



Statement of the U.S. Chamber of Commerce

ON: Workplace Leave Policies: Opportunities and Challenges for Employers and Working Families

TO: U.S. House of Representatives Committee on Education and the Workforce, Subcommittee on Health, Employment, Labor and Pensions

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The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Good morning Mr. Chairman, Ranking Member Sablan and other Members of the Committee. I'm Barbara Brickmeier, Vice President for Human Resources and Business Development with IBM. I am responsible for overseeing global benefits design and execution across the IBM Corporation. I'm here at today's hearing, "Workplace Leave Policies: Opportunities and Challenges for Employers and Working Families," on behalf of the U.S. Chamber of Commerce to discuss the challenges facing large, multi-jurisdiction companies that must navigate the maze of increasingly complex, conflicting and overlapping paid leave mandates across the country.

At the outset, let me clearly state that IBM has always supported the provision of paid leave so employees can tend to their personal needs, whether they be health-related or for other reasons. We provide a generous paid leave policy that includes a minimum of 15 days of paid vacation; up to 26 weeks of full or partially paid short term disability; 12 weeks of paid child bonding leave for new parents, in addition to paid sick leave. Our paid leave policy extends to all full and part-time regular employees. In today's hearing, I will focus my comments not on whether employers should provide paid leave, but the problems employers are facing in trying to provide it nationwide.

IBM fully supports providing paid time off to employees who need it for health-related or other reasons. Providing time off to employees is consistent with IBM policy and practice and is easily manageable. However, an overwhelming challenge has resulted from the burden created by myriad inconsistencies in the various state and local laws, the speed at which new laws and amendments arise, and the sheer number and range of requirements applicable to IBM's operations around the country.

Let me be very specific: In the area of paid sick leave, by my last count, there were 6 states, 2 counties and roughly 29 local ordinances covering paid sick leave. In addition, there is a federal Executive Order establishing paid sick leave for federal contractors. IBM's situation with respect to this crowded backdrop of paid sick leave laws is instructive and typical of the challenge faced by large employers with multiple sites around the country that also are federal contractors, like us. In our case, with employees in all 50 states, IBM must comply with the federal Executive Order, as well as all applicable state and local laws (20 out of 29) on paid sick time and paid family leave.

It is important to be aware that these various state and local paid sick leave laws are all different. They specify different levels of leave and include varying employee eligibility rules and the minimum amount of compensation to be paid. The permissible reasons for taking leave also vary. The laws define covered family members in different ways. Significantly, the implementation requirements of the laws also can be quite different. Typically, each law has different rules regarding frontloading, carryover, documentation and notification requirements. There also are different accrual rates. Combined, it is – to say the least – a complex obstacle course for employers, particularly multistate employers like IBM.

Instead of facilitating the formulation of paid leave policies, these inconsistencies and competing requirements actually discourage companies from voluntarily providing paid sick leave and/or paid family leave to their employees. For example, it would be difficult from a compliance and administrative standpoint for IBM to implement a single, uniform paid family leave program for all U.S. employees, given varying and onerous mandates by jurisdiction. As a result of the uncoordinated patchwork of requirements that exists today, IBM and similarly situated companies are left with no choice but to provide different paid sick time and family leave benefits based on where an employee works. This is far from ideal, from an employee relations and fairness perspective and for ensuring consistent and cost-effective provision of a vital benefit.

To articulate this further, an IBM employee may be covered simultaneously by as many as four different laws addressing the amount of paid leave available for an employee illness or the illness of a covered family member (not to mention the federal FMLA, which covers unpaid leave in similar circumstances). For example, an employee working on a federal contract in San Francisco would be covered by Executive Order 13706; the California Healthy Workplaces, Healthy Families Act of 2014; the San Francisco Paid Sick Leave Ordinance; and the California Paid Family Leave Law, which have different time off, covered family members, notification, reporting and record-keeping requirements. While all of the laws dictate that the most generous provisions apply, identifying the most generous entitlement and ensuring compliance with all

applicable requirements necessitates significant time and resources to accomplish and might vary with each employee's circumstance.

In addition to new laws being passed every few months, several of the existing paid sick leave laws also have been recently amended. For example, the State of California's Paid Sick Leave law was passed on July 1, 2015 and was amended on January 1, 2017. San Francisco's Paid Sick Leave Ordinance was passed in 2007 but was amended on January 1, 2017. Washington, D.C.'s Accrued Sick Leave and Safe Leave Act was passed in 2008 and amended in 2014. Seattle's Paid Sick and Safe Time Ordinance was passed in 2011 and amended in 2016. Needless to say, each time a law is passed or amended, employers must review the new requirements to determine what steps must be taken to ensure compliance.

Many of the laws require employee notification, posting a notice, or creation of a policy. Consequently, every time a law is amended, the policy may need revising, the postings may need to be changed, and the employee notification must be revised. When an employer has employees in so many jurisdictions around the country – whether tens of thousands in some or single digits in others – the resources required to ensure continued compliance with ever changing requirements are staggering. Further, and most important, the challenge posed here is not the provision of paid time off to employees; rather, *the challenge to employers like ours is the overlapping, inconsistent requirements – procedural and substantive -- of these mandates.*

Of course, IBM is not alone in this predicament. We are aware that there are many companies and firms with offices throughout the country struggling to navigate these myriad requirements. Like IBM, many U.S. companies are subject to one or more state, local or federal contractor paid leave laws, all of which impose divergent requirements, and none of which exempts employers who already are providing substantially more generous paid leaves.

We would speculate that, given our experience with the challenge presented by these complex and conflicting paid sick and other leave mandates for a company with IBM's resources and sophisticated HR system, it must be far more burdensome and costly for smaller companies with less resources. This labyrinth of leave requirements

can literally overwhelm employers, thus leading to non-compliance or other strategies to avoid the mandates altogether.

While today's hearing is focused on describing the overall picture of paid leave mandates proliferating around the country, we are encouraged that attention is focused on the difficulties this poses for diligent employers with comprehensive benefits programs and generous paid time off packages. For the reasons explained above, IBM strongly supports a federal preemptive legislative solution, like that in H.R. 4219, the Workflex in the 21st Century Act, which would enable employers to opt in to a single, national paid leave policy that would satisfy compliance requirements in multiple jurisdictions of the country at the same time. Such a simplified approach would greatly reduce costs and mitigate the staggering and growing administrative complexity, while allowing us to continue offering and designing generous leave benefits for our employees that would not vary based on where they work.

Thank you, once again, for the opportunity to testify before you today. I look forward to answering any questions you may have.