than the  
12                   number of hours worked or the  
13                   amount of wages earned that are re-  
14                   quired to qualify for such benefits in  
15                   the State, but shall be calculated  
16                   using an alternative base period for  
17                   purposes of this subparagraph in the  
18                   case of an individual who would not  
19                   otherwise qualify for such benefits in  
20                   the State; or

21                   (II) be eligibility criteria that  
22                   lead to an equal or greater number of  
23                   individuals being eligible for wage re-  
24                   placement under this section than the  
25                   number of individuals eligible for such

1 wage replacement under the criteria  
2 described in subclause (I); and

3 (iii) with the exception of any notice,  
4 certification, or other administrative re-  
5 quirements specified by a State in sub-  
6 section (d), not include any eligibility cri-  
7 teria not specified in clause (i) or (ii).

8 (C) ADDITIONAL COMPENSATION.—Wage  
9 replacement available to an eligible individual  
10 under this Act shall be in addition to any com-  
11 pensation from annual or sick leave that the in-  
12 dividual may elect to use during a period of  
13 leave during any 12-month period.

14 (c) ELIGIBLE INDIVIDUALS.—To be eligible to receive  
15 wage replacement under a program receiving a grant  
16 under this Act, an individual shall—

17 (1) meet the eligibility criteria and any notice  
18 and certification requirements that the State may  
19 specify in an application described in section (d);  
20 and

21 (2) be—

22 (A) an individual who is taking leave under  
23 the Family and Medical Leave Act of 1993 (29  
24 U.S.C. 2601 et seq.), other Federal, State, or  
25 local law, or under a private plan, or a program



1 receiving a grant under this Act, for a reason  
2 described in subparagraph (A) or (B) of section  
3 102(a)(1) of the Family and Medical Leave Act  
4 of 1993 (29 U.S.C. 2612(a)(1));

5 (B) at the option of the State, an indi-  
6 vidual who—

7 (i) is taking leave under such Act,  
8 other Federal, State, or local law, or under  
9 a private plan, or a program receiving a  
10 grant under this Act, for a reason de-  
11 scribed in subparagraph (C), (D), or (E) of  
12 section 102(a)(1), or under paragraph (3)  
13 of section 102(a) of the Family and Med-  
14 ical Leave Act of 1993 (29 U.S.C.  
15 2612(a)(1)); 2612(a)(4); or

16 (ii) is taking leave under a program  
17 receiving a grant under this Act—

18 (I) because of the birth of a son  
19 or daughter of any individual whose  
20 relationship to the individual taking  
21 leave is recognized for purposes of  
22 such leave under State or local law;

23 (II) because of the placement of  
24 a son or daughter for adoption or fos-  
25 ter care with any individual whose re-

1           relationship to the individual taking  
2           leave is recognized for purposes of  
3           such leave under State or local law;

4           (III) in order to care for any in-  
5           dividual who has a serious health con-  
6           dition and whose relationship to the  
7           individual taking leave is recognized  
8           for purposes of such leave under State  
9           or local law;

10          (IV) because of a qualifying exi-  
11          gency (as determined by State or local  
12          law) arising out of the fact that any  
13          individual is on active duty (or has  
14          been notified of an impending call or  
15          order to active duty) in the Armed  
16          Forces in support of a contingency op-  
17          eration and whose relationship to the  
18          individual taking leave is recognized  
19          for purposes of such leave under State  
20          or local law; or

21          (V) to care for any individual  
22          who is a covered servicemember (as  
23          determined by State or local law) and  
24          whose relationship to the individual

1 taking leave is recognized for purposes  
2 of such leave under State or local law.

3 (d) APPLICATION.—To be eligible to receive a grant  
4 under this section, a State shall submit an application to  
5 the Secretary, at such time, in such manner, and con-  
6 taining such information and assurances as the Secretary  
7 may require, including, at a minimum—

8 (1) a description of the wage replacement pro-  
9 gram and, if applicable, how the grant funds will be  
10 used to implement and develop such program;

11 (2)(A) information on the number and type of  
12 families to be covered by the program, and the ex-  
13 tent of such coverage in the area served under the  
14 grant;

15 (B) information on any eligibility criteria and  
16 any notice, certification, or other administrative re-  
17 quirements that the State will use to determine  
18 whether an individual is eligible for wage replace-  
19 ment under this section, as described in subsection  
20 (c)(1);

21 (C) an assurance that such eligibility criteria  
22 meet the requirements of subsection (b)(3)(B);

23 (3) if the program will expand on State and pri-  
24 vate systems of wage replacement for eligible indi-

1       viduals, information on the manner in which the pro-  
2       gram will expand on the systems;

3           (4) information demonstrating the manner in  
4       which the wage replacement assistance provided  
5       through the program will assist families in which an  
6       individual takes leave; and

7           (5) which State agency will administer the pro-  
8       gram.

