

108TH CONGRESS  
1ST SESSION

# S. 317

To amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2003

Mr. GREGG (for himself, Mr. SESSIONS, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Time and  
5 Workplace Flexibility Act”.

1 **SEC. 2. WORKPLACE FLEXIBILITY OPTIONS.**

2 (a) COMPENSATORY TIME OFF.—Section 7 of the  
3 Fair Labor Standards Act of 1938 (29 U.S.C. 207) is  
4 amended by adding at the end the following:

5 “(r)(1)(A) Except as provided in subparagraph (B),  
6 no employee may be required under this subsection to re-  
7 ceive compensatory time off in lieu of monetary overtime  
8 compensation. The acceptance of compensatory time off  
9 in lieu of monetary overtime compensation may not be a  
10 condition of employment or of working overtime.

11 “(B) In a case in which a valid collective bargaining  
12 agreement exists between an employer and the labor orga-  
13 nization that has been certified or recognized as the rep-  
14 resentative of the employees of the employer under appli-  
15 cable law, an employee may only be required under this  
16 subsection to receive compensatory time off in lieu of mon-  
17 etary overtime compensation in accordance with the agree-  
18 ment.

19 “(2)(A) An employee may receive, in accordance with  
20 this subsection and in lieu of monetary overtime com-  
21 pensation, compensatory time off at a rate not less than  
22 one and one-half hours for each hour of employment for  
23 which monetary overtime compensation is required by this  
24 section.

25 “(B) In this subsection:

26 “(i) The term ‘employee’ means an individual—

1           “(I) who is an employee (as defined in sec-  
2           tion 3);

3           “(II) who is not an employee of a public  
4           agency; and

5           “(III) to whom subsection (a) applies.

6           “(ii) The term ‘employer’ does not include a  
7           public agency.

8           “(3) An employer may provide compensatory time off  
9           to employees under paragraph (2)(A) only pursuant to the  
10          following:

11          “(A) The compensatory time off may be pro-  
12          vided only in accordance with—

13                 “(i) applicable provisions of a collective  
14                 bargaining agreement between the employer  
15                 and the labor organization that has been cer-  
16                 tified or recognized as the representative of the  
17                 employees under applicable law; or

18                 “(ii) in the case of an employee who is not  
19                 represented by a labor organization described in  
20                 clause (i), a written agreement arrived at be-  
21                 tween the employer and employee before the  
22                 performance of the work involved if the agree-  
23                 ment was entered into knowingly and volun-  
24                 tarily by such employee and was not a condition  
25                 of employment.

1           “(B) The compensatory time off may only be  
2 provided to an employee described in subparagraph  
3 (A)(ii) if such employee has affirmed, in a written  
4 statement that is made, kept, and preserved in ac-  
5 cordance with section 11(e), that the employee has  
6 chosen to receive compensatory time off in lieu of  
7 monetary overtime compensation.

8           “(C) No employee may receive, or agree to re-  
9 ceive, the compensatory time off unless the employee  
10 has been employed for at least 12 months by the  
11 employer, and for at least 1,250 hours of service  
12 with the employer during the previous 12-month pe-  
13 riod.

14           “(D) An employee shall be eligible to accrue  
15 compensatory time off if such employee has not ac-  
16 crued compensatory time off in excess of the limit  
17 applicable to the employee prescribed by paragraph  
18 (4).

19           “(4)(A) An employee may accrue not more than 160  
20 hours of compensatory time off.

21           “(B) Not later than January 31 of each calendar  
22 year, the employer of the employee shall provide monetary  
23 compensation for any unused compensatory time off ac-  
24 crued during the preceding calendar year that was not  
25 used prior to December 31 of the preceding calendar year

1 at the rate prescribed by paragraph (8). An employer may  
2 designate and communicate to the employees of the em-  
3 ployer a 12-month period other than the calendar year,  
4 in which case the compensation shall be provided not later  
5 than 31 days after the end of the 12-month period.

6 “(C) The employer may provide monetary compensa-  
7 tion for an employee’s unused compensatory time off in  
8 excess of 80 hours at any time after providing the em-  
9 ployee with at least 30 days’ written notice. The com-  
10 pensation shall be provided at the rate prescribed by para-  
11 graph (8).

