THE HAMILTON PROJECT

A federal guarantee for earned paid time off

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BROOKINGS

Abstract

The United States is the only advanced economy in which workers are not guaranteed paid time off. All employees need time off, and a guarantee of earned paid time off could boost worker well-being and productivity. In recent years cities and states have enacted earned paid leave programs, most of which are focused on sick leave. While these laws provide a needed benefit for workers, they still leave many workers behind and create a patchwork of policies that increase the regulatory burden for businesses that operate across state or city lines. A federal earned paid time off program could encompass existing laws, reduce the administrative burden for businesses, and ensure that all working Americans are equally protected by labor standards with the right to earn paid time off. This proposal outlines a federal earned paid time off program that ensures workers can earn up to 80 hours (10 days) of paid time off per 12-month period, accrued at a rate of 0.04 (2.4 minutes per hour of work). Because earned paid time off accrues continuously with time worked, this proposal covers all workers including those in alternative work arrangements: part-time, part-year workers, and independent contractors; as well as full-time, full-year workers, and salaried employees. A federal earned paid time off policy would recognize the need for time off for all workers, increase national cohesion in the labor market, and promote efficiency by providing a uniform national standard that will ease the administrative burden of paid time off policies.

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Introduction

America is the only high-income country that does not guarantee workers paid time off as part of national workplace standards. While the United States has become embroiled in debates about specific kinds of paid leave (e.g., paid parental leave, paid sick leave, paid short-term disability leave), there has been little discussion of the fact that all workers need some time off. The country has seen incomes soar over the past century, yet little of that increased prosperity has been dedicated to ensuring that people can have a work-life balance that supports a long and healthy working life.

In any given year, workers face challenges that could be more easily addressed with access to paid time off. The need for time off might be to care for their health or that of a loved one, to spend time with a family member in need, or to simply recharge. Taken together, all workers would benefit from being able to earn and use paid time off to meet their various needs. Employers, too, would benefit from a federal policy that sets a consistent baseline for paid time off.

The need for and benefits of paid time off were identified more than a century ago. President William Howard Taft argued in 1910 that everyone should take three months off each year because there "is such a thing as exhausting the capital of one's health and constitution" (New York Times 1910). He believed that workers return from vacation refreshed and with more energy, and therefore better able to work effectively. More than a century later, research has proven that President Taft's views on the usefulness of vacation for rejuvenating workers were correct (Packer 2021), but at the time his bold argument for vacation for all was largely unsupported by the business and political community. While President Taft was unsuccessful in leading the United States to pass any form of paid leave policy—perhaps because he aimed for too much given the national income of the early 20th century—many other countries went on to pass national annual leave policies in the ensuing decades.

The battle for workers' rights in the United States in the early 20th century instead focused on addressing wage and hour standards and eliminating the exploitation of children in the workplace. In 1938, the United States passed the groundbreaking Fair Labor Standards Act (FLSA), which set a minimum wage, established the 40-hour work week by requiring an overtime premium for non-managerial workers, and regulated the safety and hours of children's work (Congressional Research Service 2023). These rules shaped not only the American economy, but also the established social norms around its provisions, particularly the 40-hour work week and the employment of children. Moreover, the rules fostered higher educational attainment by making it easier for children to stay in school. The FLSA did not then, nor does it today, require employers to offer any vacation, holiday, or sick pay, nor does it require premium pay for weekend or holiday work (U.S. Department of Labor 2023).

This legislation continues to form the basis for American workers' basic rights and has shaped the culture in the United States around taking leave. Even when American employers provide workers with paid leave, workers are often reluctant to take the time off, fearing that anyone who takes annual leave might fall behind in a competitive labor market (York 2021). A culture of work without rest runs the risk of pushing costs into the future: poor mental and physical health, substance abuse as a relaxation alternative, and underinvestment in children. Many of these costs are long-term costs that arise from years of overwork and the accumulated stress of meeting personal obligations in an inflexible work environment.

The FLSA was attentive to the needs of workers in the first half of the 20th century. Today, nearly a century later, the country and workers would benefit from modernizing our labor standards to address the need for paid time off.

There are four reasons why now is the time to adopt a federal standard for paid time off. The first reason is simply that we can afford it. U.S. GDP per capita has risen to more than $80,000 a year, a sevenfold improvement in real income compared to when the FLSA was enacted (U.S. Department of Commerce 2024a; 2024b). This large increase in living standards makes it feasible to ensure a higher baseline of compensation for all workers. And yet, despite this surge in living standards, neither the definition of a fair workplace nor the rights of workers has substantially changed (Congressional Research Service 2023).

The second reason is that Americans can have longer and healthier working lives due to improvements in healthcare. Today's workers can expect to live and work decades longer than workers a century ago,

particularly if they look after their physical and mental health. To do this they need time to access healthcare, to rest and recover from health events, and to relax, reflect, and connect with friends and family.

The third reason is the changing nature of the economy itself. The United States prides itself on workers that are among the world's most productive, yet that high productivity can take its toll on the workers themselves. American workers also have lower labor force participation rates compared to workers in many other advanced economies (Dvorkin and Shell 2015). One reason for our lower labor force participation rate is that prime-age workers are taking short spells out of the labor force (Coglianese 2018).

Modernized labor standards could foster greater and more sustainable labor force attachment by enabling and encouraging workers to take time off for illness, rest, recovery, and family or personal needs. While many have noted the benefits of productivity that stem from taking time off, these benefits have grown over time with the complexity of the labor market and the increasing share of women and older Americans in the labor force.

Finally, different kinds of paid leave policies are being adopted in multiple localities—states and cities—across the United States. Today's employers must navigate more than 35 state and local policies requiring employers to provide paid leave. That complexity invites a solution in the form of a unified federal standard.

The right to earn paid time off for all qualified workers is an essential modernization of the FLSA and would set a new baseline for the American labor market. By putting forward "earned time off" as a crucial aspect of FLSA modernization, the U.S. can continue its tradition of labor rights advancement, offering protections and benefits that reflect the needs and complexities of modern employment. Adding earned time off to FLSA can better align U.S. workplace rules with those of other advanced economies, all of which mandate some form of paid leave for workers as part of a fair workplace.

American workers are diverse in their needs, and they want choice and control over how they use time away from work. By allowing workers to choose how to use their earned time off, this proposed policy trusts them to use paid time off wisely to take care of their own needs and the needs of their families. American employers want simplicity: Paid time off policies are not particularly costly in terms of wages, but substantial costs can arise if compliance is complicated or confusing.

The challenge

The goal of workplace protections is to set a baseline standard, a guarantee on which all workers can depend. Just as most workers earn wages well above the minimum wage, many workers in the United States have access to some form of paid time off, either because it is a benefit offered as part of their compensation package or because they live in a state or city that has enacted a paid leave law. In this section, I describe who has access to paid leave in the U.S. and review different paid leave policies that have been enacted across the U.S. and in other countries.

The state of earned paid time off

There are two broad categories of paid leave policies. The first category covers longer absences from work. These policies are extensions of the Federal Family and Medical Leave Act (FMLA), which gives workers the right to take unpaid, job-protected leave for the birth of a child or for bonding with one's adopted or foster child, or a serious medical condition impacting them or an eligible family member (U.S. Department of Labor n.d.). Ten states and the District of Columbia have adopted policies to offer partial wage replacement for these FMLA-type parental and/or disability leave, and four more states are enacting similar programs in 2026 (figure 1). These FMLA-type leaves are typically managed through a state fund to distribute costs more broadly and thus reduce the financial burden on any one employer as well as to reduce the potential for bias in hiring.

The second category of paid leave policies are earned paid leave policies. These policies cover shorter absences from work of a few hours or a few days. Most state programs have focused on ensuring that workers have access to leave for illness, although state and city policies differ on the allowable uses of these policies even when designated as a "sick leave" policy.

In the absence of action at the federal level, states and cities have enacted their own earned paid leave laws. In 2006, San Francisco became the first U.S. city to pass a paid sick leave law. Four years later, Connecticut became the first state to pass a state-wide paid sick leave law. Since then, 15 more states and the District of Columbia have passed state-wide paid sick leave laws. In 2020, Nevada became the first state to guarantee workers the right to earn time off with no requirements as to the purpose for which the time is used. In the ensuing years, Illinois and Maine have passed earned paid leave laws like Nevada's.

