

**Questions for the Record from
REPRESENTATIVE ROBERT C. “BOBBY” SCOTT (D-VA)
Committee on Education and Workforce
WP Subcommittee hearing titled: “Balancing Careers and Care: Examining Innovative
Approaches to Paid Leave”
Tuesday, February 24, 2026
10:15 A.M.**

**Questions for Elyse Shaw, Director of Education, Labor and Worker Justice Team, The
Center for Law and Social Policy.**

1. Ms. Shaw, during the hearing, Committee Republicans repeatedly touted 45S, a tax credit for employers who voluntarily offer paid leave benefits, as a victory for working families. What is 45S, and has it meaningfully expanded access to paid leave?

45S was enacted as a temporary credit as part of the Tax Cuts and Jobs Act in 2017, and further modified and made permanent by H.R. 1 in 2025. The 45S tax provision offers small tax credits to employers who voluntarily offer paid family and medical leave to employees. Employers can receive a scaled tax credit between 12.5 and 25 percent of the cost of employees’ wages while those employees are on leave and based on the percentage of their employees’ salary that they pay while on leave.

The 45S paid leave tax credit for employers had done little to increaseⁱ working people’s access to paid family and medical leave. Tax credits exacerbate the competitive disadvantage that smaller and mid-size businesses face in the absence of a national paid leave program by focusing the tax benefits on employers that already have the ability to offer paid leave. In fact, one recent survey found 8 in 10 small business owners would like to offer more paid leave than they can currently affordⁱⁱ and another survey found that fewer than 40 percent of employers - and just 35 percent of companies with fewer than 100 employees - said tax credits would influence their decision about whether to offer paid leave.ⁱⁱⁱ

45S does nothing to help make leave more affordable for employers to offer. This is because the tax credit requires employers to make substantial out of pocket expenditures when employees take leave. In exchange, employers receive a small amount of tax relief that would not be available to them until they receive their year-end tax returns.

2. Ms. Shaw, can you discuss how states with comprehensive paid leave programs are providing robust benefits while maintaining the integrity of their program?

As shown in the responses below, the majority of workers in the states with comprehensive paid leave programs are eligible for robust paid family and medical leave coverage. Among programs, abuse by individual ineligible claimants is a rare occurrence. For example, in 2017, only 129 out of 948,000 paid leave claims were investigated for fraud, with all of them occurring within the state's temporary disability program and none within the paid family leave program.^{iv} In the California Employment Development Department (EDD)'s public tracker of recent arrests and prosecutions for fraud, virtually none occur within paid leave.^v

In collaboration with New Practice Labs and the National Partnership for Women & Families we have conducted research and interviews with state administrators on their experience with program integrity. While the details of this research is forthcoming, we can provide a brief overview of non-sensitive information. From our role facilitating sensitive conversations about fraud within our Paid Leave Administrators' Network, we know that the more common source of fraud is typically organized criminal networks attacking a program in a large-scale, systematic way. These threats occur through the manipulation of employer identities, individual identities, or even medical provider identities, often through automated hacking methods. Administrators are regularly assessing their programs for threats, and have developed a strong toolbox and policy recommendations to proactively protect their programs.

To combat fraud on this large scale, states have developed a multi-pronged approach to proactively identify bad actors. At the most basic level, all state programs invest in information technology systems that include identity verification tools — these are common government tools like [ID.me](#), [Login.gov](#), and TINCheck for employers. Additionally, many states are able to cross-reference information through data-sharing with UI or other agencies.

Administrators have expressed that having non-digital offramps where human adjudicators can identify suspicious activity is absolutely critical to maintaining the efficacy of these tech-based tools. Investing early on in well-trained claims examiners, data analysts, and customer service representatives has proven critical to creating an internal infrastructure that is proactive rather than reactive. This staffing must occur at the outset and be built into the program structure. Many states have fraud investigation teams that work in conjunction with these other tools to ensure program integrity.

