

➤ Hearing Records ... HR

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WISCONSIN STATE  
LEGISLATURE COMMITTEE  
HEARING RECORDS

**2009-10**

(session year)

**Assembly**

(Assembly, Senate or Joint)

Committee on  
Education

(AC-Ed)

(FORM UPDATED: 06/28/2010)

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( )





AB 116?

**Workplace Flexibility  
May 2009  
Public Policy Issue Statement**

**Background**

The principle federal laws that govern workplace flexibility are the Fair Labor Standards Act (FLSA) and the Family and Medical Leave Act (FMLA).

The FLSA, which was enacted in 1938, establishes standards for minimum wage, overtime pay, and child labor. Under current law, non-exempt employees must be paid overtime for working more than 40 hours per week. Public-sector employers, however, may offer employees a choice of compensatory time or pay when the employee works over 40 hours in a week.

Enacted in 1993, the FMLA, enacted in 1993, provides unpaid leave for the birth, adoption or foster care placement of an employee's child, as well as for the "serious health condition" of a spouse, son, daughter, or parent, or for the employee's own medical condition. In 2008, the Act was amended to provide up to 26 weeks of unpaid leave to an employee to care for a family member who is injured while serving on active military duty and up to 12 weeks of leave for urgent needs related to a family member's current active military service.

In 2005, California became the first state to provide up to six weeks or partial paid leave to employees for family and medical leave issues. Recently, the states of Washington and New Jersey as well as the cities of San Francisco, CA, Washington, D.C. and Milwaukee, WI have enacted laws to provide paid leave to employees for similar situations. During the 2008 state legislative session, 14 states considered enacting paid leave laws similar to those in California, Washington, and New Jersey.

**Issue**

The FLSA and the FMLA represent a somewhat outdated and rigid approach to mandated employee benefits. Many employers and associations believe these laws and their concomitant regulations are not responsive to the evolving needs and lifestyles of today's workforce.

Many employers continue to encounter challenges in implementing existing leave requirements that do not reflect the changing nature of the 21<sup>st</sup> Century workforce. As a result, the focus is on documentation of incremental leave and the reasons for the leave rather than on seeking innovative ways to help employees to balance the demands of both work and family life.

At the same time, there is a growing movement advocating new government legislation that would create new mandates for employers. These groups have focused their efforts on initiatives to require employers to provide paid sick leave as well as to expand the current FMLA to include paid leave.

Some key Members of Congress have expressed strong support of these proposals, and many observers believe such legislation could be debated within the next year or two.

To help balance work, family and personal needs, many employers are already voluntarily providing paid sick, personal, vacation and maternity leave for employees. According to the *SHRM 2008 Employee Benefits Survey*, 74 percent of employers offer paid sick leave, 82 percent of employers offer paid vacation leave, and 15 percent offer paid maternity leave outside of what is covered by a short-term disability benefit.

Recently, more employers have offered Paid Time Off (PTO) plans in lieu of other employer-sponsored paid leave programs. These plans typically combine all common leave benefits (vacation, sick leave, holidays and personal days) into one leave program that can be used in any circumstance by the employee. According to the *SHRM 2008 Employee Benefits Survey*, 60 percent of employers offer PTO plans to their employees.

### **SHRM Proposed Policy Statement**

SHRM believes that the United States must have a 21<sup>st</sup> Century workplace flexibility policy that meets the needs of both employers and employees. Rather than a one-size fits all government mandate, the policy should be a new approach that reflects different work environments, representation, industries and organizational size.

The policy should support employees in balancing their work and family obligations; provide paid leave to the employee; and at the same time provide certainty, predictability and stability to employers. Under this new approach, employers that meet a safe harbor leave standard would not be subject to federal, state and local leave requirements. Alternatively, employers that chose not to offer this leave standard would be subject to existing federal leave requirements.