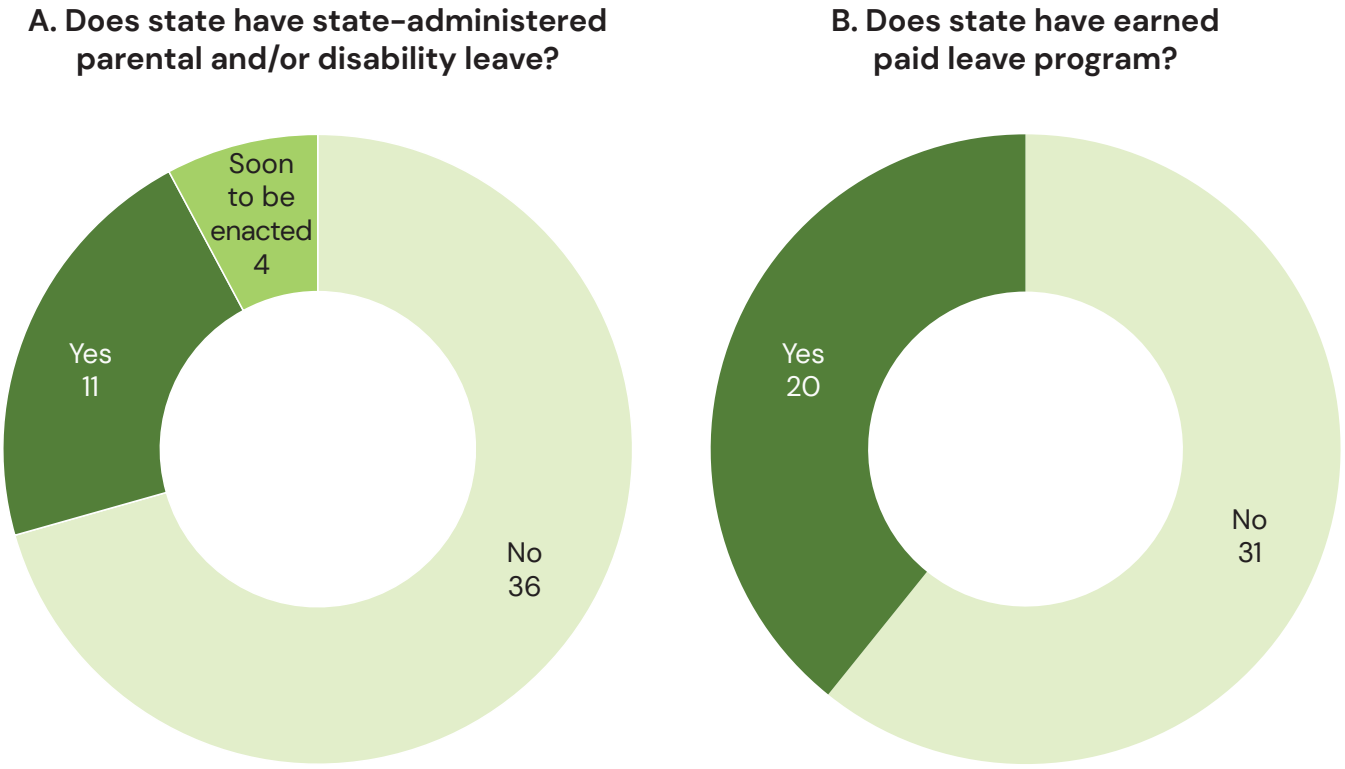
Figure 1 shows the count of states and the District of Columbia that have a paid leave law on the books. Nineteen states and the District of Columbia (39 percent of the 50 states and the District of Columbia) have earned leave programs. Most of these states are in the West, Midwest, or New England. Beginning in 2026, Delaware, Maine, Minnesota, and Maryland (8 percent) will join the 10 states and the District of Columbia (22 percent) that have active paid family and medical programs.

Figure 2 shows that earned paid leave laws can vary greatly across states in terms of enforcement, generosity, and carve-out provisions. States can carve out employee and employer exceptions to their paid leave policies. In Washington state, app-based gig workers must earn paid sick leave. In contrast, managers and other FLSA-exempt employees are not eligible for state mandated sick leave. Turning to which employers are covered, slightly more than half of the states that have earned paid leave laws require all employers to participate. However, nine of the states have exceptions for small businesses. For example, in New York only employers with five or more employees or an income of more than $1 million must offer paid sick leave. In Michigan, only employers with 50 or more employees must provide employees with the right to earn paid leave.

One reason that employers operating across state lines might find it challenging to keep track of the different state earned leave programs is because they differ in terms of accrual rates and annual accrual caps. For example, Washington state requires an accrual rate of one hour of paid sick leave for every 40 hours worked, and employers may not cap the amount of leave accrued. That means that someone who works full-time, full-year could potentially accrue 52 hours of leave or more if they work overtime. In contrast, while Oregon requires a faster rate of accruing leave—one hour per 30 hours worked—it only requires employers to provide up to 40 hours of paid sick leave. They also differ in terms of rules around allowable uses for the leave and documentation and notice requirements. Most states with earned paid leave require employees

FIGURE 1

US states and the District of Columbia, by type of leave program



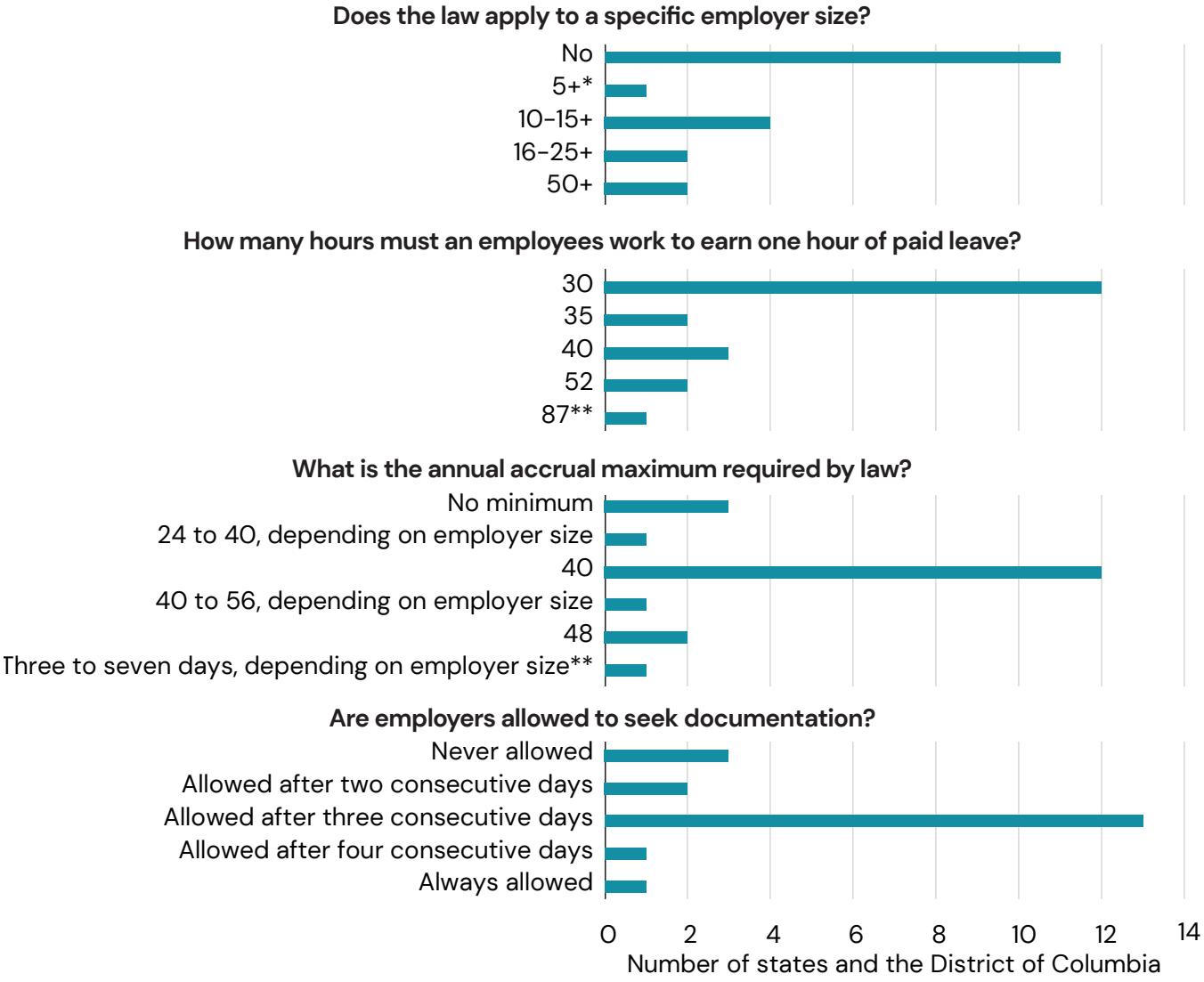
Source: Arizona State Legislature n.d.; Colorado Division of Family and Medical Leave Insurance n.d.a.; Colorado Division of Family and Medical Leave Insurance n.d.b.; Commonwealth of Massachusetts n.d.a.; Commonwealth of Massachusetts n.d.b.; Connecticut Paid Leave n.d.; CT Department of Labor 2023; DC Office of Paid Family Leave n.d.; Delaware Department of Labor n.d.; District of Columbia Department of Employment Services n.d.; Illinois Department of Labor n.d.; Maryland Department of Labor n.d.a.; Maryland Department of Labor n.d.b.; Minnesota Department of Labor and Industry n.d.; Minnesota Paid Leave n.d.; New Jersey Division of Temporary Disability and Family Leave Insurance n.d.; New Jersey My Work Rights n.d.; New Mexico Department of Workforce Solutions n.d.; New York State n.d.a.; New York State n.d.b.; Oregon Bureau of Labor and Industries n.d.; Paid Leave Oregon n.d.; Rhode Island Department of Labor and Training 2020; Rhode Island Paid Leave n.d.; Shirkey 2018; State of California Department of Industrial Relations 2023; State of California Employment Development Department n.d.; State of Hawaii Disability Compensation Division n.d.; State of Maine Department of Labor n.d.a.; State of Maine Department of Labor n.d.b.; State of Nevada Office of the Labor Commissioner n.d.; State of Vermont Department of Labor n.d.; Washington Paid Family & Medical Leave n.d.; Washington State Department of Labor and Industries n.d.; data collected by the author.

