



**THE ERISA
INDUSTRY COMMITTEE**
*Shaping benefit policies
before they shape you.*

ALIYA ROBINSON
*Senior Vice President, Retirement and
Compensation Policy*

July 23, 2021

The Honorable Kevin Brady
Ranking Member
House Ways and Means Committee
1139 Longworth House Office Building
Washington, D.C. 20515

The Honorable Jackie Walorski
Ranking Member, Worker & Family Support,
Subcommittee
House Ways and Means Committee
1139 Longworth House Office Building
Washington, D.C. 20515

Re: Response to the “Protecting Worker Paychecks and Family Choice Act”

Dear Ranking Member Brady and Congresswoman Walorski,

The ERISA Industry Committee (“ERIC”) appreciates the efforts of you and your colleagues to address paid family and medical leave as you develop the Protecting Worker Paychecks and Family Choice Act (the “Act”). We applaud your commitment to ensure that the Act supports workers and their families. We are pleased that modifications have been made to dependent care flexible spending accounts that would increase the amount of allowable contributions and extend the uses of the account for family and medical leave.

The vast majority of employees who work for large companies have access to generous paid leave benefits. Large employers provide paid leave to their workforce at no cost to the employees. At ERIC we surveyed our member companies (100 of the country’s top employers) confirming that they ALL provide paid leave benefits to their workforce. In addition to paid sick leave and paid family and medical leave, these paid leave benefits include parental leave, safe leave, maternity leave, bereavement leave, wedding leave, sabbaticals, and school event leave.

We recognize that everyone does not work for an employer that provides paid leave benefits. As you develop legislation to address the lack of paid family and medical leave benefits, we urge you to consider how this effort could undermine the generous benefits that millions of workers and families enjoy today.

Companies that are already offering paid leave benefits are struggling with the growing patchwork of state and local paid leave rules that add costs, complexity, and burdens without adding a day of leave for any worker. ERIC’s white paper, [Paying the Way](#), details the compliance burdens facing multistate employers who already voluntarily provide paid family and medical leave benefits. This patchwork includes conflicting rules that vary state by state, and, in certain cases, do not take into account the inviolability of collectively bargained agreements.

We urge you to add to the Act a measure to address the harmful patchwork to ensure that new burdens are not added to employers already supporting their workforce.

Specifically, we recommend including an additional section that would exempt employers that already provide paid leave benefits from complying with state and local paid leave mandates. Language that would provide this exemption is below:

Proposal to Add Section 106. The proposed safe harbor would exempt employers who already provide paid family and medical leave benefits from the requirements of state and local paid family and medical leave benefits programs.

SEC. 106. SAFE HARBORS FOR EMPLOYERS

1: Any employer that provides paid family and medical leave benefits equivalent to those discussed in Division A of this Act, or an equivalent program determined by the Secretary of Labor, shall be exempt from the requirements of any program established by a state or local governmental body that relate to the funding or provision of paid family and medical leave benefits.

2: “State or local governmental body” means any state or local government or its subdivision, including, but not limited to, a state, city, village, township, county, or educational institution; a state or local public authority, agency, board, commission, or other state or local governmental, quasi-governmental, or quasi-public body; or a public body that acts or purports to act in a commercial, business, economic development, or similar capacity for a state or local government or its subdivision.

We have worked with our member companies on this language to ensure that it would support their ability to continue to provide generous paid leave benefits to their workforce. As an association that exclusively represents large employers in their role as sponsors of benefit plans for their nationwide workforces, ERIC is uniquely suited to share perspective and expertise on this issue. We look forward to working with you and your talented and committed staff as this legislation is crafted.

Thank you in advance for consideration of our recommendation. We stand as a resource for you. If you have questions or would like to discuss further, please do not hesitate to contact me. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Aliya Robinson".

Aliya Robinson