12 “(5)(A) An employer that has adopted a policy offer-  
13 ing compensatory time off to employees may discontinue  
14 the policy for employees described in paragraph (3)(A)(ii)  
15 after providing 30 days’ written notice to the employees  
16 who are subject to an agreement described in paragraph  
17 (3)(A)(ii).

18 “(B) An employee may withdraw an agreement de-  
19 scribed in paragraph (3)(A)(ii) at any time, by submitting  
20 a written notice of withdrawal to the employer of the em-  
21 ployee. An employee may also request in writing that mon-  
22 etary compensation be provided, at any time, for all com-  
23 pensatory time off accrued that has not been used. Within  
24 30 days after receiving the written request, the employer

1 shall provide the employee the monetary compensation due  
2 in accordance with paragraph (8).

3 “(6)(A)(i) An employer that provides compensatory  
4 time off under paragraph (2) to an employee shall not di-  
5 rectly or indirectly intimidate, threaten, or coerce, or at-  
6 tempt to intimidate, threaten, or coerce, any employee for  
7 the purpose of—

8 “(I) interfering with the rights of the employee  
9 under this subsection to request or not request com-  
10 pensatory time off in lieu of payment of monetary  
11 overtime compensation for overtime hours;

12 “(II) interfering with the rights of the employee  
13 to use accrued compensatory time off in accordance  
14 with paragraph (9); or

15 “(III) requiring the employee to use the com-  
16 pensatory time off.

17 “(ii) In clause (i), the term ‘intimidate, threaten, or  
18 coerce’ has the meaning given the term in section  
19 13A(d)(2).

20 “(B) An agreement that is entered into by an em-  
21 ployee and employer under paragraph (3)(A)(ii) shall per-  
22 mit the employee to elect, for an applicable workweek—

23 “(i) the payment of monetary overtime com-  
24 pensation for the workweek; or

1           “(ii) the accrual of compensatory time off in  
2           lieu of the payment of monetary overtime compensa-  
3           tion for the workweek.”.

4           (b) REMEDIES AND SANCTIONS.—Section 16 of the  
5 Fair Labor Standards Act of 1938 (29 U.S.C. 216) is  
6 amended by adding at the end the following:

7           “(f)(1) In addition to any amount that an employer  
8 is liable under subsection (b) for a violation of a provision  
9 of section 7, an employer that violates section 7(r)(6)(A)  
10 shall be liable to the employee affected in an amount equal  
11 to—

12           “(A) the product of—

13           “(i) the rate of compensation (determined  
14 in accordance with section 7(r)(8)(A)); and

15           “(ii)(I) the number of hours of compen-  
16 satory time off involved in the violation that  
17 was initially accrued by the employee; minus

18           “(II) the number of such hours used by  
19 the employee; and

20           “(B) as liquidated damages, the product of—

21           “(i) such rate of compensation; and

22           “(ii) the number of hours of compensatory  
23 time off involved in the violation that was ini-  
24 tially accrued by the employee.

1       “(2) The employer shall be subject to such liability  
2 in addition to any other remedy available for such violation  
3 under this section or section 17, including a criminal pen-  
4 alty under subsection (a) and a civil penalty under sub-  
5 section (e).”.

6       (c) CALCULATIONS AND SPECIAL RULES.—Section  
7 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C.  
8 207(r)), as added by subsection (a), is further amended  
9 by adding at the end the following:

10       “(7) An employee who has accrued compensatory  
11 time off authorized to be provided under paragraph (2)  
12 shall, upon the voluntary or involuntary termination of  
13 employment, be paid for the unused compensatory time  
14 off in accordance with paragraph (8).

15       “(8)(A) If compensation is to be paid to an employee  
16 for accrued compensatory time off, the compensation shall  
17 be paid at a rate of compensation not less than—

18               “(i) the regular rate received by such employee  
19 when the compensatory time off was earned; or

20               “(ii) the final regular rate received by such em-  
21 ployee;

22 whichever is higher.

23       “(B) Any payment owed to an employee under this  
24 subsection for unused compensatory time off shall be con-  
25 sidered unpaid monetary overtime compensation.



1 “(9) An employee—

2 “(A) who has accrued compensatory time off  
3 authorized to be provided under paragraph (2); and

4 “(B) who has requested the use of the accrued  
5 compensatory time off;

6 shall be permitted by the employer of the employee to use  
7 the accrued compensatory time off within a reasonable pe-  
8 riod after making the request if the use of the accrued  
9 compensatory time off does not unduly disrupt the oper-  
10 ations of the employer.