Note: Many states that have state-administered paid family leave programs are building on their pre-existing short-term disability programs. While the features of these programs all differ, they are all funded by a payroll tax, and workers access the paid leave through the state agency in charge of administering the program. Not included here are the eight states that have passed voluntary programs that allow employers to buy paid leave insurance through private insurers. For more information on each state's program refer to the National Conference of State Legislatures (2024). States are adopting separate earned leave programs that require employers to have employees earn some amount of paid time off for each hour that they work. States differ in the rate at which employees must earn time off, the workers and employers who are covered by the law, and the parameters governing when, who, and why workers can use the leave. Williamson (2024) provides an overview. See technical Appendix A for details.

to accrue one hour of leave for every 30 hours worked. Yet accrual rates vary across states and can be inconsistent even within a jurisdiction: District of Columbia employees at firms with 23 or fewer employees accrue one hour for every 87 hours worked, while employees at firms with more than 100 employees must accrue one hour for every 37 hours worked. Within states, some cities have separate policies with larger accrual rates than the statewide policies. But not all of these accrual rates are unlimited. While New Mexico, Washington, and California do not cap the required amount of leave, 12 states only require employers to allow workers to accrue up to 40 hours of leave per year, and a handful of other states set caps that vary by employer size. While unlimited accrual may lead to more paid time off for those who work a large number of hours, capping the maximum amount accrued

FIGURE 2

Number of states and the District of Columbia, by select earned paid leave provisions



Source: Arizona State Legislature n.d.; Colorado Division of Family and Medical Leave Insurance n.d.a.; Colorado Division of Family and Medical Leave Insurance n.d.b.; Commonwealth of Massachusetts n.d.a.; Commonwealth of Massachusetts n.d.b.; Connecticut Paid Leave n.d.; CT Department of Labor 2023; DC Office of Paid Family Leave n.d.; Delaware Department of Labor n.d.; District of Columbia Department of Employment Services n.d.; Illinois Department of Labor n.d.; Maryland Department of Labor n.d.a.; Maryland Department of Labor n.d.b.; Minnesota Department of Labor and Industry n.d.; Minnesota Paid Leave n.d.; New Jersey Division of Temporary Disability and Family Leave Insurance n.d.; New Jersey My Work Rights n.d.; New Mexico Department of Workforce Solutions n.d.; New York State n.d.a.; New York State n.d.b.; Oregon Bureau of Labor and Industries n.d.; Paid Leave Oregon n.d.; Rhode Island Department of Labor and Training 2020; Rhode Island Paid Leave n.d.; Shirkey 2018; State of California Department of Industrial Relations 2023; State of California Employment Development Department n.d.; State of Hawaii Disability Compensation Division n.d.; State of Maine Department of Labor n.d.a.; State of Maine Department of Labor n.d.b.; State of Nevada Office of the Labor Commissioner n.d.; State of Vermont Department of Labor n.d.; Washington Paid Family & Medical Leave n.d.; Washington State Department of Labor and Industries n.d.; data collected by the author.

Note: These provisions do not represent the exhaustive list of leave policy dimensions. We show counts among the 19 states and the District of Columbia that have earned paid leave laws. In some states, there are city-specific laws that are not preempted. *In New York, the law applies to employers with more than five employees or an income of more than $1 million. **In the District of Columbia, employees' accrual rate ranges between one hour of leave per 87 hours worked at companies with less than 24 employees to one hour per 27 hours worked at companies with 100 employees or more. Maximum mandatory accrual amounts required by D.C. law range from three days to seven days for employers with less than 24 employees and 100 employees or more, respectively. See technical Appendix A for details.

creates additional bureaucracy and may not have benefits to employers that exceed those costs.

Consequential for this proposal, there is variation across places in the extent to which paid leave laws are sick leave laws in name and in practice. In most states, employers are not allowed to require any documentation to support the reason for the leave unless the employee is absent for more than three consecutive days. A few states never allow employers to require documentation to use earned leave, and a handful of states allow employers to require documentation for shorter absences. Many states include language instructing workers to provide advance notice for absences related to foreseeable events like a routine doctor's appointment.

In practice, the fact that employers are typically not allowed to require documentation for an absence of a day or two leaves the legitimacy and use of the need up to the employee's interpretation. This leads employers to worry that some workers might call in sick at the last minute even though the need for leave could have been foreseen. Workers that only use the policy for its intended purpose are left without access to the paid time off that they have earned for personal needs—for example, handling a divorce or custody hearing, offering support to an elderly parent, or attending a family wedding. The fact that there are statutory limits on the uses for the leave and yet no ability for employers to verify the reasons for the use of the leave creates a poor set of incentives for workers and a headache for employers.

In lieu of a national policy, this patchwork of policies has left some employees without access to paid leave and others scrambling to understand what their rights are. Figure 3 shows paid sick leave access by state, grouped by program type.

Across the United States, there are large differences in access to paid leave: Some states and cities have introduced paid sick leave, some offer paid annual leave, and some provide paid family leave. These diverse policies add unnecessary complications for employers and create inequities across workers in whether and for what reasons they are allowed to access paid leave. Geographically, workers in western states have the most access to leave, while those in southern states have the least. Moreover, because of the inconsistencies mentioned, companies operating across state lines must consult employment lawyers to ensure they comply with the numerous laws that might affect any of their employees. Paycor, a payroll and human relations (HR) company, refers to "a patchwork of regulations for HR to manage" on their website (Paycor 2023). A federal, uniform policy could simplify compliance while ensuring that all working Americans have access to paid leave.

To be sure, these paid leave laws set a necessary baseline for paid leave in the states and localities that have adopted them. Workers in states with paid leave requirements now have access to paid leave, while workers in other states need to find an employer who is offering paid leave as part of a compensation package. As wages rise, workers typically receive compensation packages that are more generous overall: They receive not only higher wages, but also more paid leave and better access to retirement and health insurance plans. Higher income workers and those with more education have greater access to paid leave than those earning below the median or those with less education. In addition, independent contractors and those engaged in part-time work in states without leave policies are very unlikely to have access to paid leave.

In 2018, the American Time Use Survey included a special module on paid leave (Bureau of Labor Statistics 2019). That survey found that 66 percent of workers had access to some form of paid leave, but that share fell to 39 percent among those without a high school diploma. Income comparisons made the disparities clearer: 86 percent of those with earnings greater than the 75th percentile reported access to paid leave, while approximately half of all workers making less than or equal to the 25th percentile had access to paid leave.

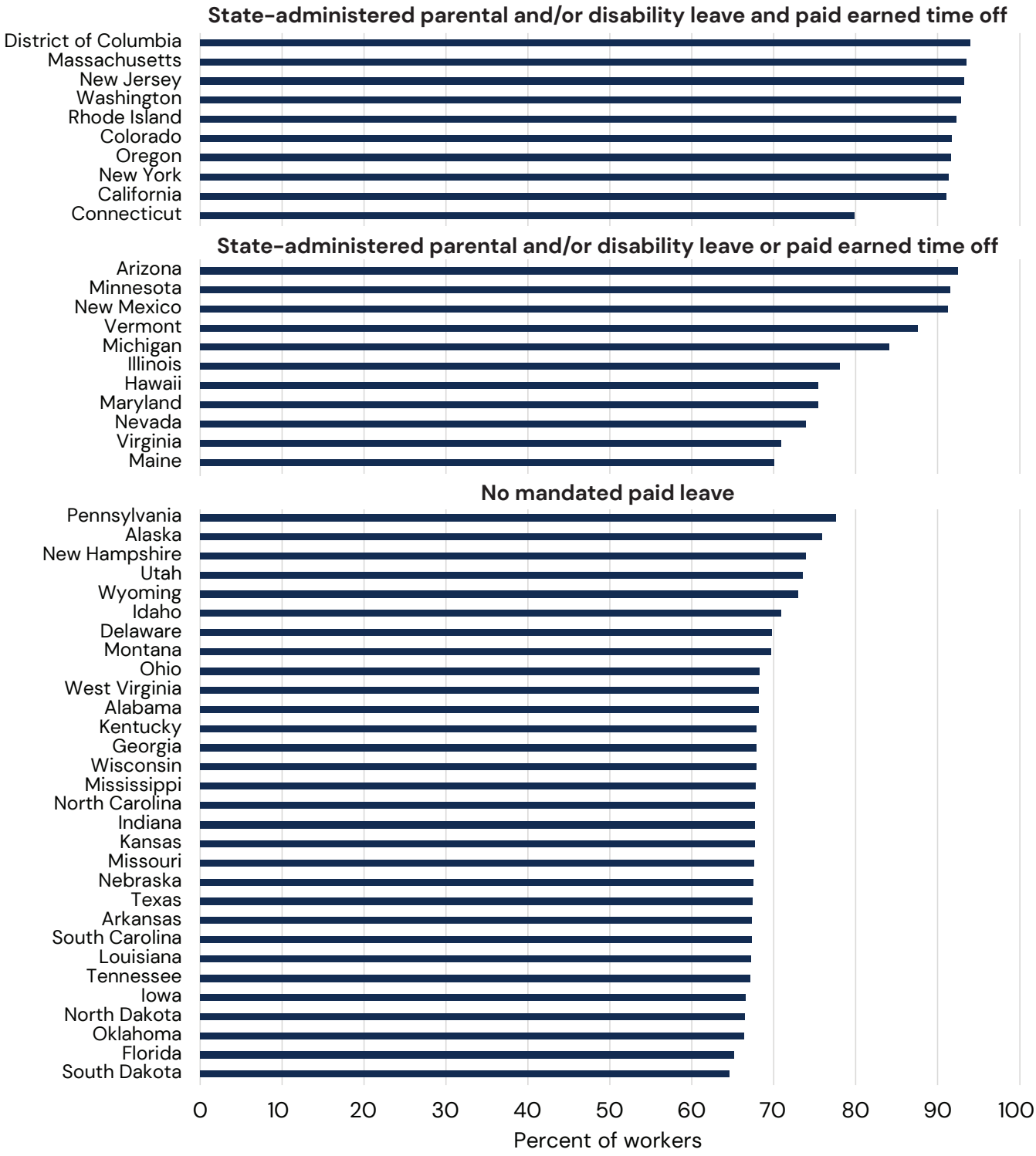
More recent data collected by the Urban Institute through their Well-Being and Basic Needs Survey found similar rates of access to any paid leave (Boyens, Karpman, and Smalligan 2022). In December 2021, 69 percent of respondents reported having access to any paid leave. As with other surveys, sharp differences were noted across the income distribution with fewer than a third of respondents below the poverty line and fewer than half of those just above the poverty line having any access to paid leave (figure 4). While nearly 80 percent of college graduates work in jobs that provide them with paid leave, only 55 percent of those who did not go to college do. And these disparities also exist among racial and ethnic groups: 72 percent of white, non-Hispanic workers report access to paid leave, compared to only 58 percent of Hispanic/Latinx workers.