At the same time, SHRM believes current government leave laws need to be improved and streamlined. The FMLA needs to be strengthened to prevent misuse and abuse of the leave, which currently threatens the integrity of the Act. Additionally, statutes such as the FLSA need to be reviewed and updated to reflect the needs and protections of a 21<sup>st</sup> Century workforce. This includes allowing employers to provide flexible work options, such as offering employees a choice of compensatory time or overtime pay.

SHRM generally opposes any form of government mandate on employee benefits or leave requirements. SHRM believes employers, not the government, are best situated to know the benefit preferences of their employees. Any government initiative that removes or restricts an employer's flexibility in shaping such leave policies often creates undue hardships for employees and employers.

SHRM's proposed public policy position supports the following key workplace flexibility principles:

**Flexible Paid Leave** - SHRM supports a new approach to providing employees with paid leave that reflects different work environments, industries and organizational size. This paid leave approach should support employees in balancing their work and family obligations and at the same time, provide certainty, predictability and stability to employers in sponsoring the program. This program would operate much like a PTO plan, with an employer providing a guaranteed standard block of flexible paid leave to the employee that can be used for any leave purpose. Under this proposal, leave would be subject to the notice requirements and parameters of the employer's policy including requirements for the employee to use their annual leave. Alternatively an employer may permit an employee to rollover a capped portion of the unused accrued leave benefits from one year to the next or receive the benefits in the form of a contribution to a retirement or flexible spending account. An employer that met the requirements of this program would be exempt from mandated federal, state and local leave requirements.

**Flexible Work Arrangements** – Flexible Work Arrangements (FWAs) allow an employee to alter the time and/or place when/where work is conducted on a regular basis, consistent and predictable with the employer's operations. SHRM believes public policy should encourage and support employer efforts to create and implement FWAs.

**Telecommuting** – Allowing employees to telecommute can be beneficial for both employers and employees. SHRM recognizes that while telecommuting will not be practical for all employees or all employment situations, SHRM believes that public policy should support and encourage telecommuting. However, employers should have the right to determine which employees or employment situations make telecommuting practical.

**Paid Leave Mandates** – SHRM generally opposes any form of government mandate for paid leave benefits including benefits funded through state insurance funds, as the Society believes that employers, not the government, know the benefit preferences of their employees. HR professionals traditionally work to tailor leave programs that meet the needs of their employees and employers. SHRM has concerns with proposals that implement a “one-size-fits-all” paid-leave mandate.

**Family and Medical Leave Act** - SHRM believes that improvements to the Act's definitions and notice requirements would reduce administrative and compliance problems for employers and HR professionals who are complying with FMLA requirements. Although supportive of the goals of the FMLA, the Society opposes expansion of the Act at this time.

**Compensatory Time** – The Fair Labor Standards Act limits employee flexibility because it prohibits private sector employers from offering paid time off as compensation for working overtime hours. SHRM believes that private sector employees should be afforded the same flexibility that public sector employees have in having a choice of compensatory time or overtime pay.



FOR IMMEDIATE RELEASE

May 13, 2009

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**Release of Groundbreaking Report on Flexible Work Arrangements Sets the Stage for National Conversation**

*Politically Diverse Leaders Find Common Ground Through Consensus Building Process*

On the heels of First Lady Michelle Obama's challenge to find ways to encourage employers to provide more flexibility to employees, Workplace Flexibility 2010, a Georgetown Law-based think tank, has released a new report outlining the **most comprehensive set of policy solutions to expand Americans' access to flexible work arrangements (FWAs)** such as compressed workweeks, predictable schedules, and telework.

"Flexible Work Arrangements can help ease a myriad of pressures facing working Americans today – while also helping employers manage their workforce more efficiently and improving productivity overall," said Professor Chai R. Feldblum, Co-Director of Workplace Flexibility 2010. "Our policy platform is a culmination of years of in-depth conversations with employers, employees, managers, labor, researchers and advocates here in Washington and across the country. We believe it represents an important first step in identifying and implementing common-sense policy solutions that can work for all of us."

