

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2299
OFFERED BY MR. GROTHMAN OF WISCONSIN

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Ensuring Workers Get
3 PAID Act of 2025”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) In 2018, the Department of Labor launched
7 the nationwide Payroll Audit Independent Deter-
8 mination pilot program (referred to in this section as
9 the “PAID pilot program”).

10 (2) The Secretary of Labor, acting through the
11 Administrator of the Wage and Hour Division, es-
12 tablished the PAID pilot program to complement en-
13 forcement and compliance assistance tools under-
14 taken by the Wage and Hour Division of the De-
15 partment of Labor.

16 (3) The Secretary has a longstanding practice
17 of providing self-audit and office audit programs, as
18 noted by Secretary Marty Walsh in a response for

1 the record following a hearing before the Committee
2 on Education and Labor of the House of Represent-
3 atives on June 9, 2021.

4 (4) The Wage and Hour Division, through the
5 PAID pilot program, worked with employers on a
6 voluntary basis to remedy unintentional violations of
7 the Fair Labor Standards Act of 1938 (29 U.S.C.
8 201 et seq.), which is the Federal statute estab-
9 lishing minimum wage, overtime pay, recordkeeping,
10 and youth-employment requirements affecting em-
11 ployees in the private sector and in Federal, State,
12 and local governments.

13 (5) The PAID pilot program yielded positive re-
14 sults for employers and employees. Between April 1,
15 2018, and September 15, 2019, the Wage and Hour
16 Division concluded 74 PAID pilot program cases,
17 representing less than one percent of all compliance
18 actions under the Fair Labor Standards Act of
19 1938, with a total of \$4,131,238 in back wages paid
20 to 7,429 employees through such PAID pilot pro-
21 gram cases.

22 (6) Self-audits through the PAID pilot program
23 by employers returned more back wages to employ-
24 ees in less time than compliance actions overall. In
25 fact, during the period described in paragraph (5)—

1 (A) the average back wages paid per case
2 for PAID pilot program cases (\$55,828) were
3 more than 4 times the average back wages paid
4 per compliance action (\$11,355);

5 (B) the average back wages paid per en-
6 forcement hour for PAID pilot program cases
7 (\$2,864) was more than 10 times greater than
8 the average back wages paid per enforcement
9 hour for compliance actions (\$279);

10 (C) on average, nearly 10 times more em-
11 ployees received back wages in each PAID pilot
12 program case than in investigations conducted
13 using traditional methods;

14 (D) self-audits through the PAID pilot
15 program averaged 19 hours per case as com-
16 pared to 41 hours per case for the Secretary
17 conducted using traditional methods; and

18 (E) self-audits through the PAID pilot
19 program reached employers that the Wage and
20 Hour Division would not typically prioritize for
21 enforcement, including government establish-
22 ments and industry sectors with higher-wage
23 occupations.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1 (1) AFFECTED EMPLOYEE.—The term “af-
2 fected employee” means an employee affected by a
3 violation of a minimum wage or overtime hours re-
4 quirement of the Fair Labor Standards Act of 1938
5 (29 U.S.C. 201 et seq.), excluding any employee
6 subject to prevailing wage requirements under the
7 H–1B, H–2B, or H–2A visa programs, subchapter
8 IV of chapter 31 of title 40, United States Code
9 (commonly referred to as the “Davis-Bacon Act”),
10 or chapter 67 of title 41, United States Code (com-
11 monly known as the “Service Contract Act”).

12 (2) ADMINISTRATOR.—The term “Adminis-
13 trator” means the Administrator of the Wage and
14 Hour Division of the Department of Labor.

15 (3) EMPLOYEE.—The term “employee”—
16 (A) has the meaning given such term in
17 section 3 of the Fair Labor Standards Act of
18 1938 (29 U.S.C. 203); and

19 (B) with respect to an employer, includes
20 a former employee of such employer.

21 (4) EMPLOYER.—The term “employer” has the
22 meaning given such term in section 3 of such Act.

23 (5) GOOD FAITH.—The term “good faith”
24 means, with respect to an employer applying for par-
25 ticipation in the Payroll Audit Independent Deter-

1 mination program established under section 4, that
2 such employer is not, at the time such employer sub-
3 mits an application for such program—

4 (A) under investigation by the Secretary
5 for an alleged violation of a minimum wage or
6 overtime hours requirement of the Fair Labor
7 Standards Act of 1938 (29 U.S.C. 201 et seq.);
8 or

9 (B) subject to a lawsuit related to an al-
10 leged violation of such a requirement.