There is also significant variability in vacation policies across different companies and industries. Some workers receive generous vacation packages, while others receive little to no vacation time. Only 40 percent of workers in accommodation and food services and 42 percent in leisure and hospitality receive paid vacation, compared to 98 percent in finance and insurance (Williamson 2024). Unionized workers are more likely to have access to paid leave than are nonunion workers. Those who have a traditional full-time job are more likely to have access to paid leave compared to those who work part-time or as a contract or gig-worker.

Roughly 60 percent of low-wage workers who take leave are not paid for the time off, compared to 20

FIGURE 3

Access to paid sick leave, by state



Source: Mehta and Milli 2023.

Note: The Center for Law and Social Policy (CLASP) uses data from the National Health Interview Survey and the American Community Survey. The estimates include both state and local paid sick leave laws. These calculations were completed in 2021 but reflect then-anticipated paid sick leave laws now enacted in New Mexico, Colorado, Bloomington, MN, and the state of Minnesota. CLASP categorizes respondents who "don't know" whether they have access to paid sick leave laws as not having access.

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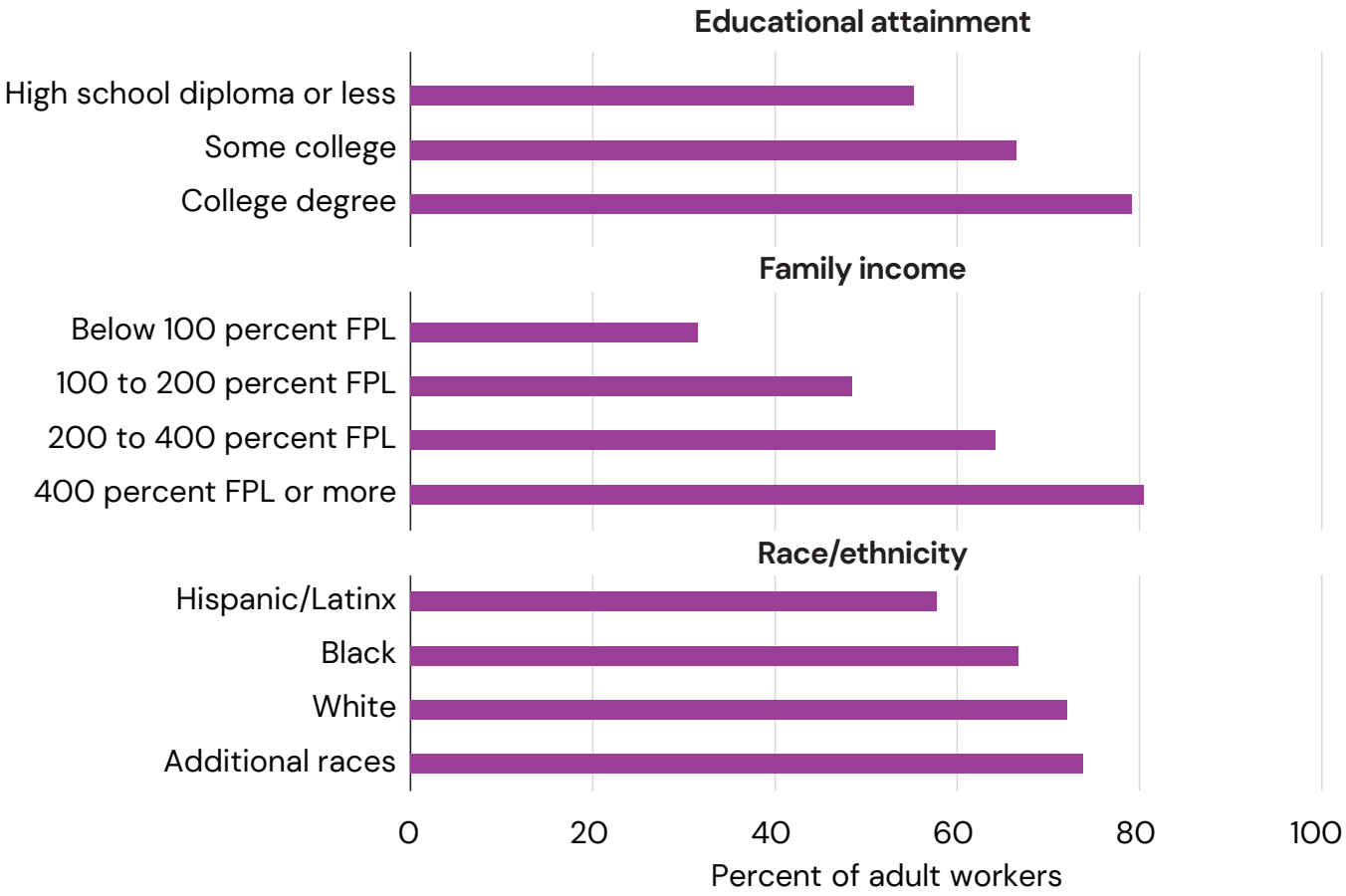
FIGURE 4

Access to paid leave among adults ages 18 to 64 who work for an employer, by select demographic characteristics, 2021



Source: Boyens Karpman, and Smalligan 2022.

Note: These results are reported from the Well-Being and Basic Needs Survey conducted by the Urban Institute in 2021. This replicates Figure 4 from "Access to Paid Leave is Lowest Among Workers with the Greatest Need." FPL refers to the federal poverty level which varies by household size. For example, below 100 percent FPL refers to those whose incomes are below the federal poverty level. Race and ethnicity is coded such that Black refers to people who identify as non-Hispanic and Black, similarly, white adults refer to non-Hispanic white adults. Additional races are adults who are multiple races or not Black, White, and/or Hispanic/Latinx. See Boyens, Karpman, and Smalligan (2022) for more information.

percent of higher-wage workers (Brown, Roy, and Klerman 2020). An estimated 34 million workers—nearly 23 percent of the workforce in the U.S.—do not have access to paid sick leave (Mehta and Milli 2023). Many more lack access to paid leave for mental or physical well-being, to care for a family member, to meet with a child's teacher, to deal with a household emergency, or any of the other myriad reasons that people need time off.

Paid time off around the world

At the start of the 20th century, when President Taft began discussing the benefits of paid leave, policymakers around the globe were starting to adopt paid leave policies. Austria, Finland, France, Italy, Sweden, and the United Kingdom introduced leave for all workers before the United States enacted the FLSA in 1938. In many countries, the right to paid leave was granted to a small subset of workers and gradually expanded over time, similar to the way the FLSA expanded its coverage over time.