The report outlines a broad range of solutions for expanding access to FWAs through thoughtful public policy efforts, including:

- Create a strategic, national campaign that communicates the benefits of making FWAs the "new normal" in the American workplace;
- Implement innovative flexibility pilot projects and track their impact on business outcomes, employee wellbeing, and community health; and
- Encourage the federal government to lead by example as a best employer, modeling implementation and utilization of FWAs and highlighting effective FWA practice.

It provides a detailed blueprint for the White House, Congress and other policymakers to build on innovative workplace flexibility strategies – and highlights numerous examples of effective business practices.

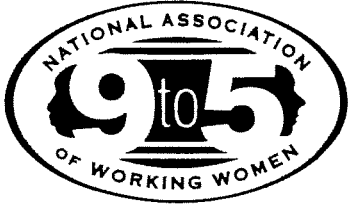
"We are delighted that the efforts of Workplace Flexibility 2010 have resulted in a dynamic policy platform that will facilitate a national conversation on how flexibility can support a more resilient economy and healthier families," said Georgetown Law Dean T. Alexander Aleinikoff. "The economic instability this country is enduring has underlined the critical importance of building a strong, sustainable, adaptable 21st century workforce, and expanding access to workplace flexibility will be a key component of that process."

A consensus statement by members of a bipartisan National Advisory Commission on Workplace Flexibility accompanies the report. Commission members – a politically diverse group of business, labor, and consumer representatives, former high-level government officials, and academic researchers – agree that Americans across all professions and income levels need greater access to workplace flexibility.

The full report is available at [www.workplaceflexibility2010.org](http://www.workplaceflexibility2010.org).







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## **9to5, National Association of Working Women**

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AB 116?

### **Statement by Larry Miller, School Board Director Milwaukee Public Schools In Support of the School Conference and Activities Leave May 19, 2009**

Before serving on the School Board of Milwaukee Public Schools, I was a teacher and administrator for 18 years. We hear a lot about what children need from their parents. Many business leaders and others have blasted parents of MPS students for not being more involved in their children's education and for lacking responsibility. What we don't hear is what children need from their parents' employers.

I've certainly seen parents who've failed their kids. But what I see much more is parents who care deeply about their children's education and well-being, who travel long distances to work long hours at dead-end jobs, and who have no flexibility at work when their kids need them to be at school.

As a teacher, I believe in calling parents when their child does something wrong – and also when the child excels. We try to offer variable times for parents to come to conferences. But too many parents are unable to attend school events because their employer won't allow them a little flexibility at work.

Many employers will do the right thing anyway, because they understand how this helps attract and retain employees and lower high turnover costs. We need public policy to make sure all workers have this opportunity. I strongly support the School Conference and Activities Leave as a step in this direction.





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Date ?

## **Public Policy Platform on Flexible Work Arrangements**

### **Executive Summary**

Workplace Flexibility 2010's Public Policy Platform on Flexible Work Arrangements provides a **comprehensive set of policy solutions to expand Americans' access to flexible work arrangements** such as telework, predictable schedules, and compressed workweeks. The common-ground solutions described in the report can benefit both working families and businesses.

The report draws on decades of research on changes in the American workforce – dual earner couples are now the norm; older workers need to work longer to save for retirement; men and women want to share caregiving responsibilities; many lower-wage workers work nonstandard schedules and multiple jobs to make ends meet; and more people with disabilities are working but may need a range of supports. And yet, our workplaces have not caught up in a systematic or sophisticated way to these new realities. We live in a world of changing individuals and often unyielding institutions.