11 (6) SECRETARY.—The term “Secretary” means
12 the Secretary of Labor.

13 (7) SELF-AUDIT.—The term “self-audit” means
14 an audit conducted by an employer to resolve inac-
15 curacies by the employer in the computation of
16 wages and overtime compensation required under
17 the Fair Labor Standards Act of 1938 within the
18 statute of limitations described in section 6(a) of the
19 Portal-to-Portal Act of 1947 (29 U.S.C. 255(a)).

20 **SEC. 4. PAYROLL AUDIT INDEPENDENT DETERMINATION**
21 **PROGRAM.**

22 (a) PROGRAM ESTABLISHMENT.—The Administrator
23 shall establish a Payroll Audit Independent Determination
24 program (referred to in this section as the “program”)
25 to foster collaboration with employers that inadvertently

1 violate the Fair Labor Standards Act of 1938 (29 U.S.C.
2 201 et seq.) to voluntarily remedy, within the statute of
3 limitations described in section 6(a) of the Portal-to-Portal Act of 1947 (29 U.S.C. 255(a)), unpaid minimum
4 wages or overtime compensation owed to any affected em-
5 ployee under the Fair Labor Standards Act of 1938.

7 (b) APPLICATION REQUIREMENTS.—

8 (1) RESOURCES FOR COMPLIANCE ASSIST-
9 ANCE.—Not later than 30 days after the date of en-
10 actment of this Act, the Administrator shall make
11 available to employers resources for assistance in
12 complying with the Fair Labor Standards Act of
13 1938, including content regarding wage and hour re-
14 quirements, which shall be offered online, through
15 printed materials, and through other outreach activi-
16 ties.

17 (2) APPLICATION.—An employer seeking to
18 participate in the program shall submit an applica-
19 tion to the Administrator that includes—

20 (A) materials related to and the results of
21 a self-audit, including—

22 (i) an identification of any practice of
23 such employer identified in a self-audit
24 that may violate a minimum wage or over-

1 time compensation requirement of the Fair
2 Labor Standards Act of 1938; and

3 (ii) a list of each employee who may
4 be an affected employee with respect to
5 such violation, including—

6 (I) the period of time such em-
7 ployee would have been affected by
8 such violation;

9 (II) payroll records related to
10 such employee for such period with in-
11 formation on the hours of work per-
12 formed by such employee;

13 (III) calculations of unpaid min-
14 imum wages or overtime compensation
15 owed to such employee under the Fair
16 Labor Standards Act of 1938 with a
17 description of the methodology of such
18 calculation and supporting evidence;
19 and

20 (IV) contact information for such
21 employee;

22 (B) an explanation of the scope of poten-
23 tial violations of a minimum wage or overtime
24 compensation requirement of such Act for inclu-
25 sion in a release of claims under subsection (d);

1 (C) an assurance that any practice of such
2 employer that violates a minimum wage or over-
3 time compensation requirement of the Fair
4 Labor Standards Act of 1938 that is identified
5 in the self-audit has been corrected to comply
6 with such Act;

7 (D) an assurance that such employer has,
8 prior to submitting such application, reviewed
9 the compliance assistance resources made avail-
10 able under paragraph (1) and all program in-
11 formation, terms, and requirements;

12 (E) an assurance that, on the date of sub-
13 mission of such application, such employer—

14 (i) is not involved in any litigation re-
15 garding any practice of such employer that
16 is identified in the self-audit; and

17 (ii) has not received any communica-
18 tions from an employee or a representative
19 of an employee seeking to litigate or settle
20 claims related to any such practice; and

21 (F) an assurance that no employee listed
22 in subparagraph (A)(ii) is subject to a pre-
23 vailing wage requirement under the H-1B, H-
24 2B, or H-2A visa programs, subchapter IV of
25 chapter 31 of title 40, United States Code

1 (commonly referred to as the “Davis-Bacon
2 Act”), or chapter 67 of title 41, United States
3 Code (commonly known as the “Service Con-
4 tract Act”).

