

January 31, 2024

Kirsten Gillibrand
U.S. Senator
478 Russell Senate Office Building
Washington, DC 20510

Chrissy Houlahan
U.S. Representative
1727 Longworth House Office Building
Washington, DC 20515

Bill Cassidy
U.S. Senator
455 Dirksen Senate Office Building
Washington, DC 20510

Stephanie Bice
U.S. Representative
2437 Rayburn House Office Building
Washington, DC 20515

RE: Request for Information – Congressional working group exploring solutions to expand access to paid leave for all Americans

Dear Senator Gillibrand, Senator Cassidy, Representative Houlahan, Representative Bice and members of the Bipartisan, Bicameral Paid Leave Working Group:

As a leading representative and advocate of America's 33.3 million small businesses, Small Business Majority writes to provide comments on the Request for Information (RFI) regarding the proposal of establishing a federal paid family and medical leave program.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our nine offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public-policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

Below we respond to specific questions in the RFI to share more detailed information about how paid family and medical leave policies impact small businesses.

What should the federal role be, if any, in providing, promoting, and/or incentivizing paid leave? And how should this interact with the role of state government programs, and/or employer programs?

Across the country, millions of small businesses and their employees lack access to a paid family and medical leave policy, which forces them to make unimaginable decisions between caring for a family member or recovering from an illness, all while keeping their jobs or their businesses afloat.

In fact, the majority of small businesses do not have the resources to offer robust benefits that larger companies can provide, which puts them at a disadvantage when it comes to attracting and retaining employees. This is why Small Business Majority has advocated on behalf of and with small business owners for paid family and medical leave policies at the federal and state levels. In the absence of a federal program, we have mobilized alongside small business advocates and small business owners to support

legislation, rulemaking and/or expansion of such programs in a number of states including California, Colorado, Georgia, Maine, Minnesota, New Mexico and Virginia, among others.¹ From our experience advocating for state plans, we firmly believe that policymakers must meet the momentum by providing similar policies at the federal level so that small businesses can remain competitive in attracting top talent from today's modern workforce. These policies provide lessons in what works and what doesn't, which is why a federal paid family and medical leave policy would need to work in tandem with state programs to complement and fill the gaps in coverage.

Small businesses know how important it is to access and offer benefits such as paid family and medical leave policies, and many have been supportive of passing a federal policy that has yet to materialize. In fact, a Small Business Majority survey found that 70% of small business owners and operators support establishing a federal program to guarantee access to paid family and medical leave.² When you consider that our small business communities nationwide account for the vast majority of businesses in the United States and employ nearly half of all U.S. employees, it's clear that there is a critical gap in access to this benefit.

What's more, most of the small businesses driving our economy—nearly 82% of them—are solo entrepreneurs or self-employed individuals, according to the U.S. Small Business Administration.³ These are businesses that, with the proper support of the federal government, could eventually become employers and contribute even more to our economy. These, and small businesses in general, are businesses that are in need of a modernized and robust benefits infrastructure that can promote wealth creation, financial security and quality jobs. Creating a federal paid family and medical leave insurance pool can be the first step in providing this much-needed infrastructure.

What types of leave should a potential federal program cover, at what length, and why? How should different types of leave be prioritized? Should different types of leave be treated differently or does doing so create adverse effects?

The pandemic left our small business community in dire need of resources and support structures, and it became extremely challenging for them to recruit and attract a qualified workforce. While it's true that many small businesses increased employee wages and offered more flexibility to attract more candidates during this challenging time, doing so while they're struggling with inflation and market changes can be devastating to their bottom line.⁴ This is why entrepreneurs are looking to lawmakers to provide the necessary infrastructure to support the small business ecosystem.

To this end, a federal paid family and medical leave policy, at the most basic level, should provide:

- Up to 12 weeks of partial income, at a minimum, to care for a new child after birth, and adoption or foster placement events; care for one's own serious medical condition or a loved one's; deal with a family member's military deployment; and to address concerns related to domestic and sexual violence, which states are beginning to include in their own paid leave policies.⁵

¹ "Policy statements." Small Business Majority. <https://smallbusinessmajority.org/our-policy-statements?issue=18>.

² "Small businesses support bold investments in child care and paid leave, share views on mask and vaccine requirements." Small Business Majority. August 3, 2021. <https://smallbusinessmajority.org/our-research/small-businesses-support-bold-investments-child-care>.