Workplace Flexibility 2010 (WF2010) believes that American workplaces can and should change to reflect the realities of our modern workforce. Every workplace should have flexibility built into it along three dimensions, including:

- **Flexible Work Arrangements;**
- **Time Off (Including Short-Term, Episodic, and Extended Time Off); and**
- **Career Maintenance and Re-entry.**

**While public policy on all three components of workplace flexibility is necessary to respond to the full range of flexibility needs, this report provides a detailed comprehensive public policy platform on one component – flexible work arrangements (FWAs).** FWAs alter the time and/or place that work is conducted on a regular basis – in a manner that is as manageable and predictable as possible for both employees and employers.

As the culmination of a five-year process of listening to employers, employees and consumer representatives, the report is a blueprint that policymakers can use to make flexible work arrangements a norm of the American workplace, across occupations and income levels.

The report also includes a *consensus statement from members of a bipartisan National Advisory Commission on Workplace Flexibility*. Commission members – a politically diverse group of business, labor, and consumer representatives, former high-level government officials, and academic researchers – agree that Americans across all professions and income levels need greater access to workplace flexibility and that comprehensive public policy is needed to enhance flexible work arrangements.

**In order to make FWAs the “new normal” in the American workplace, the report recommends five complementary prongs:**

- **Spur a national campaign to make FWAs compelling** to both employers and employees by:

Launching a strategic multi-media public education campaign; providing awards to recognize and encourage businesses to offer and implement FWAs; and conducting research on the impact of FWA practices on employees, businesses and communities and disseminating the findings.

- **Provide** employers and employees with the **tools and training** they need to make FWAs a standard way of working by:

Making training and technical assistance on how to implement FWAs readily available to both employers and employees; launching a comprehensive website with information about the needs and benefits of FWAs, FWA best practices, model policies and procedures, and federal laws and programs; clarifying perceived legal obstacles to FWAs; and removing or considering the removal of actual legal obstacles.

- **Support innovations** in FWAs, **learn** from those efforts, and **disseminate** lessons learned by:

Experimenting with new ideas through pilot programs – including piloting a right to request in the federal workforce; piloting FWAs for low-wage workers employed by federal contractors; and piloting private sector innovations such as mass career customization and team scheduling with new industries and employers.

- **Lead by example**, making the federal government a **model employer** by:

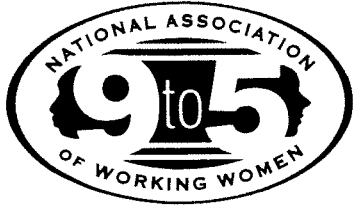
Demonstrating high-level support for FWAs in the federal workforce; including FWAs as a key component of the federal government’s human capital management agenda; providing training, technical assistance, and resources to support the implementation of FWAs within the federal government; and regularly assessing how FWAs are working and affecting employees, the workplace and the broader community.

- **Build an infrastructure** of federal, state and community players to implement the first four prongs of the effort by:

Engaging all the players at the federal state and community level who will be key to a successful effort, and creating the infrastructure at each of these levels necessary for an effective partnership among these key players.

This groundbreaking report sets the stage for a national conversation among employee and employer groups, other stakeholders and policymakers about innovative solutions that work well for both employees and employers. Engaging in this conversation and embarking on the necessary action steps are key to equipping our American workplaces to meet the challenges of our 21<sup>st</sup> century workforce.





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Date?

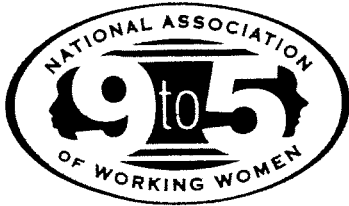
### School Conference and Activities Leave Fact Sheet

Many working parents find it a challenge to participate in their child's education, as their jobs offer limited or no flexibility to take time off from work. Parent-teacher conferences and school visits allow a vital exchange of information regarding a child's developmental and educational progress. *School Conference and Activity Leave*, an expansion of the Wisconsin Family Medical Leave Act (FMLA) would allow parents the crucial time necessary to take part in all aspects of their child's education without imposing additional costs on employers.