3. Following up on the discussion of the different models of state paid leave programs, can you provide estimates of the number of working people that have access to paid family and medical leave for:

a. States with social insurance model paid leave programs (13 states and the District of Columbia);

Overall, 93 percent of workers are eligible for paid leave across the 14 states (including the District of Columbia) with social insurance model paid leave programs. However, this coverage does vary by state, with a low of 76 percent of workers eligible in Delaware to a high of 97 percent of workers eligible in California and Oregon.^{vi}

b. States that administer voluntary paid leave programs (New Hampshire and Vermont); and

In New Hampshire and Vermont, the voluntary paid leave programs makes paid leave insurance available for purchase for workers and employers, but does not guarantee coverage. Recent data analysis shows that, in New Hampshire, this public-private partnership led to no meaningful increase in usage of paid leave: only 3 percent of workers enrolled in the voluntary program during the first two years and fewer than one in five workers had even heard about the program.^{vii} In Vermont, only 58 employers (including the state of Vermont) were enrolled in coverage through the public-private partnership, which amounts to about 2.8 percent of the workforce.^{viii}

c. States that have passed laws allowing insurance companies to sell paid leave products to employers (8 states)?

States that have authorized the sale of private insurance and private insurers themselves provide minimal information and lack transparency. None of the state governments in states that have authorized the sale of private PFML insurance systematically report data on insurer participation in the paid family leave market, employer participation in coverage, the scale of employee coverage, or leave use.^{ix} As a result, there is little evidence of significant employer uptake of policies under this model, and insurance industry stakeholders do not expect this approach, absent a mandate for coverage, to generate widespread employer purchase of policies.

4. In states that have voluntary paid leave programs or laws, what is the estimated unmet need for leaves that people need but cannot take, and what is the impact of these unmet needs?

Eight states have programs that allow employers to purchase private insurance paid family and medical leave products from an insurance company to make available to their workers. These eight states are: Alabama, Arkansas, Florida, Kentucky, South Carolina, Tennessee, Texas, and Virginia.^x

However, these programs, often referred to as “voluntary programs” as they do not require employers to provide paid family and medical leave to their workers, fail to address the needs of workers in these states. By allowing employers to opt in and choose whether or not to provide paid leave, this model does not guarantee or effectively expand paid leave to workers. As a result, these programs still leave large swaths of the workforce without access to paid family and medical leave.

Without this access, leave of any kind becomes unattainable for many workers who cannot afford to go without pay for an extended period. Large portions of the workforce are forced to work through caregiving demands or against medical advice, risking harm to their own and their families’ physical and mental well-being. In these eight states alone, **more than 3.2 million leaves are needed but not taken each year.**^{xi}

State	Leaves Needed But Not Taken in 2020
Alabama	168,000
Arkansas	104,000
Florida	800,000
Kentucky	148,000
South Carolina	177,000
Tennessee	259,000
Texas	1,244,000
Virginia	339,000
<i>Total</i>	3,239,000

In addition, large portions of workers that find themselves needing paid family and medical leave are unable to work through medical issues, pregnancy, or caregiving responsibilities -- whether or not they can afford extended periods of time without pay. In these eight states **almost a third (31.8%) of all leaves are taken without pay annually**, equating to **1.8 million leaves being taken without pay each year.**^{xii}

State	Percent of Leaves Taken Without Pay 2020	Leaves Taken Without Pay in 2020
Alabama	33.9	114,000
Arkansas	34.1	79,000
Florida	31.0	456,000
Kentucky	33.3	109,000

South Carolina	31.5	118,000
Tennessee	34.6	181,000
Texas	28.4	640,000
Virginia	27.9	196,000
	<i>Average: 31.8%</i>	<i>Total: 1,893,000</i>

Voluntary paid leave states do not incentivize employers to provide comprehensive paid family and medical leave, and there is no evidence that these types of programs increase access to paid leave. In these eight states, just 25 percent of workers have employer-provided paid leave.^{xiii} Meanwhile, the 14 comprehensive paid family and medical leave programs cover approximately 93 percent of their workers.^{xiv}

These models not only cover fewer workers but increase existing disparities in access. By not guaranteeing access to workers who are less likely to have employer-provided leave, these programs continue to leave out those who need it most -- workers who are paid lower wages and cannot afford to take unpaid leave.