11 “(10) The terms ‘monetary overtime compensation’  
12 and ‘compensatory time off’ shall have the meanings given  
13 the terms ‘overtime compensation’ and ‘compensatory  
14 time’, respectively, by subsection (o)(7).”.

15 (d) NOTICE TO EMPLOYEES.—Not later than 30 days  
16 after the date of enactment of this Act, the Secretary of  
17 Labor shall revise the materials the Secretary provides,  
18 under regulations contained in section 516.4 of title 29,  
19 Code of Federal Regulations, to employers for purposes  
20 of a notice explaining the Fair Labor Standards Act of  
21 1938 (29 U.S.C. 201 et seq.) to employees so that the  
22 notice reflects the amendments made to the Act by this  
23 section.

1 **SEC. 3. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CRED-**  
 2 **IT HOUR PROGRAMS.**

3 (a) IN GENERAL.—The Fair Labor Standards Act of  
 4 1938 is amended by inserting after section 13 (29 U.S.C.  
 5 213) the following:

6 **“SEC. 13A. BIWEEKLY WORK PROGRAMS AND FLEXIBLE**  
 7 **CREDIT HOUR PROGRAMS.**

8 “(a) VOLUNTARY PARTICIPATION.—

9 “(1) IN GENERAL.—Except as provided in para-  
 10 graph (2), no employee may be required to partici-  
 11 pate in a program described in this section. Partici-  
 12 pation in a program described in this section may  
 13 not be a condition of employment.

14 “(2) COLLECTIVE BARGAINING AGREEMENT.—

15 In a case in which a valid collective bargaining  
 16 agreement exists between an employer and the labor  
 17 organization that has been certified or recognized as  
 18 the representative of the employees of the employer  
 19 under applicable law, an employee may only be re-  
 20 quired to participate in such a program in accord-  
 21 ance with the agreement.

22 “(b) BIWEEKLY WORK PROGRAMS.—

23 “(1) IN GENERAL.—Notwithstanding section 7,  
 24 an employer may establish biweekly work programs  
 25 that allow the use of a biweekly work schedule—

1           “(A) that consists of a basic work require-  
2           ment of not more than 80 hours, over a 2-week  
3           period; and

4           “(B) in which more than 40 hours of the  
5           work requirement may occur in a week of the  
6           period, except that no more than 10 hours may  
7           be shifted between the 2 weeks involved.

8           “(2) CONDITIONS.—An employer may carry out  
9           a biweekly work program described in paragraph (1)  
10          for employees only pursuant to the following:

11           “(A) AGREEMENT.—The program may be  
12          carried out only in accordance with—

13           “(i) applicable provisions of a collec-  
14          tive bargaining agreement between the em-  
15          ployer and the labor organization that has  
16          been certified or recognized as the rep-  
17          resentative of the employees under applica-  
18          ble law; or

19           “(ii) in the case of an employee who  
20          is not represented by a labor organization  
21          described in clause (i), a written agreement  
22          arrived at between the employer and em-  
23          ployee before the performance of the work  
24          involved if the agreement was entered into  
25          knowingly and voluntarily by such em-

1           ployee and was not a condition of employ-  
2           ment.

3           “(B) STATEMENT.—The program shall  
4           apply to an employee described in subparagraph  
5           (A)(ii) if such employee has affirmed, in a writ-  
6           ten statement that is made, kept, and preserved  
7           in accordance with section 11(c), that the em-  
8           ployee has chosen to participate in the program.

9           “(C) MINIMUM SERVICE.—No employee  
10          may participate, or agree to participate, in the  
11          program unless the employee has been em-  
12          ployed for at least 12 months by the employer,  
13          and for at least 1,250 hours of service with the  
14          employer during the previous 12-month period.

15          “(3) COMPENSATION FOR HOURS IN SCHED-  
16          ULE.—Notwithstanding section 7, in the case of an  
17          employee participating in such a biweekly work pro-  
18          gram, the employee shall be compensated for each  
19          hour in such a biweekly work schedule at a rate not  
20          less than the regular rate at which the employee is  
21          employed.