- ❖ **The Challenge: Support parents' involvement in their child's education.**  
Currently, many parents are only able to participate in conferences or school activities scheduled during nonworking hours: our state's FMLA does not stipulate that parents be allowed to use leave to attend their child's school conferences or school activities.
- ❖ **The Goal: Create an educational environment where children are encouraged, protected, enriched and supported by parental involvement.**  
Attendance at conferences and school activities – including those for children attending daycare and pre-kindergarten – engages parents to positively impact the outcome of their child's education.
- ❖ **The Solution: Pass the School Conference and Activity Leave Bill.**  
The School Conference and Activity Leave Bill would enable parents to more actively participate in their children's education. This bill allows any parent working at a business with at least 50 employees to take up to 16 hours of school conference and activities leave in a 12-month period – a solution that supports parental involvement without increasing the cost of doing business.
  - **Enhance Children's Achievement:** Decades of research shows parental involvement increases motivation, test scores and graduation rates.
  - **Prevent Harmful Behaviors in Children:** Research also establishes that parental involvement decreases instances of violent behavior and drug and alcohol use among students.
  - **Bridge Socioeconomic Gaps:** Parental involvement should not be the exclusive privilege of those families of substantial economic means. Fostering strong relationships between parents and children through widespread parental involvement will ensure all children the engagement and support they need to succeed.
  - **Advance Community Connections:** When parents and teachers come together to enhance a child's learning environment, schools improve and communities grow stronger.
  - **Sustain Local Businesses:** Family-friendly leave policies improve a business' bottom-line by helping to attract and retain workers, increasing productivity and morale, and decreasing turnover and absenteeism.
  - **Join Other States Already Supporting Parents and Children:** Wisconsin has the opportunity to join other states, including Minnesota, Illinois, California, Louisiana, Massachusetts, North Carolina, Rhode Island, Vermont, and the District of Columbia in increasing the value of our investment in education by supporting parental involvement in children's developmental and educational progress.







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### Parental Involvement in School Activities

AB 116?  
Date?

*"I wanted to take an extra half hour at lunchtime so I could attend my child's parent-teacher conference. My job wouldn't let me go, even if I agreed to make up the time." Tiffany Harris, Milwaukee*

#### The Need

Many workers in Wisconsin face obstacles to being involved with their children's school activities and keeping their jobs.

- A survey of low-income Wisconsin workers revealed that 26% had no paid vacation, 57% had no paid sick leave, and 74% lacked any paid personal leave.<sup>1</sup>
- Of parents who had a child scoring in the bottom quartile in math and reading, nearly three-quarters could not rely on flexibility at work.<sup>2</sup>
- More than one in three workers with children in the bottom quartile had held jobs in which they lacked paid sick or vacation leave.<sup>3</sup>
- When asked if there was an "unwritten rule at my place of employment that you can't take care of family needs on company time," 24% of low-wage, low-income parents agreed.<sup>4</sup>
- Taking unpaid leave can drop family incomes such that they fall below the poverty level.

#### The Benefits

- Employers rank Leave for School Functions as the work-life program most effective in reducing unscheduled employee absences.<sup>5</sup>
- Family leave policies increase employers' ability to recruit and retain the best employees, increase productivity and morale, decrease turnover and absenteeism.<sup>6</sup>
- Children's educational outcomes improve when parents are involved in school-related activities.<sup>7</sup>
- At least 12 other states (CA, HI, IL, LA, MA, MN, NV, NC, OK, RI, TX, VT) and the District of Columbia already have state parental leave laws.

People have had to make difficult choices between income and jobs on the one hand, and their child's education needs on the other. Workers want to support their children *and* be involved in their education. **Being a good parent should never cost you a job.**

<sup>1</sup> IWF, *Treading water in the New Economy: An Overview of Wisconsin's Low-Wage Working Families*: 21.

