



July 7, 2009

Sen. Blanche Lincoln
United States Senate
355 Dirksen Senate Office Building
Washington, DC 20510

Sen. Mike Crapo
United States Senate
239 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Lincoln and Crapo:

On behalf of the National Small Business Association (NSBA), I am pleased to submit comments on flexible work arrangements to you and the Senate Staff Work Group on Workplace Flexibility.

NSBA is the nation's oldest small-business advocacy group representing employers in every state. As an organization, we represent all sectors and industries of the U.S. economy from retail to trade to technology—our members are as diverse as the economy which they fuel. More than one in two people in the U.S. private workforce—70 million—work for or run a small business, according to data from the U.S. Small Business Administration Office of Advocacy and U.S. Census Bureau. Small business comprises 99.7 of all U.S. private employers, or 26.8 million businesses, and creates more than half of U.S. gross domestic product.

NSBA appreciates the opportunity to submit a short policy statement outlining our priorities in workplace flexibility. With respect to the myriad proposals to expand the Family Medical Leave Act [P.L. 103-3] of 1993 and mandate paid leave without regard to the impact on small businesses, NSBA strongly supports efforts to develop consensus-based, bipartisan solutions that work for both employers and employees. As a volunteer organization, NSBA can assist in providing a true small business perspective to workplace flexibility initiatives to ascertain their impact on the small business community. The following comments represent three areas in which workplace flexibility will result in better businesses, a stronger workforce and healthier families.

Education

An underlying theme to all workplace flexibility considerations for small business must be that no one-size-fits-all policy will work. Each small business is as unique as those that own and work for the business. Small-business owners, as well as their employees, are faced with the challenging task of juggling their personal lives with their careers. Furthermore, the livelihood of employers and employees hinges on the ability of the business to be well-run and successful. The ultimate rule to follow when considering workplace flexibility initiatives for small business is *primum non nocere I*—first, do no harm.

Small businesses would benefit most from a greater understanding of the limits and opportunities in providing workplace flexibility to their employees. NSBA supports recommendations by Workplace Flexibility 2010 to establish a national public education campaign to educate employers and employees on flexible work arrangements (FWA). Providing employers and employees with the tools, training, and additional resources on how to implement FWAs is sensible public policy.

FWAs

Allowing for FWAs, such as flexible credit hour programs, compensatory time and compressed workweeks, holds significant benefits for both employees and employers. However, under current law, employers aren't allowed to give workers complete flexible scheduling options due to limitations within the Fair Labor Standards Act (FLSA). NSBA urges the Senate Staff Work Group on Workplace Flexibility to modify FLSA provisions that allow flexible scheduling, including compensatory time-off in lieu of overtime pay and flexible 80-hour two-week periods.

Mandatory Leave Policy

NSBA opposes any efforts to mandate leave policies on employers. Expanding FMLA provisions or requiring employers to provide paid sick leave to employees would hinder small-business owners' ability to create jobs and grow the economy. Moreover, the vast majority of employers voluntarily offer generous paid leave benefits. According to the Department of Labor, 82 percent of private employers currently offer some form of paid leave to their workforce. Instead of mandated leave, NSBA urges the Senate Staff Work Group on Workplace Flexibility to consider other workplace leave policies, such as paid time off (PTO). PTO allows employees to take paid time off work without having to specify a reason.

Thank you for the opportunity to provide comments on flexible work arrangements. NSBA looks forward to continuing to discuss ways in which sensible workplace flexibility policies can be developed and implemented to benefit and not hinder small businesses.

Sincerely,



Todd O. McCracken
President

CC:

The Honorable Christopher Dodd
The Honorable Susan Collins
The Honorable Herb Kohl
The Honorable George Voinovich