Today, all OECD economies—except the United States—guarantee workers paid vacation and paid holidays (figure 5; Maye 2019). The European Union (EU) Working Time Directive outlines limits to working hours and overtime rules and requires all EU countries to ensure that workers get at least 20 days of paid annual leave (European Commission 2003). French law extends the EU Working Time Directive and mandates a minimum of 30 working days of paid annual leave in which leave is accrued over a "reference period," to

FIGURE 5

Paid vacation and paid holidays, OECD nations, in working days

Source: Australian Government Fair Work Ombudsman 2023; Australian Government Fair Work Ombudsman n.d.a; Business Service Portal 2024; Ch.ch n.d.; De Matteis, Accardo, and Mammone 2011; Directorate-General of Public Governance 2024; Employment and Social Development Canada 2024; Employment New Zealand n.d.a; Employment New Zealand n.d.b; Federal Employment Agency n.d.; Federal Ministry of the Interior and Community n.d.; Federal Ministry Republic of Austria n.d.; Federal Public Service Employment, Labour and Social Dialogue n.d.a; Federal Public Service Employment, Labour and Social Dialogue n.d.b; French Republic 2024; Gov.uk n.d.; Government Offices of Sweden 2014; Guichet.lu 2024; Guichet.lu n.d.; Island.is n.d.; Japan External Trade Organization n.d.; Lag om allmänna helgdagar 2005; Legifrance 2016a; Legifrance 2016b; Ministerio de Trabajo y Economía Social n.d.; Ministero del Lavoro e delle Politiche Sociali n.d.; Ministry of Economic Affairs and Employment of Finland 2019; Ministry of Labour and Social Inclusion 2018; Ministry of Labour and Social Inclusion 2021; Netherlands Enterprise Agency 2020; Öresunddirekt 2024; Staatssekretariat für Wirtschaft 2022; Statistisches Bundesamt n.d.; The Central Bank of Iceland 2024; The Central Government for the Netherlands 2024; The Icelandic Confederation of Labor n.d.; The Nordic Council of Ministers n.d.; Virk.dk 2018; Vita-Salute San Raffaele University n.d.; data collected by the author.

Note: These estimates report the statutory required number of paid leave days based on full-time, full-year workers. Many countries require a waiting period before paid leave becomes available. Canada and Japan have fewer days required for recent employees with the full amount of statutory leave being granted after several years of tenure with an employer. Only countries that statutorily require public holidays to be paid are listed as requiring paid holidays. However, in many countries that do not mandate pay for public holidays, workers often receive holidays off with pay or are compensated with another day off by custom or collective bargaining agreements. See technical appendix B for more details.

which all workers, regardless of their contract type, are entitled (French Republic 2024). In the United Kingdom, workers have the right to 28 days of leave, which may include public holidays. Employers can choose to have the leave accrue over time or give it as a fixed amount at the start of each year (Gov.uk n.d.).

In addition to these requirements for annual leave as part of employees' compensation packages, most advanced economies also require additional amounts of paid sick leave. In addition, all advanced economies have national programs ensuring that people have

access to paid family and medical leave, (Bipartisan Policy Center 2022; Raub et al. 2018).

Australia's National Employment Standards stipulate that all employees, except casual workers, are entitled to a minimum of four weeks of paid leave each year (Australian Government Fair Work Ombudsman n.d.a.). While employers do not have to offer paid vacation time to casual workers, they must pay these workers more to adjust for the lack of such benefits; furthermore, they must offer them a chance for a position with full benefits after a year of employment. For example, an adult working in the fast food industry must be paid at least AU$32.06 an hour (US$21) if they are hired as a casual worker, but only AU$25.65 (US$17) if they are hired as an employee with benefits (Australia Government Fair Work Ombudsman n.d.b.). Providing such conditions for those who do not receive benefits allows workers and employers the flexibility to choose "no-strings-attached" employment but still ensures that most workers, including hourly, low-wage workers, have access to jobs with benefits. Moreover, the Australian policy codifies a finding from research—higher non-wage benefits like paid annual leave are largely paid for by workers in the form of lower wages. The primary benefit of an annual leave policy comes from ensuring a fair package of benefits for all workers—including paid time off—as well as community and societal benefits that magnify their value.

Many American employers offer minimal vacation days, and there is often pressure on workers to not use all the vacation days that are offered. Even when Americans have earned access to paid leave, they often fail to take it, leaving hundreds of millions of paid vacation days unused each year (U.S. Travel Association 2019). Americans working internationally are often struck by the cultural differences regarding time off. One American who moved from the United States to Australia referred to the shock of being in a country with a "time-off-as-the norm culture" since he no longer feared repercussions for taking time away from work (Johanson 2014).

The proposal

I propose a modernization of the Fair Labor Standards Act (FLSA) to set a new baseline for the American labor market: the 40-hour workweek, overtime protections, the federal minimum wage, and the right for all qualified workers to earn paid time off. By putting forward earned time off as a timely update to the national workforce standards guaranteed through the FLSA, the U.S. can continue its tradition of labor rights advancement, offering protections and benefits that reflect the needs and complexities of modern employment. And it can better align U.S. workplace rules with those of other advanced economies, all of which mandate some form of paid leave for workers as part of a fair workplace.

By amending the FLSA, the federal government could ensure that people who put in enough working hours generate a certain amount of paid leave. Workers would control how they use this earned time off although they would be encouraged to give employers as much notice as is feasible. Such a policy would expand workers' rights and acknowledge the human need to take time off from work without the financial risk and hardship of a smaller paycheck (Albelda et al. 2019).

For example, the 2021 Urban Institute Well-Being and Basic Needs survey found that workers without access to any paid leave were more than three times as likely to report problems paying rent or their mortgage and more than twice as likely to report problems paying for food and utilities (Boyens, Karpman, and Smalligan 2022). Paid time off offers workers a steadier paycheck, which helps ensure that a bout with the flu does not lead to a missed paycheck and then a missed rent payment or a period of food insecurity. While compensation may adjust such that workers earning paid time off might not be receiving a higher total compensation overall, income volatility causes financial and psychological hardships (Gennetian and Hardy 2023).

By providing a regular paycheck even in times of sickness or a needed rest from work, earned time off reduces income volatility. Additionally, earned leave may help keep workers attached to the labor force. In the absence of access to leave, too many workers end up quitting their jobs when a paid day off every now and then might be enough to ensure that they can manage their responsibilities outside of work (Parker and Horowitz 2022). Studies have repeatedly shown that workers often leave the labor force due to their need for time off for short-term caregiving responsibilities (e.g., an eldercare emergency) or for their own illness (Maestas 2017).

Despite getting substantially less time off than workers in other countries, Americans are also less likely than workers in other countries to use the paid leave that they do receive. Changing federal labor standards can help establish both a standard and norms to encourage Americans to take time off. A national policy would help shift cultural attitudes toward valuing rest and leisure as essential components of a healthy and productive life. This can reduce the stigma associated with taking time off and encourage a more balanced approach to work and self-care. Health issues and substance abuse are a major contributor to the decline in the labor force participation rate of prime age American men compared to both previous generations and the OECD average (Bengali, Duzhak, and Zhao 2023).

Earning time off

As a policy, earned time off is simple. It uses the time someone has spent working as the determinant of their eligibility, and paid time off is only given after it has been earned. I propose that earned time off should accrue at a rate of one hour per 50 hours worked (2 percent of hours worked per week) in the first two years of the policy, increasing to one hour per 25 hours worked (4 percent of hours worked per week) after two years. In the first two years, workers must be able to accrue up to 40 hours a year; after two years, they must be able to accrue up to 80 hours a year. The reason for capping the earned leave is so that employers can simply offer full-time, full-year employees 80 hours a year (40 in the first two years), without needing to count hours. It is an administratively easy option.

I propose that employers must make leave available once an employee has accrued at least four hours of leave. That means that an employee who has worked 200 hours in the first two years of the program must be given access to their leave. Employers who advance leave at the start of a 12-month period do not need to roll leave over. Employers who do not advance

leave must roll over accrued leave for a minimum of 12 months following its accrual.

Non-tipped workers should be paid their full wage during paid time off. Tipped workers should be paid their normal wage or the full applicable minimum wage including the tip credit, whichever is higher.

Earned time off for all workers

That flexibility and the connection of leave to work—earned time off is based only on time worked—makes it easy to design the benefit such that it could cover a wider range of workers. Any worker could earn time off, including part-time workers and part-year workers, since the paid time off accrues based on hours worked. People who work fewer hours will simply earn fewer hours of paid time off. For example, a person who works 10 hours a week would earn a quarter of the amount of leave that a person who works 40 hours will earn.

Slightly more challenging but nevertheless possible is determining how to cover workers who are classified as independent contractors; despite its challenges, some states have already done so. In Washington, the state's paid sick leave legislation covers ride-share drivers (Washington State Department of Labor and Industries 2023). That policy provides workers with an hour of paid leave for every 40 hours worked. This applies equally to ride-share workers: They accrue one hour of paid sick leave for every 40 hours spent driving passengers. Unlike unemployment benefits and minimum wage requirements, earned time off does not involve complicated questions about how much effort workers are putting in or who controls their hours.

I propose that all employers with one or more employees as well as independent contractors would be covered. App-based gig workers could meet the consistent work requirements and be compensated based on their time on the app and average earnings following the model of Washington state.

Because some independent contractors do not earn an hourly rate, equivalent rates would need to be considered. For example, independent contractors could earn one day of paid leave for every 25 days worked where the rate of pay would reflect the average daily pay during the 25 days worked. If those were short days with low earnings then the paid time off would be compensated at the low average daily rate.

