

STATEMENT FOR THE RECORD OF

THE ERISA INDUSTRY COMMITTEE

TO THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON EDUCATION AND WORKFORCE

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

HEARING ON

**“BALANCING CAREERS AND CARE: EXAMINING INNOVATIVE APPROACHES TO PAID
LEAVE”**

FEBRUARY 24, 2026

On behalf of The ERISA Industry Committee (“ERIC”), thank you for hosting this important hearing and for the opportunity to provide our perspective. On behalf of our large-employer member companies, thank you for the critical work you are doing to understand and address the complex challenges that workers and employers face today.

For background, ERIC is a national advocacy organization exclusively representing the largest employers in the United States as sponsors of employee benefit plans for their nationwide workforces. With member companies that are leaders in every economic sector, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans. ERIC member companies offer benefits to tens of millions of employees, located in every state, city, and Congressional district. Your constituents engage with ERIC member companies many times a day, such as when they drive a car or fill it with gas, use a cell phone or a computer, watch TV, dine out or at home, enjoy a beverage or snack, fly on an airplane, visit a bank or hotel, benefit from our national defense, receive or send a package, or go shopping.

For decades, employers like ERIC member companies have led the charge in designing gold-standard paid leave benefits that support and empower their nationwide workforces when time away from work is needed. While large employers have never asked for help with funding or administering these benefits, a growing patchwork of inconsistent state and local paid leave laws make it impossible for employers to design consistent, uniform benefits for all employees regardless of work location. That’s why multistate employers and the millions of Americans that they employ need Congress to come together in support of addressing this growing patchwork.

Background – Foundation of Family and Medical Leave and Employer-Provided Benefits

The *Family and Medical Leave Act* (FMLA) secured access to up to twelve weeks of unpaid leave and job protection for millions of Americans to bond with a newly born or adopted child, care for an ill family member, or tend to a serious medical issue of their own. The express purpose of this landmark law and the unpaid leave that it provides was to protect the employment status of employees taking time away from work for serious health or family circumstances.

Importantly, the FMLA continues to serve as a foundation from which private and public paid leave benefits are designed and administered. Large, multistate employers have continued to innovate how they provide paid family and medical leave since the FMLA’s enactment. They recognize that these benefits foster employee well-being and aid recruiting and retaining talent. Unsurprisingly, large employers have developed flexible programs tailored to the specific needs of their employees. Multistate employers, like ERIC member companies, take pride in the high-quality paid leave benefits that they have historically been able to provide.

The Current Patchwork of Incompatible State Laws Poses Challenges for Employers and Workers

While many Americans have access to paid leave benefits, not everyone does. That has led to growing interest from state and local lawmakers in pursuing jurisdiction-by-jurisdiction policies to provide these benefits to a broader swath of their constituents. Thirteen states and Washington D.C. have now enacted mandatory paid family and medical leave insurance

programs that operate altogether independently from one another, each collecting income-based contributions to fund benefits for qualifying workers. Unfortunately, these state programs adopt entirely unique compliance standards and employer requirements that have eroded the common understanding of family and medical leave that has existed since the FMLA's enactment.

This piecemeal approach has forced employers and employees to try to navigate a labyrinth of state and local standards in which the benefits available ultimately depend on where an employee lives or works. Further, states continue to consider creating or amending paid leave programs. Hundreds of bills have been introduced and considered across nearly every state in recent years. Even some localities have pursued their own laws, further complicating the situation for a broad range of stakeholders.

The fragmented state-by-state status quo has a tragic feature: it is actually impossible for a multistate employer that wants to provide a generous, uniform paid leave benefit for all nationwide employees based on the common denominators among state programs to do so. That is because some existing state programs do not allow substitution of private employer-provided benefits, even if those benefits are more generous than those offered by the state program, and also because differing state standards are not simply greater or less than one another but involve totally incompatible legal definitions and processes that cannot be reconciled. These realities ultimately dissuade employers from pursuing equivalent or superior private benefits, forcing them to instead enroll their employees in state programs when enacted.

Importantly, the quality and value of benefits provided by state paid family leave programs regularly pale in comparison to their more robust employer-provided equivalents, which often grant full wage replacement and a far easier administrative process for employees most in need of leave without the hassle of wage-based contributions. Unfortunately, complex state program standards and costly compliance processes discourage many employers from exploring new and innovative approaches to paid leave, instead forcing them to enroll in state-administered programs that cannot match the efficiency or quality of the benefits they were previously able to receive directly through their employer.