22          “(4) COMPUTATION OF OVERTIME.—All hours  
23          worked by the employee in excess of such a biweekly  
24          work schedule or in excess of 80 hours in the 2-week

1 period, that are requested in advance by the em-  
2 ployer, shall be overtime hours.

3 “(5) OVERTIME COMPENSATION PROVISION.—

4 The employee shall be compensated for each such  
5 overtime hour at a rate not less than one and one-  
6 half times the regular rate at which the employee is  
7 employed, in accordance with section 7(a)(1), or re-  
8 ceive compensatory time off in accordance with sec-  
9 tion 7(r) for each such overtime hour.

10 “(6) DISCONTINUANCE OF PROGRAM OR WITH-  
11 DRAWAL.—

12 “(A) DISCONTINUANCE OF PROGRAM.—An  
13 employer that has established a biweekly work  
14 program under paragraph (1) may discontinue  
15 the program for employees described in para-  
16 graph (2)(A)(ii) after providing 30 days’ writ-  
17 ten notice to the employees who are subject to  
18 an agreement described in paragraph (2)(A)(ii).

19 “(B) WITHDRAWAL.—An employee may  
20 withdraw an agreement described in paragraph  
21 (2)(A)(ii) at the end of any 2-week period de-  
22 scribed in paragraph (1)(A), by submitting a  
23 written notice of withdrawal to the employer of  
24 the employee.

25 “(c) FLEXIBLE CREDIT HOUR PROGRAMS.—

1           “(1) IN GENERAL.—Notwithstanding section 7,  
2           an employer may establish flexible credit hour pro-  
3           grams, under which, at the election of an employee,  
4           the employer and the employee jointly designate  
5           hours for the employee to work that are in excess of  
6           the basic work requirement of the employee so that  
7           the employee can accrue flexible credit hours to re-  
8           duce the hours worked in a week or a day subse-  
9           quent to the day on which the flexible credit hours  
10          are worked.

11          “(2) CONDITIONS.—An employer may carry out  
12          a flexible credit hour program described in para-  
13          graph (1) for employees only pursuant to the fol-  
14          lowing:

15                 “(A) AGREEMENT.—The program may be  
16                 carried out only in accordance with—

17                         “(i) applicable provisions of a collec-  
18                         tive bargaining agreement between the em-  
19                         ployer and the labor organization that has  
20                         been certified or recognized as the rep-  
21                         resentative of the employees under applica-  
22                         ble law; or

23                         “(ii) in the case of an employee who  
24                         is not represented by a labor organization  
25                         described in clause (i), a written agreement

1 arrived at between the employer and em-  
2 ployee before the performance of the work  
3 involved if the agreement was entered into  
4 knowingly and voluntarily by such em-  
5 ployee and was not a condition of employ-  
6 ment.

7 “(B) STATEMENT.—The program shall  
8 apply to an employee described in subparagraph  
9 (A)(ii) if such employee has affirmed, in a writ-  
10 ten statement that is made, kept, and preserved  
11 in accordance with section 11(c), that the em-  
12 ployee has chosen to participate in the program.

13 “(C) MINIMUM SERVICE.—No employee  
14 may participate, or agree to participate, in the  
15 program unless the employee has been em-  
16 ployed for at least 12 months by the employer,  
17 and for at least 1,250 hours of service with the  
18 employer during the previous 12-month period.

19 “(D) HOURS.—An agreement that is en-  
20 tered into under subparagraph (A) shall provide  
21 that, at the election of an employee, the em-  
22 ployer and the employee will jointly designate,  
23 for an applicable workweek, flexible credit hours  
24 for the employee to work.

1           “(E) LIMIT.—An employee shall be eligible  
2 to accrue flexible credit hours if the employee  
3 has not accrued flexible credit hours in excess  
4 of the limit applicable to the employee pre-  
5 scribed by paragraph (3).

6           “(3) HOUR LIMIT.—

7           “(A) MAXIMUM HOURS.—An employee who  
8 is participating in such a flexible credit hour  
9 program may accrue not more than 50 flexible  
10 credit hours.