Additionally, Black, Latino and women of color will continue to be disproportionately impacted by the lack of access to leave.^{xv} Overall, workers lost more than \$12.4 trillion dollars in wages due to unpaid or partially paid leave in 2023.^{xvi}

5. How have states with comprehensive paid leave programs impacted small businesses' (specifically the ones that do not operate in multiple states) abilities to administer paid leave benefits?

Comprehensive paid leave programs benefit businesses. For example, paid leave lowers turnover costs through increased retention and businesses report higher productivity and morale in states with paid leave programs.^{xvii} Additionally, when paid leave is offered through a public insurance program, it helps level the playing field between large companies and small business, who often cannot afford to match the more generous paid leave benefits at larger companies.^{xviii} A national survey of small businesses found that only about half are able to afford some form of paid leave to their employees. Yet, 80 percent of these same small businesses said they would like to offer more paid leave than they can currently afford.^{xix} Additionally, 61 percent of small business owners reported they preferred a universal paid family leave program and only 31 percent preferred a voluntary insurance program. Forty percent would also prefer to replace the federal Employer Credit for Paid Family and Medical Leave (established in the 2017 Tax Cuts and Jobs Act) with a guaranteed family and medical leave insurance program, versus just 16% who support extending the current tax credit.^{xx}

In California, research has found that nearly 90 percent of firms said the law had either a positive effect or no effect on productivity, profit, morale, and costs, while a similar share said they had not experienced any problems with employees taking leave for reasons not intended

under the law. Surprisingly, small businesses reported even fewer problems than large businesses.^{xxi} In fact, small businesses (those with fewer than 50 employees) report more positive or neutral outcomes than large businesses (500+ employees) in profitability, productivity, retention and employee morale.^{xxii} Additionally, 70 percent of small business owners in California said the state paid leave program helped them stay competitive with larger businesses.^{xxiii}

Other states have had similar experiences. In New Jersey, the majority of both small and large businesses said they adjusted easily to having state paid family and medical leave.^{xxiv} Years after implementation, about seven in ten small businesses surveyed in New Jersey and New York supported the programs, and support was higher among firms that had had employees use paid leave.^{xxv} This is likely due to the fact that research has found paid leave reduced job loss and business closures.^{xxvi}

ⁱ Elena Patel, “Beyond tax credits: A path to meaningful paid family leave,” Brookings Institution, June 6, 2025, <https://www.brookings.edu/articles/beyond-tax-credits-a-path-to-meaningful-paid-family-leave/>

ⁱⁱ Small Business Majority and National Partnership for Women & Families, “Small Businesses Support a National Paid Family and Medical Leave Program,” October 2024, <https://nationalpartnership.org/report/small-businessessupport-national-paid-family-medical-leave-program/>

ⁱⁱⁱ Ernst & Young, “Viewpoints on paid family and medical leave: Findings from a survey of US employers and employees,” March 2017, [https://web.archive.org/web/20181215091302/http://www.ey.com/Publication/vwLUAssets/EY-viewpoints-on-paid-family-andmedical-leave/\\$FILE/EY-viewpoints-on-paid-family-and-medical-leave.pdf](https://web.archive.org/web/20181215091302/http://www.ey.com/Publication/vwLUAssets/EY-viewpoints-on-paid-family-andmedical-leave/$FILE/EY-viewpoints-on-paid-family-and-medical-leave.pdf)

^{iv} A Better Balance, “Strong Safeguards Are Proven to Prevent Fraud and Abuse in Paid Family and Medical Leave Programs,” August 2025 <https://www.house.mn.gov/comm/docs/KJqCCc8h30Wx-tC32wpN2g.pdf>

^v “Our Response to Fraud: Recent Arrests and Prosecutions,” California Employment Development Department, https://edd.ca.gov/en/about_edd/fraud-response/#arrests.