Furthermore, because large, multistate employers are forced to adapt to a constantly shifting paid leave landscape, they need to spend significantly more to track and comply with new or updated state laws – ironically, money that then cannot be spent on enhancing these or other benefits for their employees. It has become increasingly clear, then, that many of the workers covered by these state programs would be far better served by a uniform national framework of paid leave standards that recognize the value and support that voluntary, employer-provided benefits are uniquely able to provide.

State Laws Contain More than 50 Complex Variables that Are Impossible to Administer Uniformly

As we have highlighted for several years¹ the variance between these state and local laws does not amount to a simple difference in leave duration or level of wage replacement; rather, it includes an array of legal definitions and administrative processes that make it impossible for multistate employers to comply while operating a uniform benefits program across the country.

¹ This discussion of policy levers borrows from a statement for the record ERIC submitted to the U.S. Senate Finance Committee relating to an October 25, 2023, hearing titled “Exploring Paid Leave: Policy, Practice, and The Impact on The Workforce.”

In fact, there are more than 50 different variable policy “levers” that state laws consider and establish, all of which introduce administrative burdens and necessitate costly system changes. Some categories of these variables include:

- **Duration of leave** – The amount of paid leave time available to an employee is not as simple as setting a total number of weeks available for all covered circumstances, but must also establish guidelines for the amount of leave that can be used for individual types of leave (such as parental, family, and medical), permissible use of incremental leave, minimum increments of leave, and the limitation of parental leave when both parents are with the same employer.
- **Reasons for Leave** – Similarly, the core concepts and legal definitions of what paid family and medical leave includes must be established by state lawmakers, including definitions for family, parental, medical, safe leave, qualifying exigency, public health emergency, maternity, pregnancy complication, and other types of covered leave. Not only do different state policies include or exclude different types of leave, but they regularly categorize or define them differently as well.
- **Family Member Definitions** – State lawmakers often adopt unique definitions specifying which family members qualify for an employee to take paid leave. While nearly every state law now goes beyond the coverage established by the FMLA (parents, spouses, and children) and includes grandparents, grandchildren, and siblings, an increasing number of states have also adopted their own versions of “catch-all” family member definitions without providing much-needed guidance as to what relationships qualify or what limitations remain. This presents serious compliance concerns for employers and state administrators alike.
- **Employee Eligibility** – Parallel to the benefits available to employees, lawmakers must establish which employees are covered by state paid leave and what milestones must be reached in order for an employee to qualify for benefits. These standards include, but are not limited to, the time worked for an employer, the total wages earned in a base period or calendar year, total contributions paid into the state program, coverage of independent contractors or seasonal workers, and which state’s paid leave law ultimately applies to an individual worker. These standards are not only tracked and met by state administrators, but by employers as well, adding additional indirect compliance costs.
- **Employer Coverage** – Similarly, state lawmakers must decide which employers are covered by a state paid leave program. These determinations are usually made based on the number of employees an employer has within the state and often determine the portion of payroll contributions that the employer must cover.
- **Notice to Employees** – Each state policy introduces a range of notice and reporting requirements by which employers must educate their employees on the availability of state paid leave benefits or the private benefits that are available through their employer. Because states often expand the information that must be contained in these disclosures, and the time, manner, and regularity of notices vary, these processes can quickly develop into a costly burden for employers.

- **Wage Replacement** – State programs differ widely on the level of wage replacement that employees will receive when electing state paid leave benefits. Again, this is not as simple as setting a replacement rate, but instead involves a series of calculations including percentage of ordinary employee wages, percentage of state average weekly wages, and total caps on weekly wage replacement benefits that employees can receive. The result is an overly complicated process that leaves a vast number of employees with levels of paid leave benefit wage replacement that is far lower than they would have otherwise received from their employer.
- **Contribution Rate** – The payments that employees and employers must make into state programs to fund benefits vary, creating another level of administrative complexity for multistate employers. These policy standards cover the capped percentage of an employee’s wages that must be contributed, the authority of state administrators to change contribution rates in the future, and the contribution breakdown between employers and employees.
- **Job Protection While on Leave** – While job protection is a cornerstone of both unpaid and paid leave, state lawmakers have broadly defined these protections with variations establishing the rights an employee has when returning to work, requiring benefits and seniority to continue accruing while away from work, broadening definitions of “equivalent position”, and even applying legal presumptions of discrimination by employers.
- **Coordination of Benefits** – A critical area of policy design revolves around how new state paid leave benefits are to interact with other sources of paid leave as well as related employee benefits that involve time away from work. As they formulate state programs, lawmakers must consider how to coordinate these benefits with the FMLA, state unpaid leave, state long-term disability laws, state paid sick leave or paid time off laws, existing employer-provided leave benefits, and collective bargaining agreements, to prevent overlap or conflict. Furthermore, lawmakers must consider how the benefits and legal definitions that they create relate to or can be better harmonized with other state paid leave laws.
- **Substitution of Equivalent Employer Benefits Plans** – Perhaps the most consequential area of state paid leave policies for large, multistate employers is the ability to provide private paid leave benefits that meet or exceed those offered by the state program and therefore be granted an exemption from mandated participation in the state program. While this is a valuable option that allows many employees to continue enjoying the benefits they already have, it is far from straightforward. In fact, state lawmakers must establish a range of standards and processes to secure this path, including minimum benefits standards, enumerated rights of employees under an equivalent plan, required surety bond with the state, application process to state administrators, state oversight of applications and appeals for substitution, regular employer recordkeeping, and reporting requirements.
- **State Preemption of Local/Municipal Laws** – Just as national paid leave uniformity is critical to design and provide reliable benefits across multiple states, paid leave uniformity within a state must be maintained for employers and employees to follow. As state lawmakers develop paid leave policies, they must consider the impact that conflicting local or municipal paid leave policies have on uniformity and benefits administration. To prevent this patchwork within a patchwork, a statewide preemption clause should be included in state legislation.