11           “(B) COMPENSATION DATE.—Not later  
12 than January 31 of each calendar year, the em-  
13 ployer of an employee who is participating in  
14 such a flexible credit hour program shall pro-  
15 vide monetary compensation for any flexible  
16 credit hours accrued during the preceding cal-  
17 endar year that were not used prior to Decem-  
18 ber 31 of the preceding calendar year at a rate  
19 not less than the regular rate at which the em-  
20 ployee is employed on the date the employee re-  
21 ceives the compensation. An employer may des-  
22 ignate and communicate to the employees of the  
23 employer a 12-month period other than the cal-  
24 endar year, in which case the compensation



1           shall be provided not later than 31 days after  
2           the end of the 12-month period.

3           “(4) COMPENSATION FOR FLEXIBLE CREDIT  
4           HOURS.—Notwithstanding section 7, in the case of  
5           an employee participating in such a flexible credit  
6           hour program, the employee shall be compensated  
7           for each flexible credit hour at a rate not less than  
8           the regular rate at which the employee is employed.

9           “(5) COMPUTATION OF OVERTIME.—All hours  
10          worked by the employee in excess of 40 hours in a  
11          week that are requested in advance by the employer,  
12          other than flexible credit hours, shall be overtime  
13          hours.

14          “(6) OVERTIME COMPENSATION PROVISION.—  
15          The employee shall be compensated for each such  
16          overtime hour at a rate not less than one and one-  
17          half times the regular rate at which the employee is  
18          employed, in accordance with section 7(a)(1), or re-  
19          ceive compensatory time off in accordance with sec-  
20          tion 7(r) for each such overtime hour.

21          “(7) USE OF TIME.—An employee—

22                  “(A) who has accrued flexible credit hours;  
23                  and

24                  “(B) who has requested the use of the ac-  
25                  crued flexible credit hours,

1 shall be permitted by the employer of the employee  
2 to use the accrued flexible credit hours within a rea-  
3 sonable period after making the request if the use of  
4 the accrued flexible credit hours does not unduly dis-  
5 rupt the operations of the employer.

6 “(8) DISCONTINUANCE OF PROGRAM OR WITH-  
7 DRAWAL.—

8 “(A) DISCONTINUANCE OF PROGRAM.—An  
9 employer that has established a flexible credit  
10 hour program under paragraph (1) may dis-  
11 continue the program for employees described  
12 in paragraph (2)(A)(ii) after providing 30 days’  
13 written notice to the employees who are subject  
14 to an agreement described in paragraph  
15 (2)(A)(ii).

16 “(B) WITHDRAWAL.—An employee may  
17 withdraw an agreement described in paragraph  
18 (2)(A)(ii) at any time, by submitting a written  
19 notice of withdrawal to the employer of the em-  
20 ployee. An employee may also request in writing  
21 that monetary compensation be provided, at any  
22 time, for all flexible credit hours accrued that  
23 have not been used. Within 30 days after re-  
24 ceiving the written request, the employer shall  
25 provide the employee the monetary compensa-

1           tion due at a rate not less than the regular rate  
2           at which the employee is employed on the date  
3           the employee receives the compensation.

4           “(d) PROHIBITION OF COERCION.—

5           “(1) IN GENERAL.—An employer shall not di-  
6           rectly or indirectly intimidate, threaten, or coerce, or  
7           attempt to intimidate, threaten, or coerce, any em-  
8           ployee for the purpose of—

9                   “(A) interfering with the rights of the em-  
10                  ployee under this section to elect or not to elect  
11                  to work a biweekly work schedule;

12                  “(B) interfering with the rights of the em-  
13                  ployee under this section to elect or not to elect  
14                  to participate in a flexible credit hour program,  
15                  or to elect or not to elect to work flexible credit  
16                  hours (including working flexible credit hours in  
17                  lieu of overtime hours);

18                  “(C) interfering with the rights of the em-  
19                  ployee under this section to use accrued flexible  
20                  credit hours in accordance with subsection  
21                  (c)(7); or

22                  “(D) requiring the employee to use the  
23                  flexible credit hours.

24           “(2) DEFINITION.—In paragraph (1), the term  
25           ‘intimidate, threaten, or coerce’ includes promising

1 to confer or conferring any benefit (such as appoint-  
2 ment, promotion, or compensation) or effecting or  
3 threatening to effect any reprisal (such as depriva-  
4 tion of appointment, promotion, or compensation).

5 “(e) DEFINITIONS.—In this section:

6 “(1) BASIC WORK REQUIREMENT.—The term  
7 ‘basic work requirement’ means the number of  
8 hours, excluding overtime hours, that an employee is  
9 required to work or is required to account for by  
10 leave or otherwise.