³ "2023 Small business profile." U.S. Small Business Administration Office of Advocacy. November 14, 2023. <https://advocacy.sba.gov/wp-content/uploads/2023/11/2023-Small-Business-Economic-Profile-US.pdf>.

⁴ "Small business owners support criminal justice reforms to address persistent work challenges." Small Business Majority. October 26, 2022. <https://smallbusinessmajority.org/our-research/small-business-owners-support-criminal-justice-reforms-address-persistent-workforce-challenges>.

⁵ "Domestic violence leave laws by state." Paycor. June 8, 2022. <https://www.paycor.com/resource-center/articles/domestic-violence-leave-laws-by-state/>.

- Cover employees and self-employed individuals no matter the size of the company at which they work.

The types of leave outlined above are not exhaustive but a baseline for the structure of an equitable federal policy that mirrors the Family and Medical Insurance Leave (FAMILY) Act.⁶

Please describe your recommended framework/s, focusing on what you believe could be a bipartisan and passable solution/s to expanding paid leave nationally?

A bipartisan and passable solution to expanding paid leave at the federal level should:

- **Be equitable, comprehensive and inclusive.** At a minimum, a federal paid family and medical leave insurance program should encompass the types of leave outlined in the previous question. In addition, newer state programs have implemented equitable and inclusive design features into their state paid family and medical leave policies to include progressive wage replacement rates and a more inclusive definition of what constitutes a family.⁷
- **Be self-funded with modest contributions from both employers and employee payrolls.** State paid leave programs have shown that they can be self-funded, even while including administrative costs after initial implementation. Notably, when individual employers only rely on private plans, this limits the benefits of a public option.⁸ This is because the private market has yet to adequately meet small business owners' needs to date and has been proven expensive and insufficient, which is why any proposal to outsource the benefits process could fail to sufficiently address small business needs and shrink the state's oversight duties. Several states, including California, Colorado and the District of Columbia, have built their paid family and medical leave programs on a state-run model that has proven to be successful and benefit businesses, working families, public health and the economy overall.⁹
- **Work in tandem with state-run programs.** The already established state-sponsored paid family and medical leave policies can provide lessons learned and operational successes that lawmakers can use to shape federal leave policy. This will help facilitate and streamline processes for small businesses, ensuring they can participate easily and properly.
- **Provide resources and support to help small businesses** navigate the program's requirements and minimal administrative processes. This includes requiring outreach to small business communities, working across federal and state agencies to ensure that business owners are aware of the benefits available to them under this program. Small Business Majority encourages collaboration with the private and nonprofit sectors to ensure that resources and educational materials may be distributed widely to hard-to-reach areas of the country.
- **Supplement existing state-run programs.** A federal paid family and medical leave policy should add to the benefits of existing state-sponsored paid family and medical leave policies. Investments in a federal policy should be disbursed to states to supplement their unique programs.
- **Limit use of tax credits.** During the pandemic, Congress moved quickly to pass a temporary paid family and medical leave program in the Families First Coronavirus Response Act (FFCRA), which

⁶ "The Family and Medical Insurance Leave (FAMILY) Act." National Partnership for Women and Families. November 2023. <https://nationalpartnership.org/wp-content/uploads/2023/02/family-act-fact-sheet.pdf>.

⁷ "Financing sustainable paid family and medical leave programs." National Partnership for Women and Families. December 2023. <https://nationalpartnership.org/wp-content/uploads/financing-sustainable-paid-family-medical-leave.pdf>.

⁸ Ibid.

⁹ "Paid leave works: Evidence from state programs." National Partnership for Women and Families. November 2023. <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-works-evidence-from-state-programs.pdf>.

was expected to be a critical resource to working families. However, research suggests the tax credit was largely underutilized due to myriad reasons, including up-front costs, inaccessibility, complexity and competing relief programs.¹⁰ That’s why we urge lawmakers to recognize the limited benefits of using tax credits in the creation of a federal policy that will facilitate access to paid family and medical leave.

By addressing these concerns and incorporating the unique needs of small businesses, lawmakers can create a bipartisan family and medical leave policy that will support the small business ecosystem, strengthen our economies and small employers, and support the well-being of our workforce.

Please describe alternative ways any proposed framework can be financed, including possible payfors. What financial mechanisms should be considered to expand paid leave?