In practice, independent contractors would build in paid time off as they negotiate with clients. In many cases, independent contractors highlight how earned paid leave might not result in higher pay since it might not be feasible for self-employed independent contractors to raise their prices. But setting aside the amount of the compensation that should cover paid time off helps independent contractors better prepare and plan for needed time off. For example, an independent contractor working on a project for a client over the course of a month might not ultimately charge that client a higher price because of the earned paid time off requirement, but if they set aside 4 percent of labor-related costs to cover paid time off, it would help improve their own financial planning and provide greater clarity with their client about their availability.

Earned time off for all uses

By making the program universal, everyone that meets the employment and hours worked thresholds would earn time off with pay. Paid time off would also be universal in terms of the uses of leave: it could be used for anything. Workers would control how they use this time off, meaning that they could use it for vacation, personal time, caregiving, or personal health or medical needs. Workers have control to meet their individual needs because employees would not be required to provide a reason for taking leave. In this framework, earned time off also respects the individuality of workers and their needs by allowing them to make the best decisions for themselves and their families (Davison and Blackburn 2023). It also levels the playing field for workers and employers because there is no incentive for employees to lie.

Using earned time off

Employees should be able to use their earned leave in increments of two-hour blocks or less, thus allowing them to use paid leave for meetings with teachers, doctor's appointments, or running errands for an ailing parent. Employers may not dictate when workers take their leave.

Employees must give a minimum of two weeks' notice to employers when an absence is forecastable by at least two weeks. Moreover, employees should strive to work with their employers to schedule earned paid time off away from peak periods and in coordination with other workers whenever possible to reduce the burden on employers from employee absences.

Employers may not retaliate by taking any adverse action against an employee who takes earned time off. Employers may request that employees give notice as soon as possible, but they may not require any documentation as to the purpose of the leave.

Setting a baseline through federal preemption

As with the federal minimum wage, the proposed policy should allow preemption of state leave policies that set a lower standard for paid time off while allowing that cities or state may require more generous

paid leave policies. The primary reason to have state policies count toward meeting the federal policy is to reduce the burden on employers of having to meet multiple separate guaranteed leave policies if they operate across state lines. The federal policy would preempt less generous state and city policies already in existence unless they explicitly passed legislation to make their policy additive to the federal policy.

If states require earned paid leave, then that leave will count toward meeting the requirements of this policy as long as the state has an accumulation rate that is lower than or equal to the federal policy. That means that in the first two years of the federal policy requiring one hour per 50 hours worked, a state policy that required accumulation at a rate of one hour per 30 hours worked would be binding. However, when the full federal policy with an accumulation rate of one hour per 25 hours worked is phased in, it would preempt that state policy.

The second dimension by which federal preemption would be assessed is with regard to the allowable uses of earned leave. A state paid sick leave will count toward meeting the requirements of this policy as long as the state permits either general use of the leave, the state policy allows more generous employer policies such as paid time off policies to count toward meeting their paid sick leave requirement, or the state does not require documentation to substantiate the reasons for taking earned paid leave even if the leave is intended by state statute to be used only for specific reasons.

Just like states retain the right to set a minimum wage higher than the federal level, it is important that states retain their right to set standards for employers in their state. States should continue to have the ability to pass paid leave requirements that exceed the federal earned leave requirements. For example, on top of federal earned time off, states could pass new legislation that would add additional earned paid time off or a separate earned paid sick leave policy. However, given that existing state and local earned paid leave policies were passed without a federal law, a new federal law should seek to harmonize standards.

Right now, employers all over the United States must keep track of and comply with 35 different state and local paid leave laws. The potential burden on employers of adopting a federal policy given the proliferation of state and local laws is much lower and could potentially reduce overall burden. The central issue around the cost of the law is preemption: Should a federal law preempt state and local laws? The minimum wage gives one model for preemption: States without a minimum wage law or whose state minimum wage is set below the federal minimum wage are bound by the federal minimum wage. But states are free to set a minimum wage above the federal minimum wage. In such a situation, enforcement of the state minimum wage is the responsibility of the state.

A paid earned time off policy is more complicated because there are many dimensions to it. The three primary questions are (1) Which employers should be bound by the law? (2) What are the eligible reasons for taking leave? and (3) How much leave is earned? Despite these difficulties, the benefits of a universal policy that replaces most of the existing state and local laws are such that the policy should be designed so that the federal earned time off policy provides more generous benefits than exist currently at the state or local level and could therefore reasonably preempt such policies.

The costs and benefits of paid time off

The costs of earned time off to employers fall into three categories: (1) record keeping compliance costs, (2) disruptions from leave taking, and (3) payroll costs of paying people who are not working. Let us explore each of these in turn.

Compliance costs

Arguably the biggest cost to employers of a rule such as the one I propose here is simply the regulatory burden of compliance. In the case of earned time off, employers must track hours worked and keep track of how much workers are earning in wages and how much they are accumulating in paid time off. This administrative burden grows with the complexity of the system, such as compliance with varying state laws.

Every phone call, lawyer consulted, and HR software adoption that results from compliance with a regulation reduces resources that companies could spend generating higher profits with which to potentially pay workers and company owners. Regulatory compliance is necessary to provide clarity to workers and employers about what the expectations of employers and rights of workers are. Compliance costs may be impossible to completely avoid, but both workers and businesses benefit when compliance costs are reduced as much as possible.

Compliance costs are often driven up to ensure rights are clear in very specific and narrow circumstances. The benefit of an earned paid time off policy is that any need a worker has can be covered by the policy. People are not required to disclose or justify their need to care for the people in their lives. Nor are they asked to have a doctor verify their illness when what they need is simply a couple of days of rest to recover. I propose a simple, clear, universal policy to provide a needed benefit to workers, while minimizing compliance costs. In this case, compliance costs for many employers may fall as harmonizing the requirements for paid sick leave across all American workers will reduce the HR burden of complying with multiple state and city paid leave policies and allow for the efficiency of a single uniform policy.

Disruptions from leave taking

Employee reliability is crucial for most businesses to operate efficiently. When a worker does not show up for work as expected there can be a cascade of costs as their absence can have wide-ranging spillover effects. Not surprisingly then employers express concern that an earned leave policy will lead workers to skip work, giving employers little notice, leaving the employer understaffed at a crucial time. The challenge is that workers could indeed be unable to give notice for leave that is taken for an illness or medical emergency. A worker who wakes up with a fever or vomiting may indeed need to skip work with little notice. The unexpected absence is not, however, driven by the paid leave, it is driven by the negative health shock. Similarly, a child who throws up at school needs to be picked up, and that might mean leaving work halfway through a shift. These disruptions can be reduced by creating a culture in which workers and employers build trust. The availability of paid leave can help build that trust and lead to better communication and understanding. Trust, combined with a universal earned leave policy, can help ensure that employees plan for nonurgent leaves and give employers sufficient notice. Because most states do not require workers to provide documentation to support the use of earned state paid sick leave, employers might already be in a situation in which employees who want to use their earned paid sick leave feel compelled to give little notice about needed absences. While this proposal does not require documentation, it does encourage workers to give as much as two weeks' notice for leave whenever possible and reminds them that there is no risk to providing that notice.

Payroll costs

Finally, a requirement that all workers earn time off in addition to their wage has the potential to add to employers' payroll costs. Payroll costs are impacted by two factors. The first is whether employees or employers bear the burden of the requirement. The second is whether absences come with a low opportunity cost due to lower productivity.

Employers who expect workers to take time off must staff appropriately to ensure that work can be done over 50 weeks of work during the year, allowing for two weeks of time off. This cost is related to the direct costs of covering the leave. A company with 50 employees that work 52 weeks out of the year might need to hire two more workers if all workers begin taking two weeks off a year and if productivity remains unchanged. If workers' pay were also unchanged, this could lead to an increase in payroll costs of 4 percent once the policy is fully implemented. Research suggests, however, that not only should productivity rise somewhat to offset these costs, but that total compensation costs should adjust to offset much of any remaining cost.

While some of the incidence of the cost of earned paid leave could initially fall on employers in the form of increased costs, ultimately the costs of the benefit are largely absorbed by workers. This is the reason for phasing the earned time off policy through a rising accumulation rate over a four-year period. In the first two years, the cost of earned time leave requires a 2 percent increase in hourly compensation in the form of earned time off. Because this increase is less than the average annual increase in employment costs, much of it will be easily absorbed into adjustments in slower increases in cash wages. Two years later, employers will face another 2 percent increase, again, low enough to easily adjust to the new mix of compensation.

Surveys of employers following the adoption of state paid sick day laws show little cost to employers (Byker and Patel 2021). This is partially explained by the fact that paid time off may also generate benefits that offset the costs (Rachidi and Ruhm 2020). Paid time off has been shown to reduce "presenteeism" (essentially taking time off while at work), which directly boosts productivity (Maclean, Pichler, and Ziebarth 2024; Callison and Pesko 2022). Thus, paid time off increases productivity and labor force participation, both of which benefit employers and are critical for economic growth (Romig and Bryant 2021). For paid sick leave, presenteeism occurs when workers go to work sick when they are unable to be productive; encouraging these workers to stay home comes at little cost. Moreover, those workers may ultimately reduce the productivity of their colleagues either by passing along a contagious illness or simply through example.