11 “(2) COLLECTIVE BARGAINING.—The term ‘col-  
12 lective bargaining’ means the performance of the  
13 mutual obligation of the representative of an em-  
14 ployer and the labor organization that has been cer-  
15 tified or recognized as the representative of the em-  
16 ployees of the employer under applicable law to meet  
17 at reasonable times and to consult and bargain in a  
18 good-faith effort to reach agreement with respect to  
19 the conditions of employment affecting such employ-  
20 ees and to execute, if requested by either party, a  
21 written document incorporating any collective bar-  
22 gaining agreement reached, but the obligation re-  
23 ferred to in this paragraph shall not compel either  
24 party to agree to a proposal or to make a conces-  
25 sion.

1           “(3) COLLECTIVE BARGAINING AGREEMENT.—

2           The term ‘collective bargaining agreement’ means an  
3           agreement entered into as a result of collective bar-  
4           gaining.

5           “(4) ELECTION.—The term ‘at the election of’,  
6           used with respect to an employee, means at the ini-  
7           tiative of, and at the request of, the employee.

8           “(5) EMPLOYEE.—The term ‘employee’ means  
9           an individual—

10           “(A) who is an employee (as defined in  
11           section 3);

12           “(B) who is not an employee of a public  
13           agency; and

14           “(C) to whom section 7(a) applies.

15           “(6) EMPLOYER.—The term ‘employer’ does  
16           not include a public agency.

17           “(7) FLEXIBLE CREDIT HOURS.—The term  
18           ‘flexible credit hours’ means any hours, within a  
19           flexible credit hour program established under sub-  
20           section (c), that are in excess of the basic work re-  
21           quirement of an employee and that, at the election  
22           of the employee, the employer and the employee  
23           jointly designate for the employee to work so as to  
24           reduce the hours worked in a week on a day subse-

1       quent to the day on which the flexible credit hours  
2       are worked.

3               “(8) OVERTIME HOURS.—The term ‘overtime  
4       hours’—

5                       “(A) when used with respect to biweekly  
6       work programs under subsection (b), means all  
7       hours worked in excess of the biweekly work  
8       schedule involved or in excess of 80 hours in  
9       the 2-week period involved, that are requested  
10      in advance by an employer; or

11                      “(B) when used with respect to flexible  
12      credit hour programs under subsection (c),  
13      means all hours worked in excess of 40 hours  
14      in a week that are requested in advance by an  
15      employer, but does not include flexible credit  
16      hours.

17               “(9) REGULAR RATE.—The term ‘regular rate’  
18      has the meaning given the term in section 7(e).”.

19      (b) REMEDIES.—

20                      (1) PROHIBITIONS.—Section 15(a)(3) of the  
21      Fair Labor Standards Act of 1938 (29 U.S.C.  
22      215(a)(3)) is amended—

23                              (A) by inserting “(A)” after “(3)”;

24                              (B) by adding “or” after the semicolon;

25                      and

1 (C) by adding at the end the following:

2 “(B) to violate any of the provisions of section  
3 13A;”.

4 (2) REMEDIES AND SANCTIONS.—Section 16 of  
5 the Fair Labor Standards Act of 1938 (29 U.S.C.  
6 216), as amended in section 2(b), is further amend-  
7 ed—

8 (A) in subsection (c)—

9 (i) in the first sentence—

10 (I) by inserting after “7 of this  
11 Act” the following: “, or of the appro-  
12 priate legal or monetary equitable re-  
13 lief owing to any employee or employ-  
14 ees under section 13A”; and

15 (II) by striking “wages or unpaid  
16 overtime compensation and” and in-  
17 serting “wages, unpaid overtime com-  
18 pensation, or legal or monetary equi-  
19 table relief, as appropriate, and”;

20 (ii) in the second sentence, by striking  
21 “wages or overtime compensation and”  
22 and inserting “wages, unpaid overtime  
23 compensation, or legal or monetary equi-  
24 table relief, as appropriate, and”; and

25 (iii) in the third sentence—

1 (I) by inserting after “first sen-  
 2 tence of such subsection” the fol-  
 3 lowing: “, or the second sentence of  
 4 such subsection in the event of a vio-  
 5 lation of section 13A,”; and