To finance a federal paid family and medical leave framework, policymakers should appropriate adequate funds to cover start-up costs for successful and on-time implementation. Based on data from the National Partnership for Women and Families study on key lessons from the launch and implementation of paid leave policies in the Connecticut, District of Columbia, Massachusetts and Washington state, where repayment of start-up costs has been required, such programs have not reported difficulty in doing so.¹¹

Additionally, financing of this proposed framework can be set up through payroll contributions shared between employers and employees, thus removing much of the burden from small employers’ bottom lines. However, it’s important to differentiate and adjust payroll contributions for our smallest businesses, including those with less than 10 employees. A carve out for these small businesses to not pay the employer share can offset the burden from small employers. This is a proven model to increase access to paid leave programs, as shown in Colorado.

Should government support for paid leave be focused only on the most vulnerable individuals in our society, or on all Americans regardless of means or need?

Unfortunately, private insurers generally do not offer affordable, adequate paid leave policies to small businesses. As a result, as of 2019 only 14% of workers in firms with 99 or fewer employees had access to employer-provided paid family leave, compared to 29% of workers in firms with 500 or more employees.¹² These numbers have no doubt become exacerbated by the pandemic and the Great Resignation, which both disproportionately impacted our smallest Main Street businesses. What’s more, tight profit margins, lack of human resources staff, and limited resources are some of the top reasons why small businesses struggle to provide robust benefits on their own.

This is why a federal paid family and medical leave must be structured to cover all Americans, regardless of their background or means. Nearly all (99.9%) of all U.S. businesses are small businesses, which employ close to half of all private workforce employees. The purpose of this policy is to be wide-ranging, comprehensive and useful for individuals who may need to take time off work to care for themselves or a family member.

What supports do small and mid-sized businesses need from the federal government to provide paid leave to workers?

¹⁰ “Performance of the FFCRA Paid Leave Tax Credit.” Bipartisan Policy Center. September 20, 2021. <https://bipartisanpolicy.org/blog/performance-of-the-ffcra-paid-leave-tax-credit/>.

¹¹ “Financing sustainable paid family and medical leave programs.” National Partnership for Women and Families. December 2023. <https://nationalpartnership.org/wp-content/uploads/financing-sustainable-paid-family-medical-leave.pdf>.

¹² “Employee benefits.” U.S. Bureau of Labor Statistics. September 21, 2023. <https://www.bls.gov/ebs/home.htm>.

A federal paid family and medical leave policy should have easy implementation processes and integration with current payroll systems to ensure a streamlined process. In addition, we encourage lawmakers to replicate successful outreach programs such as the deployment of the Affordable Care Act (ACA). The ACA included funding at the federal level, and funding allocated to state marketplaces, that was to be used specifically to support outreach and enrollment assistance for hard-to-reach and underserved populations, including small businesses. Small business owners do not have human resource, legal or government affairs departments to track the passage of new laws, so the government must develop a comprehensive strategy to ensure all 33 million small businesses in the nation are aware of their new responsibilities and opportunities under any new paid family and medical leave program. Partnering with trusted local business organizations and technical assistance providers will yield the best results, as local communities know, trust and work with them, further reaching disadvantaged and rural communities.

Additionally, a federal paid family and medical leave policy should provide ample flexibility to accommodate small businesses and their employees. For example, we need to ensure that a federal policy has a sliding scale for penalties depending on the size of the small business, with the understanding that employers will need time to learn about a new federal policy and are bound to make mistakes inadvertently. Another way to provide flexibility and inclusivity is to make it easy for self-employed individuals to buy into the federal policy and provide flexible calculations for contributions that will best benefit these entrepreneurs (calculations based on net vs. gross wages).

What does research say about the impact of providing paid leave on worker health, job satisfaction, economic mobility, child development, breastfeeding rates and related health outcomes, fertility rate, infant mortality, elderly health, public assistance levels, family income, and recruitment and retention efforts?

Simply put, paid family and medical leave policies are good for businesses and their bottom lines. It allows small business owners and their employees to access and offer paid time off for individuals to care for their families and their well-being. This is an inevitable need that many come to experience at one point or another.

The benefits of paid family and medical leave are extensive.

- A Small Business Majority survey found that small businesses are highly supportive (70%) of the FAMILY Act, legislation that would establish a national paid family and medical leave insurance program funded by employee and employer contributions to ensure men and women in the workforce can receive up to 12 weeks of partial income.¹³
- Businesses stand to benefit from paid leave as it leads to lower turnover costs through greater retention. A report from the National Partnership for Women and Families estimates that replacing workers typically costs 24% of annual wages and as much as 150% in some industries.^{14,15}
- Another study found that about 80% of businesses with paid family and medical leave policies reported improved employee morale and engagement, which is critical to attract and retain a

¹³ “Small businesses support paid family leave programs.” Small Business Majority. March 30, 2017. <https://smallbusinessmajority.org/our-research/workforce/small-businesses-support-paid-family-leave-programs>.