Employers may also see benefits from higher productivity per hour worked when workers can take paid time off to address their personal physical, mental, and rest needs. Employees who take regular breaks are often more productive when they are at work. Rested and refreshed employees can focus better, they make fewer mistakes, and they bring more creativity and energy to their tasks (Lyubykh and Gulseren 2023). Guaranteed paid time off can increase job satisfaction by making employees feel valued and respected, which can lead to higher morale and greater loyalty to employers (Davison and Blackburn 2023). The Boston Consulting Group found 80 percent of companies that enacted paid family leave experienced greater morale; 70 percent of companies reported higher productivity (Stroman et al. 2017).

Even when workers use sick time for personal reasons that are important to the worker, they may be less productive than normal if they were to work. Therefore, the cost of letting a worker in those circumstances take earned paid time off is less costly than an average day. For example, consider the case of a worker who would get half as much work done than they normally would on a day in which they are working instead of taking a needed day off. Providing that worker with a paid day off comes at an opportunity cost of a half a day of foregone productivity. It is also possible that, if they were to take the day off, they would return more productive—further reducing the cost of their absence. Finally, research shows that workers tend to influence one another's productivity at work: Workers who are struggling to focus on work can cause a cascade of lower output among other workers (Mas and Moretti 2009). On the flip side, if, as President Taft argued, vacations lead to higher productivity, then vacation-related boosts in a worker's productivity will be amplified by their coworkers. All of this means that the marginal cost of a day of earned leave may ultimately be zero. It is important to note that the marginal benefit in terms of productivity from a day of earned leave may be declining as more days of paid leave are granted.

Another way that earned leave may lead to offsetting reductions in costs is by improving the retention of workers, as it encourages workers to stick with their job in order to earn a desired paid vacation rather than quitting when they need a break—which in turn saves the direct and indirect costs of employee turnover. These costs can be considerable: For example, one study found that hiring costs account for $4,700 per hire in 2022 (Miller 2022). This may explain why large firms typically offer earned paid leave. Smaller and newer businesses might not have enough experience to have realized that some of the cost of a benefit like earned time off is offset by reduced turnover. Low retention is particularly costly for firms that extensively train their workers with skills specific to their workplace, which also explains why highly skilled workers are most likely to be offered paid leave. Studies shows that paid leave increases recruitment and retention (Hurrell and Keiser 2020; Zaharee et al. 2018), which in turn can lower turnover costs (National Partnership for Women & Families 2023).

Indeed, most employers provide paid leave because they believe it will benefit their business. A Society for Human Resource Management (SHRM) survey found that, among firms that offer paid leave, only 28 percent of these employers do so because it

is mandated by law (SHRM 2020). The remainder reported that their firm provides paid leave because it is in line with leadership priorities, bolsters their reputation, and improves recruitment and retention.

These attitudes are also true for small businesses. In a Bipartisan Policy Center study, more than 60 percent of small business executives surveyed thought paid leave would benefit employee morale, retention, and recruitment (Shaw 2019). Despite these sentiments, around a third of businesses reported that the program would have a negative effect on profitability, and about half say it is difficult for their business when employees take leave. As discussed above, many of these business owners may be conflating the costs of absences with the incremental likelihood of an unexpected absence due to paid leave. An earned leave policy may help not increase the likelihood of an unexpected absence, indeed it could potentially reduce such unexpected absences by encouraging better communication.

In sum, three types of responses to earned time off tend to offset any upward pressure on employer costs: (1) increased employee productivity, (2) improved retention and recruitment of employees, and (3) the fact that research shows that wages ultimately adjust for most workers such that employers face roughly unchanged total compensation costs.

What about employees? The benefits of earned time off to employees fall into three categories: (1) income stability from being able to take a paid day off, (2) being able to take time off as needed, before problems escalate, and (3) overall shifting norms toward taking time off. Moreover, one of the primary reasons that workers do not take time off is because they are worried that they will not be able to complete their work. Shifting the culture, and workload, to ensure that people take time off can benefit workers by improving their experience at work, their relationships outside of work, their health, and ultimately their productivity.

The costs of earned time off to employees include the possibility that wages will grow less quickly when workers are also compensated with paid time off, an effect that may at least partially offset the payroll costs to employers. Earned leave carves out a small amount of a worker's hourly compensation for the future. It acts as a form of forced saving for workers, ensuring that they can take time off without losing critical income. For example, a policy that allows workers to earn one hour of paid time off for every 25 hours they work is effectively setting aside 4 percent of their pay for a future date. Research shows that over time compensation adjusts such that employers offer total compensation packages that are no larger than what they would be without the paid leave benefit. This proposal will phase in the leave over four years in order to allow employers and employees the time to adjust.

It is worth noting that some workers may prefer to have higher wages and no access to paid time off. Many employers' experiments with shorter work weeks and consequently lower wages have ultimately been abandoned because employees ultimately favored the higher wages resulting from longer work hours. When it comes to earned paid time off, however, the choice of higher wages with no paid time off may be myopic. People may underestimate the extent to which they will experience illness or personal needs, and they underestimate the long-run mental and physical health costs of overworking. When contingencies occur, people are generally better off when they are able to smooth their income across those periods.

Questions and concerns

Why do you propose universal paid leave and not paid sick leave?

In short, while the arguments for sick leave are clearest—encouraging workers to stay home on their lowest productivity days to reduce contagion to others can increase productivity and save companies money—all workers have needs that they must address, the neglect of which can cause low-productivity days at work. Workers often have low productivity when they are distracted, worried, tired, or ill. Those without access to paid time off often come to work in those conditions. Using earned paid leave to care for themselves and their personal and family matters can reduce the snowball effect to their mental and physical health that can occur when workers ignore their needs. Ultimately this can negatively affect productivity as well as worker well-being.

The primary reason to adopt an earned paid time off policy is that while all workers have a need for time off, their exact needs on how to use that time off vary. A paid sick leave policy may leave people unable to take a break for mental health reasons, attend an important family function, or recover from a challenging personal situation. All workers should get paid time off when they are sick, but they should not be put in a situation in which they need time off and have only sick days available.

Many employers offering paid leave policies have shifted away from separate paid vacation and sick day policies to a single paid time off policy (Bryngelson and Fuerstenberg 2023) because of its administrative simplicity and clarity: Any personal need can be met with the single paid time off policy. Such a policy also encourages employees to give advance notice when possible to use a paid day off rather than calling in sick at the last minute to use up a paid sick day. A paid time off policy is often preferred by workers because they do not have to disclose personal information to employers about their mental or physical health. However, the increase in paid sick leave policies at the city and state levels has led many employers to track sick leave separately to be able to demonstrate that they are in compliance with those policies. One survey found that 12 percent of companies surveyed had a single policy but that they tracked sick leave separately (Bryngelson and Fuerstenberg 2023).

A universal paid time off policy has the downside of encouraging workers to come to work sick: They might see their paid time off as having a higher opportunity cost since the alternative to taking a sick day is saving it and using it for a vacation day. A universal paid time off policy also loses any insurance aspect of paid sick leave since earned days off are designed to be taken. While paid sick days insure workers against a loss of earnings if they become sick, workers who do not fall sick and so do not need their sick days may feel like they have lost out on paid time off that they would highly value. Earned time off effectively requires workers to self-insure sick days since while they no longer risk losing earnings if they become sick, they do lose vacation days.

Despite this cost many employers have shifted to a universal paid time off policy because the lower administrative costs make it a less expensive policy overall. Moreover, often paid sick leave policies offer so little leave that the value of the insurance is small. Insurance is most valuable when the stakes involved are larger and the probability of the insured event occurring is low. Ordinary illness of a short duration is by definition a small loss and a very high probability of happening to each of us. That means that most workers should plan to allocate some of their earned time off for sick days.

Nevertheless, a major way that earned paid leave can improve productivity is through enabling and encouraging workers who are ill to stay home, recover, and reduce the possibility of passing on illness to others. Workers who are distracted, stressed, tired, and worried are less productive. When workers come to work distracted or ill, they are less productive than when they are well, so the cost to employers of offering paid leave is lower than the loss of an average worker's paid work.

While earned paid leave can be used for any reason, employers can and should encourage workers who are sick to stay home and use their earned paid time off. When workers with communicable diseases stay home, it can reduce overall absenteeism because fewer workers will fall sick. One study showed that employee absences fell more rapidly after the peak of the 2009

swine flu (H1N1) pandemic among public sector workers, who had much higher access to paid sick leave, compared to private sector workers who were much less likely to have paid sick leave. When people have access to a paid sick day, workplace illness falls because contagion is reduced (Boesch, Glynn, and Padhke 2020). Research has shown that state paid sick leave requirements led to declining occupational injuries and illnesses (Asfaw, Pana-Cryan, and Rosa 2012; Song et al. 2023). Less contagion and fewer injuries and illness boosts productivity more broadly in the workplace.

If paid time off is good for businesses, why aren't all businesses already doing it?

