

# Union Calendar No. 422

119<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2870

**[Report No. 119–496]**

To amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2025

Mrs. MILLER of Illinois introduced the following bill; which was referred to the Committee on Education and Workforce

FEBRUARY 12, 2026

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 10, 2025]

# **A BILL**

To amend the Fair Labor Standards Act of 1938 to provide  
compensatory time for employees in the private sector.

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 “Working Families Flexi-*  
 5       *bility Act of 2025”.*

6       **SEC. 2. COMPENSATORY TIME.**

7       *Section 7 of the Fair Labor Standards Act of 1938*  
 8       *(29 U.S.C. 207) is amended by adding at the end the fol-*  
 9       *lowing:*

10       “(t) *COMPENSATORY TIME OFF FOR PRIVATE EMPLOY-*  
 11       *EES.—*

12               “(1) *GENERAL RULE.—*

13                       “(A) *IN GENERAL.—During the 5-year pe-*  
 14                       *riod beginning on the date of enactment of the*  
 15                       *Working Families Flexibility Act of 2025, an*  
 16                       *employee described in subparagraph (B) may re-*  
 17                       *ceive, in accordance with this subsection and in*  
 18                       *lieu of monetary overtime compensation, com-*  
 19                       *pensatory time off at a rate not less than one*  
 20                       *and one-half hours for each hour of employment*  
 21                       *for which overtime compensation is required by*  
 22                       *this section.*

23                       “(B) *ELIGIBLE EMPLOYEE.—An employee*  
 24                       *described in this subparagraph is an employee*  
 25                       *who—*

1           “(i) is not an employee of a public  
2           agency; and

3           “(ii) works at least 1,000 hours for the  
4           employee’s employer during a period of con-  
5           tinuous employment with the employer in  
6           the 12-month period ending on the date—

7                   “(I) on which the agreement  
8                   under paragraph (2)(B) is entered into  
9                   by the employee and the employee’s  
10                  employer; or

11                   “(II) of receipt of compensatory  
12                  time off under this subsection.

13           “(2) CONDITIONS.—An employer (other than an  
14           employer that is a public agency subject to subsection  
15           (o)) may provide compensatory time to employees  
16           under this subsection only if such time is provided in  
17           accordance with—

18                   “(A) applicable provisions of a collective  
19                   bargaining agreement between the employer and  
20                   the labor organization that has been certified or  
21                   recognized as the representative of the employees  
22                   under applicable law; or

23                   “(B) in the case of employees who are not  
24                   represented by a labor organization that has  
25                   been certified or recognized as the representative

1        *of such employees under applicable law, an*  
2        *agreement arrived at between the employer and*  
3        *such an employee before the performance of the*  
4        *work and affirmed by a written or otherwise*  
5        *verifiable record maintained in accordance with*  
6        *section 11(c)—*

7                *“(i) in which the employer has offered*  
8                *and the employee has chosen to receive com-*  
9                *pensatory time in lieu of monetary overtime*  
10               *compensation; and*

11               *“(ii) entered into knowingly and vol-*  
12               *untarily by such employee and not as a*  
13               *condition of employment.*

14        *“(3) HOUR LIMIT.—*

15               *“(A) MAXIMUM HOURS.—An employee may*  
16               *accrue not more than 160 hours of compensatory*  
17               *time under this subsection.*

18               *“(B) COMPENSATION DATE.—*

19               *“(i) IN GENERAL.—An employer shall*  
20               *provide to the employee, not later than 31*  
21               *days after a covered period, monetary com-*  
22               *ensation for any unused compensatory*  
23               *time accrued during such covered period.*

1                   “(ii) *COVERED PERIOD.*—*For the pur-*  
2                   *poses of clause (i), a covered period*  
3                   *means—*

4                   “(I) *a calendar year; or*

5                   “(II) *another 12-month period de-*  
6                   *termined by the employer and commu-*  
7                   *nicated to the employees of the em-*  
8                   *ployer.*

9                   “(C) *EXCESS OF 80 HOURS.*—*An employer*  
10                  *may provide monetary compensation for the em-*  
11                  *ployee’s unused compensatory time in excess of*  
12                  *80 hours at any time after giving the employee*  
13                  *at least 30 days notice of the provision of such*  
14                  *monetary compensation. Such compensation*  
15                  *shall be provided at the rate prescribed by para-*  
16                  *graph (6).*

17                  “(D) *DISCONTINUATION OF COMPENSATORY*  
18                  *TIME POLICY.*—*Except where a collective bar-*  
19                  *gaining agreement provides otherwise, an em-*  
20                  *ployer that offers employees compensatory time*  
21                  *in accordance with this subsection may, upon*  
22                  *giving the employees notice of at least 30 days,*  
23                  *stop offering such compensatory time and pro-*  
24                  *vide monetary compensation to each employee*  
25                  *with accrued compensatory time that has not yet*

1       *been used for all such accrued, unused compen-*  
2       *satory time. Such compensation shall be pro-*  
3       *vided at the rate prescribed by paragraph (6).*

4               “(E) *WRITTEN REQUESTS.—*

5               “(i) *IN GENERAL.—An employee who*  
6       *has an agreement described in paragraph*  
7       *(2)(B) with an employer may, in writing,*  
8       *at any time—*

9               “(I) *withdraw from such agree-*  
10       *ment; or*

11               “(II) *request that monetary com-*  
12       *pensation be provided for all compen-*  
13       *satory time accrued that has not yet*  
14       *been used.*