- **Administrative Processes** – Finally, state paid leave policies introduce a long list of administrative processes that, if enacted without sufficient clarity and simplicity, can create counterproductive cost burdens and compliance challenges for employers and employees. These processes include employee applications for state program benefits, timelines for approval or denial of benefits, timelines for payment of benefits, waiting periods for employees before using certain types of leave, employee appeals for denied applications, complaints to a state regarding employer administration, investigation and enforcement processes, recordkeeping and reporting requirements, and data sharing between employers and state administrators to facilitate supplemental private benefits.

The Federal Government Has a Critical Role: To Facilitate Uniform National Standards

The Federal Government’s primary role in national paid leave policy should be to promote uniform national standards for paid family and medical leave. As discussed previously, the federal FMLA not only provided unpaid leave to millions of Americans, but created the contemporary definition of “family and medical leave” as well as common standards for employers and employees. The growing patchwork of state and local laws has created a confusing landscape in which core concepts like definitions of family member, employee eligibility standards, and even qualifying circumstances for leave vary drastically from jurisdiction to jurisdiction. These fractured and conflicting standards contribute to reducing overall access to paid leave.

If the goal of future federal paid leave policy is to expand and secure access to benefits for more Americans across the country, Congress should work to establish a uniform understanding of what paid leave means on a nationwide basis. This could involve a concerted federal effort to bring existing state paid leave programs together, facilitate their interaction, and ultimately forge common standards and administrative processes for these programs to share. One such approach is the bipartisan *Interstate Paid Leave Action Network (I-PLAN) Act* (H.R. 3090). I-PLAN would convene representatives of existing state insurance programs to pursue ways to establish uniform operational procedures and technical definitions. This would help employees and employers better comply and navigate available benefits. The bill would also promote the development of shared information exchange systems to facilitate portability of benefits. I-PLAN would create a central forum to organize interstate discussion, formulate recommendations, and ultimately award grants and other incentives to spark much-needed reforms by relevant state lawmakers and insurance program administrators. ERIC supports this bill.

Second, ERIC has long recommended the creation of a federal “safe harbor” or exemption process that would provide multistate employers that already provide generous paid family and medical leave benefits nationwide with more direct and immediate relief from the current state patchwork. This path would involve establishing a single set of minimum federal paid family and medical leave standards and requirements that, if met or exceeded by an employer’s private leave benefits, would excuse that employer from the participation and compliance requirements imposed by the array of present and future state paid family and medical leave programs. Importantly, a federal safe harbor could provide much-needed compliance relief, while at the same time incentivizing employers to continue innovating and improving benefits. This approach would allow states to continue to pursue and operate these insurance programs for workers that would not otherwise receive them while allowing multistate employers the uniformity and flexibility they need to provide paid leave benefits more generous than those offered by state insurance programs.

Conclusion

ERIC appreciates the Subcommittee holding this hearing, and shares the growing desire of lawmakers to expand access to paid leave benefits on a nationwide basis. In service of this shared goal, ERIC respectfully urges Members of Congress to continue efforts to advance the I-PLAN proposal, pursue policies that establish uniformity for multistate employers seeking to offer generous paid leave benefits – including a federal safe harbor for employers meeting national standards, and address the counterproductive challenges that stem from today’s patchwork of inconsistent state and local paid leave laws.

If you have any questions concerning our comments above, the current state and local paid leave landscape, or how federal policy could be shaped to improve nationwide access to paid leave benefits for workers and their families, please contact me at abanducci@eric.org.