^{vi} Jessica Mason and Katherine Gallagher Robbins, “State Paid Leave Programs Cover Nearly One-Third of Workers in the United States,” National Partnership for Women and Families, March 2026, <https://nationalpartnership.org/report/state-paid-leave-programs-cover-nearly-one-third-of-workers/>.

^{vii} Kristin Smith, “The New Hampshire Voluntary Paid Family and Medical Leave Program: Did the program increase coverage?” University of New Hampshire Carsey School of Public Policy, January 2026, <https://scholars.unh.edu/cgi/viewcontent.cgi?article=1566&context=carsey>.

^{viii} Jessica Mason, Vicki Shabo, and Maddie Shirley, “Do Market Options Provide Time to Care? Evaluating Private Insurance-Based Approaches to State Paid Family Leave Access,” National Partnership for Women and Families, December 2025, <https://nationalpartnership.org/wp-content/uploads/do-market-options-provide-time-to-care.pdf>.

^{ix} Mason, Shabo, and Shirley, “Do Market Options Provide Time to Care?”

^x On March 30th, 2026, the Virginia General Assembly passed a comprehensive paid family and medical leave program (H.B. 1207 and S.B. 2) which currently awaits action by Governor Spanberger; <https://lis.virginia.gov/bill-details/20261/SB2>

^{xi} CLASP analysis of data from Emily Andrews, Sapna Mehta, and Jessica Milli, “Working People Need Access to Paid Leave,” Center for Law and Social Policy, September 2024, https://www.clasp.org/wp-content/uploads/2024/09/2024.9.25_Need-for-Paid-Leave.pdf.

^{xii} CLASP analysis of data from Emily Andrews, Sapna Mehta, and Jessica Milli, “Working People Need Access to Paid Leave,” Center for Law and Social Policy, September 2024, https://www.clasp.org/wp-content/uploads/2024/09/2024.9.25_Need-for-Paid-Leave.pdf.

-
- ^{xiii} National Partnership for Women and Families, “Paid Leave Means a Stronger Nation,” February 2026, <https://nationalpartnership.org/report/paid-leave-means-map/>.
- ^{xiv} Mason and Gallagher Robbins, “State Paid Leave Programs Cover Nearly One-Third of Workers in the United States.”
- ^{xv} Andrews, Mehta, and Milli, “Working People Need Access to Paid Leave.
- ^{xvi} Andrews, Mehta, and Milli, “Working People Need Access to Paid Leave.
- ^{xvii} National Partnership for Women and Families, “Paid Family and Medical Leave is Good for Business.” May 202, <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>.
- ^{xviii} National Partnership for Women and Families, “Paid Family and Medical Leave is Good for Business.”
- ^{xix} Small Business Majority and National Partnership for Women and Families, “Small Businesses Support a National Paid Family and Medical Leave Program.
- ^{xx} Small Business Majority and National Partnership for Women and Families, “Small Businesses Support a National Paid Family and Medical Leave Program.
- ^{xxi} Bartel et al. “California’s Paid Family Leave Law: Lessons from the First Decade,” U.S. Department of Labor, June 2014, <https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/PaidLeaveDeliverable.pdf>.
- ^{xxii} National Partnership for Women and Families, “Paid Leave Works: Evidence From State Programs,” January 2026, <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-works-evidence-from-state-programs.pdf>.
- ^{xxiii} National Partnership for Women and Families, “Paid Family and Medical Leave is Good for Business.”
- ^{xxiv} Miriam Ramirez, “The Impact of Paid Family Leave on New Jersey Businesses,” 2012, <https://bloustein.rutgers.edu/wp-content/uploads/2012/03/Ramirez.pdf>.
- ^{xxv} Bartel, et al. “Support for Paid Family Leave Among Small Employers Increases During the COVID-19 Pandemic,” NEBR, December 2021, https://www.nber.org/system/files/working_papers/w29486/w29486.pdf.
- ^{xxvi} Small Business Majority and National Partnership for Women and Families, “Small Businesses Support a National Paid Family and Medical Leave Program.”