Many businesses are already voluntarily offering earned paid time off or operating in a state that requires some form of earned paid time off. Yet there are businesses that offer little to no paid time off to their workers. There are three reasons that employers might make this choice. The first reason is that they are hiring minimum wage workers and are simply meeting the minimum standard for compensation. Workers without access to paid time off tend to be lower paid and are often vulnerable workers who are unable to negotiate for a better compensation package. In this way, setting a minimum standard for earned time off plays a role similar to the minimum wage: It ensures fair compensation, creates an incentive for employers to train workers, and can have offsetting effects on productivity that effectively pay for the higher compensation.

A second reason employers might not offer paid time off is concern with how the benefit may impact recruitment if their competitors are not offering paid time off. While workers might prefer paid time off, differences in policies related to paid time off can inadvertently provide information about a worker's health, family obligations, or preferences for hard work. In a competitive labor market, that information can drive businesses to adopt policies that make them unattractive to workers who prioritize rest and work-life balance over longer hours and higher earnings. A level playing field in which all employers offer paid time off allows all workers to get needed time off without creating the incentive to workers to attempt to prove themselves by forgoing a job with paid time off.

Finally, a third reason is that employers may be indifferent in choosing between additional compensation and paid time off, and are unaware that their workers would prefer a paid time off policy. One reason paid time off was not included in the original FLSA was that unions were thought to be well positioned to communicate workers preferences for paid time off. Indeed, unionized workers do have greater access to paid time off, but only 6 percent of American private sector workers were unionized in 2023.

Why not propose expanding access to unpaid leave instead?

There are four reasons to pass a policy for earned paid time off rather than for earned unpaid time off. The first reason is that an unpaid leave requirement would be weaker than the earned paid leave programs that have been adopted in many states. In order to gain the benefits from a streamlined federal standard, that standard must be at least as generous as the typical policy that already exists at the state and local levels. A federal unpaid time-off policy would leave companies navigating a patchwork of regulations across the country.

The second reason is that an important aspect of earned time off is to make it clear that workers should be allowed to take a day off to meet their personal needs without the risk of losing any income or their job. That includes shifting workplace norms around taking time off to encourage all workers to take time off as needed, which has social benefits outlined in this proposal.

The third reason is that an earned unpaid time off policy has all the administrative costs of a paid time off policy while not providing a needed benefit. For employers, the record-keeping requirements comprise a large share of the cost of the requirement. A policy that required employers to allow workers to earn unpaid time off that they could take without the threat of retaliatory employment action would require that employers track and record earned time off even as they adjust paychecks to not pay for that tracked time.

Finally, the fourth reason is that there has been a seven-fold increase in national income since the FLSA was passed—this proposed change is affordable. New technological developments such as artificial intelligence will continue to drive increases in national income for decades to come. And yet the share of national income in the United States that has been going to workers has declined by roughly 10 percentage points since the passage of the FLSA (Cowen 2024). The evolution of technical changes is likely to continue that trend unless action is taken to update and modernize our labor standards.

How is this proposal different from the Protected Time Off Act?

There are many similarities with the Protected Time Off Act that was proposed in 2024 and this proposal (box 1). Both have an accrual rate of one hour of paid time off for every 25 hours worked, totaling up to 80 hours of paid time off per year. Both aim to simplify paid time off and to give control to workers by allowing them to use their earned leave for any reason, and both protect workers from retaliation when they take paid time off.

The primary difference between the proposals relates to how such a policy would interact with existing

BOX 1

Pertinent federal legislation

The Paid Vacation Act of 2009 proposed to amend the FLSA to require employers with 51 or more employees to provide one week of paid vacation during each 12-month period and employers with 101 or more employees to provide two weeks, with a requirement that employees provide at least 30 days notice before taking the leave. This leave was purposefully designed to be paid vacation, in addition to any sick leave, and to be taken consecutively (U.S. Congress 2009).

In 2024, the Protected Time Off Act was proposed to amend the FLSA and to require employers who have at least one employee to provide one hour of paid annual leave for every 25 hours of work, up to 80 hours during a 12-month period. Employers may request no greater than two weeks notice, though an employee may use the leave in case of emergency. This leave can be used for any purpose, and the employee does not need to disclose the purpose to the employer. Under this bill, there would be no preemption of state or local paid leave laws: In other words, this leave would layer on top of mandated leave at the state or local levels.

state and local paid time off policies, i.e. preemption. Employers have been clear that a federal law that simplifies the burden of complying with the patchwork of state and city laws would be welcome, but that a federal law that is fully additive would be challenging (Hansen 2018). Many state laws already consider employers with more generous paid time off policies than the states restrictive paid sick leave policies to be in compliance if the leave could be used to cover paid sick leave and if the policy is described in a written paid sick leave policy. Similarly, a federal earned paid time off policy that is more generous than a state's more restrictive paid sick leave policy should preempt the state policy.

This does not mean that a state could not pass a state paid leave program that was more generous than the federal policy. A federal earned paid leave policy should be designed to set a minimum compensation standard just as the federal minimum wage law sets a minimum hourly pay level. Many states set their own minimum wage that exceeds the federal level. When the state standard exceeds the national standard, the state standard is binding, and when the state standard is lower than the federal standard, the federal minimum wage is binding.

Similarly, a federal earned paid time off policy should seek to harmonize the policy across the states, while giving states the option to set a higher standard. Many employers, however, have noted that a federal law that is simply additive to state and local laws would increase compliance costs. For example, an employer in Nevada offering one hour of paid time off for every 50 hours worked would comply with state law but would need to add an extra two hours of paid time off per 50 hours worked to comply with the Protected Time Off Act proposed in 2024. Under this proposal, employers would need to comply with the federal policy by adding one hour of paid time off per 50 hours worked.

Why not exempt businesses with very few employees?

The costs of the proposal are proportional to the costs of payroll. A company regardless of size will need to offer a worker paid time off that is equivalent to giving the worker a 2 percent raise at first, rising another 2 percent two years later when the full policy is implemented (assuming to offsetting changes to the employee's other forms of compensation). These costs are smaller than the typical annual raise given to an employee and can therefore easily be managed even by a small employer. Moreover, for small employers, the biggest cost of leave tends to be the absence from work, particularly when it is unexpected. An earned paid leave policy encourages workers to communicate with employers and provide advanced notice for leave when possible, which mitigates the costs of absences. Many states have already adopted earned paid leave policies that apply to any business with at least one employee.

Conclusion

Americans work more hours per year than workers in any other advanced country. Many Americans view hard work and long hours as a path to career advancement, personal fulfillment, and higher incomes. In a competitive job market, some Americans fear that taking too much time off could jeopardize their job security. They may worry about losing wages, falling behind, being replaced, or missing out on promotions and career advancement opportunities. Many employees have high workloads and believe that taking time off would lead to an unmanageable backlog of work. And, certainly many workers work long hours to make ends meet.

In the U.S. there is a both a stigma against taking time off from work and no federal right to do so. In truth, time away from work can enhance the typical American's quality of life, health, and productivity. By tying the benefit to work, an earned time off policy can help promote higher labor force participation and align the U.S. with globally competitive nations. A national policy guaranteeing paid earned time off would shift attitudes toward time off from work and make earned paid time off a basic right for workers. In America, if you work hard and play by the rules, you should be able to afford to take a day off and not lose pay.

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Paid vacation and paid holidays, OECD nations, in working days

Source: Australian Government Fair Work Ombudsman 2023; Australian Government Fair Work Ombudsman n.d.a; Business Service Portal 2024; Ch.ch n.d.; De Matteis, Accardo, and Mammone 2011; Directorate-General of Public Governance 2024; Employment and Social Development Canada 2024; Employment New Zealand n.d.a; Employment New Zealand n.d.b; Federal Employment Agency n.d.; Federal Ministry of the Interior and Community n.d.; Federal Ministry Republic of Austria n.d.; Federal Public Service Employment, Labour and Social Dialogue n.d.a; Federal Public Service Employment, Labour and Social Dialogue n.d.b; French Republic 2024; Gov.uk n.d.; Government Offices of Sweden 2014; Guichet.lu 2024; Guichet.lu n.d.; Island.is n.d.; Japan External Trade Organization n.d.; Lag om allmänna helgdagar 2005; Legifrance 2016a; Legifrance 2016b; Ministerio de Trabajo y Economía Social n.d.; Ministero del Lavoro e delle Politiche Sociali n.d.; Ministry of Economic Affairs and Employment of Finland 2019; Ministry of Labour and Social Inclusion 2018; Ministry of Labour and Social Inclusion 2021; Netherlands Enterprise Agency 2020; Öresunddirekt 2024; Staatssekretariat für Wirtschaft 2022; Statistisches Bundesamt n.d.; The Central Bank of Iceland 2024; The Central Government for the Netherlands 2024; The Icelandic Confederation of Labor n.d.; The Nordic Council of Ministers n.d.; Virk.dk 2018; Vita-Salute San Raffaele University n.d.; data collected by the author.

Note: These estimates report the statutory required number of paid leave days based on full-time, full-year workers. Many countries require a waiting period before paid leave becomes available. Canada and Japan have fewer days required for recent employees with the full amount of statutory leave being granted after several years of tenure with an employer. Only countries that statutorily require public holidays to be paid are listed as requiring paid holidays. However, in many countries that do not mandate pay for public holidays, workers often receive holidays off with pay or are compensated with another day off by custom or collective bargaining agreements. See technical appendix B for more details.

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