9       (e) SELECTION CRITERIA.—In selecting States to re-  
10      ceive grants for programs under this Act, the Secretary  
11      shall take into consideration—

12           (1) the scope of the proposed programs;

13           (2) the cost-effectiveness, feasibility, and finan-  
14      cial soundness of the proposed programs;

15           (3) the extent to which the proposed programs  
16      would expand access to wage replacement in re-  
17      sponse to family caregiving needs, particularly for  
18      low-wage employees, in the area served by the grant;  
19      and

20           (4) the benefits that would be offered to fami-  
21      lies and children through the proposed programs.

22      (f) FEDERAL SHARE.—

23           (1) IN GENERAL.—

1           (A) For each State without an existing  
2           program that has not previously received a  
3           grant under this Act, the Federal share—

4                   (i) of the cost to implement and de-  
5                   velop the program, and any other adminis-  
6                   trative costs of the program, shall be 100  
7                   percent for up to a 3-year period; and

8                   (ii) of the cost of providing partial or  
9                   full wage replacement as described in this  
10                  section to eligible individuals for not longer  
11                  than the first 6 months of the program,  
12                  shall be—

13                   (I) 50 percent in the case of such  
14                   State with a program to provide wage  
15                   replacement to eligible individuals tak-  
16                   ing leave for any reason described in  
17                   subparagraph (A) or (B) of section  
18                   102(a)(1) of the Family and Medical  
19                   Leave Act of 1993 (29 U.S.C.  
20                   2612(a)(1));

21                   (II) 75 percent in the case of  
22                   such State with a program to provide  
23                   wage replacement to eligible individ-  
24                   uals taking leave for any reason de-  
25                   scribed in subclause (I) and to eligible

1 individuals taking leave for any (but  
2 not all) of the following reasons:

3 (aa) A reason described in  
4 subparagraph (C) section  
5 102(a)(1) of the Family and  
6 Medical Leave Act of 1993 (29  
7 U.S.C. 2612(a)(1));

8 (bb) A reason described in  
9 subparagraph (D) of such section  
10 (29 U.S.C. 2612(a)(1));

11 (cc) A reason described in  
12 subparagraph (E) of such section  
13 (29 U.S.C. 2612(a)(1)); or

14 (dd) A reason described in  
15 under paragraph (3) of section  
16 102(a) of such Act (29 U.S.C.  
17 2612(a)(3)); or

18 (III) 100 percent in the case of  
19 such State with a program to provide  
20 wage replacement to eligible individ-  
21 uals taking leave for any of the rea-  
22 sons described subclause (I) or (II).

23 (B) Subject to paragraph (3), for each  
24 State with an existing program, or for each  
25 State without an existing program that has pre-

1           viously received a grant under this Act, the  
2           Federal share of the cost to carry out the ac-  
3           tivities described in subsection (b)(2) shall be—

4                       (i) 50 percent for the first year of the  
5                       grant period;

6                       (ii) 40 percent for the second year of  
7                       that period; and

8                       (iii) 30 percent for the third year of  
9                       that period.

10           (2) NON-FEDERAL SHARE.—The non-Federal  
11           share of the cost may be in cash or in kind, fairly  
12           evaluated, including plant, equipment, and services  
13           and may be provided from State, local, or private  
14           sources, or from Federal sources other than this  
15           Act.

16           (3) DISCRETION.—The Secretary may increase  
17           the Federal share percentages under paragraph  
18           (1)(B).

19           (g) EFFECT ON EXISTING RIGHTS.—Nothing in this  
20           Act or in any program receiving a grant under this Act  
21           shall be construed to supersede, preempt, or otherwise in-  
22           fringe on the provisions of any collective bargaining agree-  
23           ment or any employment benefit program or plan that pro-  
24           vides greater rights to employees than the rights estab-  
25           lished under this Act.

1 (h) NOTIFICATION.—A State that provides partial or  
 2 full wage replacement to an eligible individual under this  
 3 Act shall notify (in a form and manner prescribed by the  
 4 Secretary)—

5 (1) the employer of the individual of the  
 6 amount of the wage replacement provided; and

7 (2) the individual and the employer of the indi-  
 8 vidual that the employer shall count an appropriate  
 9 period of leave, calculated under section 102(g) of  
 10 the Family and Medical Leave Act of 1993 (29  
 11 U.S.C. 2612(g)), against the total amount of leave  
 12 (if any) to which the employee is entitled under sec-  
 13 tion 102(a)(1) of that Act (29 U.S.C. 2612(a)(1)).

14 (i) REPORT.—Not later than 3 years after the begin-  
 15 ning of the grant period for the first grant made under  
 16 this Act, and annually thereafter, the Secretary shall sub-  
 17 mit to Congress a report that contains a description and  
 18 evaluation of the grant program under this section for the  
 19 preceding year.

#### 20 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated to carry out  
 22 this Act \$1,500,000,000 for fiscal years 2010 through  
 23 2013 and such sums as may be necessary for each of the  
 24 succeeding fiscal years.

○