15               “(ii) *MONETARY COMPENSATION.—Not*  
16       *later than 30 days of receiving a written re-*  
17       *quest as described in clause (i)(II), the em-*  
18       *ployer shall provide the employee the mone-*  
19       *tary compensation due in accordance with*  
20       *paragraph (6).*

21               “(4) *PRIVATE EMPLOYER ACTIONS.—An em-*  
22       *ployer that provides compensatory time under this*  
23       *subsection to employees shall not directly or indirectly*  
24       *intimidate, threaten, or coerce or attempt to intimi-*

1       *date, threaten, or coerce any employee for the purpose*  
2       *of—*

3               “(A) *interfering with such employee’s rights*  
4               *under this subsection to request or not request*  
5               *compensatory time off in lieu of payment of*  
6               *monetary overtime compensation for overtime*  
7               *hours; or*

8               “(B) *requiring any employee to use such*  
9               *compensatory time.*

10              “(5) *TERMINATION OF EMPLOYMENT.—An em-*  
11              *ployee who has accrued compensatory time off author-*  
12              *ized to be provided under this subsection shall, upon*  
13              *the voluntary or involuntary termination of employ-*  
14              *ment, be paid for the unused compensatory time in*  
15              *accordance with paragraph (6).*

16              “(6) *RATE OF COMPENSATION.—*

17                      “(A) *GENERAL RULE.—If compensation is*  
18                      *to be paid to an employee for accrued compen-*  
19                      *satory time off under this subsection, such com-*  
20                      *ensation shall be paid at a rate of compensa-*  
21                      *tion not less than—*

22                              “(i) *the regular rate received by such*  
23                              *employee when the compensatory time was*  
24                              *earned; or*

1                   “(ii) the final regular rate received by  
2                   such employee,  
3                   whichever is higher.

4                   “(B) CONSIDERATION OF PAYMENT.—Any  
5                   payment owed to an employee under this sub-  
6                   section for unused compensatory time shall be  
7                   considered unpaid overtime compensation.

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

9                   “(A) who has accrued compensatory time off  
10                  authorized to be provided under this subsection;  
11                  and

12                  “(B) who has requested the use of such com-  
13                  pensatory time,  
14                  shall be permitted by the employee’s employer to use  
15                  such time within a reasonable period after making  
16                  the request if the use of the compensatory time does  
17                  not unduly disrupt the operations of the employer.

18                  “(8) DEFINITIONS.—For purposes of this sub-  
19                  section, the terms ‘overtime compensation’, ‘compen-  
20                  satory time’, and ‘compensatory time off’ have the  
21                  meanings given such terms in subsection (o)(7).”.

22 **SEC. 3. REMEDIES.**

23                  Section 16 of the Fair Labor Standards Act of 1938  
24                  (29 U.S.C. 216) is amended—

1           (1) *in subsection (b), in the first sentence, by*  
 2           *striking “(b) Any employer” and inserting “(b) Ex-*  
 3           *cept as provided in subsection (f), any employer”;*  
 4           *and*

5           (2) *by adding at the end the following:*

6           “(f) *An employer that violates section 7(t)(4) shall be*  
 7           *liable to the employee affected in the amount of the rate*  
 8           *of compensation (determined in accordance with section*  
 9           *7(t)(6)(A)) for each hour of compensatory time accrued by*  
 10          *the employee and in an additional equal amount as liq-*  
 11          *uidated damages reduced by the amount of such rate of com-*  
 12          *pensation for each hour of compensatory time used by such*  
 13          *employee.”.*

14   **SEC. 4. NOTICE TO EMPLOYEES.**

15          *Not later than 30 days after the date of enactment of*  
 16          *this Act, the Secretary of Labor shall revise the materials*  
 17          *the Secretary provides, under regulations published in sec-*  
 18          *tion 516.4 of title 29, Code of Federal Regulations, and any*  
 19          *corresponding similar regulations or rulings (or any suc-*  
 20          *cessor regulations or rulings), to employers for purposes of*  
 21          *a notice explaining the Fair Labor Standards Act of 1938*  
 22          *(29 U.S.C. 201 et seq.) to employees so that such notice re-*  
 23          *flects the amendments made to such Act by this Act.*

1 **SEC. 5. GAO REPORT.**

2 *Not later than 2 years after the date of enactment of*  
3 *this Act and annually thereafter for 4 years, the Comp-*  
4 *troller General shall submit a report to Congress providing,*  
5 *with respect to the 1-year period preceding each such re-*  
6 *port—*

7 *(1) data concerning the extent to which employ-*  
8 *ers provide compensatory time pursuant to section*  
9 *7(t) of the Fair Labor Standards Act of 1938, as*  
10 *added by this Act, and the extent to which employees*  
11 *opt to receive compensatory time;*

12 *(2) the number of complaints alleging a violation*  
13 *of such section filed by any employee with the Sec-*  
14 *retary of Labor;*

15 *(3) the number of enforcement actions com-*  
16 *menced by the Secretary or commenced by the Sec-*  
17 *retary on behalf of any employee for alleged violations*  
18 *of such section;*

19 *(4) the disposition or status of such complaints*  
20 *and actions described in paragraphs (2) and (3); and*

21 *(5) an account of any unpaid wages, damages,*  
22 *penalties, injunctive relief, or other remedies obtained*  
23 *or sought by the Secretary in connection with such*  
24 *actions described in paragraph (3).*

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