<sup>2</sup> Heymann SJ, *The Widening Gap: Why America's Working Families are in Jeopardy and What Can Be Done About It*. New York: Basic HBooks. 2000: 54-55.

<sup>3</sup> Ibid.

<sup>4</sup> Heymann SJ, Boynton-Jarrett R, Carter P, Bond JT, Galinsky, E. *Work-Family Issues and Low-Income Families, Making Work Pay in the Low-Income Labor Market*, Summer 2002.

<sup>5</sup> "2003 CCH Unscheduled Absence Survey." CCH Human Resources Group. October 2003.

<sup>6</sup> Ibid.

<sup>7</sup> "Indicators of Early School Success and Child Well-Being." Child Trends DataBank. 2003.







**National Partnership**  
for Women & Families

AB 116?

**Job-Protected Leave for Parental Involvement in School Activities**  
**October 2005**

Nine states and the District of Columbia require employers to provide job-protected leave for eligible employees to participate in a child's educational activities. Most of these laws also include provisions that allow an employee to use accrued paid leave for this purpose.

- **California (40 hours/year; no more than 8 hours/month)**  
Employers with 25 or more employees at the same location must allow employees to take up to 8 hours of unpaid leave per month to participate in a child's school or daycare activities (not to exceed 40 hours of leave per calendar year). Eligible employees are required to use existing vacation, personal leave, or compensatory time for such leave. At the employer's discretion, employees can also use unpaid time off. (Cal. Lab. Code § 230.8.)
- **District of Columbia (24 hours/year)**  
All working parents are entitled to a total of 24 hours of unpaid leave during any 12-month period to participate in a child's school-related events. Employees must notify the employer at least 10 calendar days before the event. Leave is unpaid unless employees have the option to use paid family, vacation, personal, compensatory leave, or leave from a leave bank provided by an employer. The District of Columbia's Parental Leave Law defines "parent" and "school-related event" very broadly. (D.C. Stat. § 32-1202.)
- **Illinois (8 hours/year; no more than 4 hours/day)**  
Employers with 50 or more employees must provide 8 hours of unpaid leave per school year (not to exceed 4 hours in one day) to participate in a child's school-related events. To be eligible, employees must have been employed part-time for at least 6 months and exhaust all accrued vacation, personal, compensatory, or any other leave (other than sick or disability leave) before taking unpaid leave. There are other restrictions on leave, including verification from the school and prior consent with employers. (820 Ill. Comp. Stat. 147/1.)
- **Louisiana (16 hours/year)**  
An employer *may* grant an employee up to 16 hours of unpaid leave per year to attend a child's school activities. An employer is not required to pay an employee for any time taken under the law; however, employees are permitted to substitute any accrued vacation time or other appropriate paid leave. (La. Rev. Stat. § 23:1015.2.)

- **Massachusetts (24 hours/year)**  
 Employees covered by the FMLA may take a total of 24 hours of unpaid leave per year to participate in school activities. Employers or employees may elect to substitute accrued sick, personal, or vacation leave under the law; however, employers do not have to allow employees to use sick leave in situations where an employee would not normally be permitted to use such leave. (Mass. Ann. Laws ch. § 149.52D.)
- **Minnesota (16 hours/year)**  
 All employers must provide employees up to 16 hours of unpaid leave per year to attend a child's school activities that cannot be scheduled during nonworking hours. To be eligible, employees must be employed by the same employer at least part-time and for 12 months preceding leave. An employee may substitute paid vacation and other appropriate leave. (Minn. Stat. § 181.9412.)
- **Nevada**  
 Nevada law prohibits employers from terminating employees who attend school conferences or leave work when notified of a child's emergency. (Nev. Rev. Stat. § 392.490.)
- **North Carolina (4 hours/year)**  
 All employers must grant 4 hours of unpaid leave per year for parents to attend a child's school activities. Employers may require an employee to provide a written request 48 hours before the taking leave. (N.C. Gen. Stat. § 95-28.3.)
- **Rhode Island (10 hours/year)**  
 Employers with 50 or more employees must grant up to 10 hours of leave per year for parents to attend a child's school activities. To be eligible, an employee must meet the requirements of Rhode Island's Parental and Family and Medical Leave Act and must give at least 24 hours notice. Employees may substitute any appropriate accrued paid leave for any part of this leave. (R.I. Gen. Laws § 28-48-12.)
- **Vermont (24 hours/year; up to 4 hours/month)**  
 Employers with at least 15 employees must provide up to 24 hours per year of unpaid leave to eligible employees to attend a child's school activities (not to exceed 4 hours in a 30-day period, and an employer may require that leave be taken in a minimum of two-hour segments). To be eligible, employees must have been employed for an average of at least 30 hours per week for one year. At the employee's discretion, the employee may use accrued paid leave. (Vt. Stat. Ann. tit. 21, § 472a.)