6 (II) by striking “wages or unpaid  
 7 overtime compensation under sections  
 8 6 and 7 or” and inserting “wages, un-  
 9 paid overtime compensation, or legal  
 10 or monetary equitable relief, as appro-  
 11 priate, or”;

12 (B) in subsection (e)—

13 (i) in the second sentence, by striking  
 14 “section 6 or 7” and inserting “section 6,  
 15 7, or 13A”; and

16 (ii) in the fourth sentence, in para-  
 17 graph (3), by striking “15(a)(4) or” and  
 18 inserting “15(a)(4), a violation of section  
 19 15(a)(3)(B), or”; and

20 (C) by adding at the end the following:

21 “(g)(1) In addition to any amount that an employer  
 22 is liable under the second sentence of subsection (b) for  
 23 a violation of a provision of section 13A, an employer that  
 24 violates section 13A(d) shall be liable to the employee af-  
 25 fected for an additional sum equal to that amount.



1 “(2) The employer shall be subject to such liability  
2 in addition to any other remedy available for such violation  
3 under this section or section 17.”.

4 (c) NOTICE TO EMPLOYEES.—Not later than 30 days  
5 after the date of enactment of this Act, the Secretary of  
6 Labor shall revise the materials the Secretary provides,  
7 under regulations contained in section 516.4 of title 29,  
8 Code of Federal Regulations, to employers for purposes  
9 of a notice explaining the Fair Labor Standards Act of  
10 1938 (29 U.S.C. 201 et seq.) to employees so that the  
11 notice reflects the amendments made to the Act by this  
12 section.

13 **SEC. 4. PROTECTIONS FOR CLAIMS RELATING TO COMPEN-**  
14 **SATORY TIME OFF IN BANKRUPTCY PRO-**  
15 **CEEDINGS.**

16 Section 507(a)(3) of title 11, United States Code, is  
17 amended—

18 (1) by striking “for—” and inserting the fol-  
19 lowing: “on the condition that all accrued compen-  
20 satory time off (as defined in section 7 of the Fair  
21 Labor Standards Act of 1938 (29 U.S.C. 207)) shall  
22 be deemed to have been earned within 90 days be-  
23 fore the date of the filing of the petition or the date  
24 of the cessation of the debtor’s business, whichever  
25 occurs first, for—”; and

1           (2) in subparagraph (A), by inserting before the  
 2           semicolon the following: “or the value of unused, ac-  
 3           crued compensatory time off (as defined in section  
 4           7 of the Fair Labor Standards Act of 1938 (29  
 5           U.S.C. 207))”.

6 **SEC. 5. CONGRESSIONAL COVERAGE.**

7           Section 203 of the Congressional Accountability Act  
 8 of 1995 (2 U.S.C. 1313) is amended—

9           (1) in subsection (a)—

10                   (A) in paragraph (1), by striking “and sec-  
 11                   tion 12(c)” and inserting “section 12(c), and  
 12                   section 13A”; and

13                   (B) by striking paragraph (3);

14           (2) in subsection (b)—

15                   (A) by striking “The remedy” and insert-  
 16                   ing the following:

17                   “(1) IN GENERAL.—Except as provided in para-  
 18                   graphs (2) and (3), the remedy”; and

19                   (B) by adding at the end the following:

20                   “(2) COMPENSATORY TIME.—The remedy for a  
 21                   violation of subsection (a) relating to the require-  
 22                   ments of section 7(r) of the Fair Labor Standards  
 23                   Act of 1938 (29 U.S.C. 207(r)) shall be such rem-  
 24                   edy as would be appropriate if awarded under sub-

1 section (b) or (f) of section 16 of such Act (29  
2 U.S.C. 216).

3 “(3) BIWEEKLY WORK PROGRAMS AND FLEXI-  
4 BLE CREDIT HOURS PROGRAMS.—The remedy for a  
5 violation of subsection (a) relating to the require-  
6 ments of section 13A of the Fair Labor Standards  
7 Act of 1938 shall be such remedy as would be appro-  
8 priate if awarded under sections 16 and 17 of such  
9 Act (29 U.S.C. 216, 217) for such a violation.”; and  
10 (3) in subsection (c), by striking paragraph (4).

11 **SEC. 6. TERMINATION.**

12 The authority provided by this Act and the amend-  
13 ments made by this Act terminates 5 years after the date  
14 of enactment of this Act.

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