¹⁴ “Paid family and medical leave is good for business.” National Partnership for Women and Families. October 2023. <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>.

¹⁵ “Improving U.S. labor standards and the quality of jobs to reduce the costs of employee turnover to U.S. companies.” Washington Center for Equitable Growth. October 2020. <https://equitablegrowth.org/wp-content/uploads/2020/12/122120-turnover-costs-ib.pdf>.

talented workforce.¹⁶ This, in turn, helps level the playing field for small businesses to be able to compete with larger businesses that offer benefits such as paid leave on their own.

- The same study estimated that after implementing a paid leave program, technology companies experienced, on average, a \$2.64 return for every \$1 invested in their workforce, while manufacturing companies saw a \$2.57 return for the same investment.¹⁷
- The Urban Institute reported that states with established paid family and medical leave programs prior to the pandemic benefitted from having such programs and can mark a great difference in state response in the event of future public health crises.¹⁸ These states quickly distributed benefits to impacted workers without requiring employers to front the costs of those benefits, which marked a significant difference in reducing COVID-19 contagion and maintaining productivity levels with a healthy workforce.
 - Likewise, it's estimated that working families with paid family and medical leave are more financially secure as they are able to receive full or partial wage replacement while they care for themselves and/or their families.¹⁹ This is particularly important for self-employed individuals, who when faced with an event that requires paid leave would need to stop operating their businesses.

What lessons should the federal government learn from successful or failed attempts at expanding paid leave in U.S. states or other countries?

Small businesses often wear multiple hats, which means they're constantly working different functions in their business and have very little time to run their own benefits program or are unable to hire human resources professionals. This is why we urge you to operate and run a federal paid family and medical leave policy and minimize the administrative burden on small employers. To make such a program successful, it is critical to ensure there is ample outreach and education around the new policy, thus providing business owners and their employees with the ability to learn about their responsibilities, timelines for a progressive enrollment model and flexibility to accommodate the unique needs and challenges of entrepreneurs. What's more, we must ensure that a federal policy adequately reaches underserved and hard-to-reach communities, including employers and employees in rural areas and those whose primary language is not English.

We encourage you to avoid deployment of a federal paid family and medical leave policy through the private marketplace. As stated above, private insurers generally do not offer affordable and accessible paid leave policies to small businesses, which would prove counterintuitive to the purpose of this groundbreaking policy solution.

In closing, we greatly appreciate your efforts and attention to proposing bipartisan solutions for a national paid family and medical leave program. We urge lawmakers to include the small business perspective every step of the way by ensuring robust outreach and engagement efforts are included in any national paid leave strategy. Our communities of entrepreneurs are driven, innovative and resilient, but they also face unique challenges that must be considered when designing policies to promote access to paid family

¹⁶ "The business impacts of paid leave." Panorama. October 2019. https://assets-global.website-files.com/62448c65f2a3dc7ae94193bd/62448c65f2a3dc0f7a4195a2_Business-impacts-of-paid-leave-A-Panorama-report.pdf.

¹⁷ Ibid.

¹⁸ "State paid family and medical leave programs helped a surge of workers affected by the COVID-19 pandemic." Urban Institute. June 2, 2020. <https://www.urban.org/research/publication/state-paid-family-and-medical-leave-programs-helped-surge-workers-affected-covid-19-pandemic>.

¹⁹ "Paid leave works: Evidence from state programs." "National Partnership for Women and Families. November 2023. <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-works-evidence-from-state-programs.pdf>.

and medical leave. We believe that providing flexibility, educational outreach, and progressive enrollment models will better accommodate and benefit the small business community.

We thank you for the opportunity to comment on the importance of paid family and medical leave to small businesses. Should you have any questions or would like to further discuss our comments, please contact our Government Affairs Director Alexis D'Amato at adamato@smallbusinessmajority.org or call at (202) 967-0995.

Sincerely,

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Founder & CEO
Small Business Majority

CC: U.S. Representative Colin Allred

U.S. Representative Julia Letlow

U.S. Representative Mariannette Miller-Meeks

U.S. Representative Haley Stevens

U.S. Senator Bob Casey

U.S. Senator Maggie Hassan

U.S. Senator Cynthia Lummis

U.S. Senator Thom Tillis

U.S. Senator Kyrsten Sinema

U.S. Senator Todd Young