## **Recent bills introduced for job-protected leave for parental involvement in school activities.**

States where lawmakers introduced bills in 2004 to provide job-protected leave for parents to attend their children's educational activities include: Georgia, Hawaii, Indiana, Maryland, New York and Wisconsin. To our knowledge, states where lawmakers have introduced bills in 2005 to provide job-protected leave have been introduced in Illinois, Colorado, and Georgia.

- **Illinois**

SB 0006, introduced this legislative session, would amend the School Visitation Rights Act to increase school visitation leave to 24 hours (from 8 hours) and delete a provision requiring an employee to exhaust all accrued vacation leave before becoming eligible for leave. The bill passed the Senate (33-22) on March 2, 2005. The bill currently sits in the House Rules Committee, as of May 13, 2005, and has not been placed on the calendar for a second reading.

- **Colorado**

SB 05-021 would allow employees of any employer with at least 10 employees to take 40 hours (5 hours in any one-month period) of unpaid leave for school-related activities. Employees would be able elect to substitute paid vacation, personal, or other types of paid leave.

The bill passed the Senate Business, Labor and Technology Committee on a party line vote. A few amendments were added on the Senate floor, where it passed 2nd and 3rd readings on a party line vote (18-17). With an additional amendment offered by the House sponsor, the bill passed the House Business Affairs and Labor Committee with bi-partisan support. The House sponsor withdrew the bill on the second reading.

- **Georgia**

The "Time for Schools Act," HB 230, would provide 8 hours of unpaid leave per school year to working parents. The bill was referred to the House Ways & Means Committee on February 24, 2005.



AB1167

SURVEY

# CEOs Select Best, Worst States for Job Growth and Business

IN ITS FIFTH ANNUAL SURVEY, CE asked 543 CEOs to evaluate their states on a broad range of issues, including regulation, tax policies, education, quality of living and infrastructure. In addition, CEOs were also asked to grade each state based on the following criteria: 1) Taxation & Regulation, 2) Workforce Quality, and 3) Living Environment.

Once again, this year, the same states that took the bottom five spots over the past few years preserved their rankings for the most part. For the fourth year in a row, California and New York were ranked the worst and second worst state to do business in, respectively. Michigan was ranked third from the bottom for the second year in a row. The only difference in the bottom five was a flip in the worst fourth and fifth states, as New Jersey took over from Massachusetts as the fourth worst state.

Since 2005, CE has surveyed business leaders to rate their states and those in which they have operations with a view to whether each state is receptive to business operation and formation. Unfortunately, those states with the worst records continue to practice the same policies, that alienate businesses. As the economic downturn worsens and unemployment rises one would think some states would rethink their punitive tax and regulatory structure, not to mention their unionization policies if they want to turn the page and attract new businesses and capital to their area.

## The Best and Worst States to Do Business in the U.S. in 2009

Worst Not Good Neutral Good Best



### The Best

2009	2008	State
1	1	Texas
2	3	North Carolina
3	10	Florida
4	7	Georgia
5	6	Tennessee

### The Worst

2009	2008	State
51	51	California
50	50	New York
49	49	Michigan
48	47	New Jersey
47	48	Massachusetts

Coincidentally, all the bottom three states, California, New York and Michigan, also report some of the nation's highest unemployment rates—10.1 percent, 7.6 percent and 11.6 percent, respectively, as of January (most recent data available). This compares to a national average of 7.6 percent in the same month (the national unemployment rate reached 8.1 percent in February).

Expressing the prevalent attitude

among CEOs, one CEO said, "Michigan and California literally need to do a 180 if they are ever to become competitive again. California has huge advantages with its size, quality of work force, particularly in high tech, as well as the quality of life and climate advantages of the state. However, it is an absolute regulatory and tax disaster, as is Michigan."

As states put on an intense competition to attract business and invest-

# CEO CHRONICLES

## CEO CONFIDENCE INDEX

States	Average Position Change Per Year	Rank*		GDP Growth Rank, Growth Rate (3-yr. avg.)		Employment Rank, Unemployment Rate		Taxation & Regulation	Work Force Quality	Living Environment & Infrastructure
		'09	'08							
<b>Best States</b>										
Texas	N/C	1	1	7	8.19%	19	5.7%	A-	B+	B+
North Carolina	-1	2	3	10	7.18%	44	7.9%	B+	B+	A-
Florida	-7	3	10	15	6.55%	39	7.3%	B+	B-	B+
<b>Worst States</b>										
California	N/C	51	51	20	6.06%	48	8.4%	D	B-	B-
New York	N/C	50	50	11	7.16%	25	6.1%	D	B-	C-
Michigan	N/C	49	49	51	1.70%	51	9.6%	F	C+	C
<b>Hot States</b> (Greatest Rank Increase)										
Mississippi	15	30	45	33	5.00%	38	7.2%	F	C+	C
Pennsylvania	10	29	39	34	4.91%	25	6.1%	C	B-	B
Florida	7	3	10	15	6.55%	39	7.3%	B+	B-	B+
<b>Cold States</b> (Greatest Rank Decrease)										
Ohio	-11	45	34	49	3.24%	39	7.3%	C-	B-	B-
Minnesota	-10	32	22	39	4.50%	31	6.4%	C	B+	B+
Washington	-10	40	30	12	7.12%	31	6.4%	C	B+	B+

ment in this tough economic environment, the Best & Worst States survey saw a flurry of activity in the top ranks with the entry of three new states into the top five: Florida, Georgia and Tennessee. Tennessee, for example, enjoys one of the lowest cost of living indexes in

the U.S. California and New York rank among the highest. Texas maintained its #1 spot in the ranking for the fourth year in a row, as North Carolina, Florida, Georgia and Tennessee all jumped up in ranks, taking the #2, 3, 4 and 5 spots, respectively.

"Texas and the Carolinas are great for business," said one CEO. "South Carolina's Research Authority is exemplary in terms of creating new economic growth and Texas is strategically centered, has low taxes and outstanding demographics."

As a testament to this statement, in contrast to much of the nation, in fiscal 2008, Texas' gross state product grew by 4.2 percent, compared to 1.9 percent for the national economy.

If there is one state where business leaders are agog at the anti-growth actions of its government it is California. Ten years ago the state budget strained at the seams at \$85 billion. This rose to \$100 billion under Gray Davis and is approaching \$130 billion under Gov. Arnold Schwarzenegger. During this time the Golden State experienced a net outmigration of people and businesses. Seemingly oblivious to economic reality, last year the Democratic-controlled legislature proposed to raise California's income tax rate to 12 percent, the highest in the nation.  $\Delta$

For complete results regarding the confidence of public- and private-company CEOs, please visit our full report at [www.chiefexecutive.net](http://www.chiefexecutive.net).