5 (c) APPLICATION REVIEW AND APPROVAL.—

6 (1) REVIEW AND AMENDMENT.—The Adminis-
7 trator shall review each application submitted by an
8 employer under subsection (b)(2). As part of such
9 review, the Administrator shall—

10 (A) as necessary, consult with such em-
11 ployer regarding—

12 (i) the self-audit and supporting mate-
13 rials submitted in the application; and

14 (ii) the process for approval of such
15 application and settlement of unpaid min-
16 imum wages or overtime compensation
17 owed to any affected employee under the
18 Fair Labor Standards Act of 1938 (29
19 U.S.C. 201 et seq.);

20 (B) inform such employer in a timely man-
21 ner and prior to a determination on the ap-
22 proval of the application if additional informa-
23 tion is needed to assess the unpaid minimum
24 wages or overtime compensation owed to any
25 affected employee for the violations of such Act

1 identified in the application through the self-
2 audit; and

3 (C) provide such employer an opportunity
4 to amend such application to revise the scope of
5 the practices of such employer that violate a
6 minimum wage or overtime compensation re-
7 quirement of the Fair Labor Standards Act of
8 1938 that are identified in the application
9 through self-audit, to update the list of affected
10 employees with respect to the practices at issue
11 in the self-audit, and to update the calculations
12 of unpaid minimum wages or overtime com-
13 pensation owed to any affected employee as a
14 result of such violations.

15 (2) APPROVAL.—

16 (A) IN GENERAL.—If the conditions under
17 subparagraph (B) are satisfied with respect to
18 an application submitted under subsection
19 (b)(2), the Administrator shall—

20 (i) approve the application—

21 (I) in the case the application
22 has not been amended under para-
23 graph (1)(C), not later than 30 days
24 after such submission; or

1 (II) in the case the application
2 has been amended under paragraph
3 (1)(C), not later than 30 days after
4 the date of submission of such amend-
5 ed application; and

6 (ii) supervise the settlement under
7 subsection (d), including the payment of
8 any unpaid minimum wages or overtime
9 compensation under the Fair Labor Stand-
10 ards Act of 1938 (29 U.S.C. 201 et seq.)
11 required through such settlement.

12 (B) CONDITIONS FOR APPROVAL.—An ap-
13 plication submitted under subsection (b)(2)
14 shall be approved under subparagraph (A) if—

15 (i) within the scope of the violations
16 identified by the employer through the ap-
17 plication or an amendment to the applica-
18 tion under paragraph (1)(C), the Adminis-
19 trator verifies that the self-audit and cal-
20 culation of unpaid minimum wages or over-
21 time compensation owed to any affected
22 employee under the Fair Labor Standards
23 Act of 1938 submitted in such application
24 or amendment are accurate; and

1 (ii) the employer submitting the appli-
2 cation—

3 (I) is determined to be acting in
4 good faith regarding violations of the
5 Fair Labor Standards Act of 1938
6 identified in such application or
7 amendment;

8 (II) has not been found by the
9 Administrator or any court of law to
10 have violated a minimum wage or
11 overtime compensation requirement of
12 such Act during the 5 years imme-
13 diately preceding submission of such
14 application; and

15 (III) has not been approved for
16 participation in the program prior to
17 the submission of such application,
18 unless—

19 (aa) such participation was
20 for a distinct violation of the
21 Fair Labor Standards Act of
22 1938 than the practice identified
23 in the self-audit under subsection
24 (b)(2); and

1 (bb) such employer has sub-
2 mitted the necessary materials
3 for the Administrator to verify
4 that such employer is not engag-
5 ing in the practice addressed by
6 the previous participation of the
7 employer in the program.

8 (d) SETTLEMENT.—

9 (1) IN GENERAL.—For each employer that sub-
10 mits an application under subsection (b)(2) that is
11 approved under subsection (c)(2), the Administrator
12 shall—

13 (A) provide to the employer a description
14 of the scope of the potential release of claims
15 for violations of minimum wage or overtime
16 compensation requirements of the Fair Labor
17 Standards Act of 1938 (29 U.S.C. 201 et seq.)
18 and a summary of any unpaid minimum wages
19 or overtime compensation owed to each affected
20 employee under such Act for such violations;
21 and

22 (B) issue a release form to each affected
23 employee of such employer that describes the
24 settlement terms, which shall include a written
25 explanation of—

1 (i) the waiver under paragraph
2 (2)(B); and

3 (ii) the right of the affected employee
4 receiving the offer for settlement to decline
5 the offer for settlement and preserve any
6 private right of action of the employee to
7 recover any unpaid minimum wages or
8 overtime compensation owed to the em-
9 ployee under the Fair Labor Standards
10 Act of 1938 as a result of such violations.

11 (2) ACCEPTANCE OF SETTLEMENT.—

12 (A) IN GENERAL.—An affected employee
13 offered a settlement through a release form
14 under paragraph (1)(B) may accept or decline
15 the offer.

16 (B) WAIVER OF PRIVATE RIGHT OF AC-
17 TION.—The acceptance by an affected employee
18 of an offer of settlement under subparagraph
19 (A) shall, upon payment in full of any amounts
20 owed to the employee under the settlement, con-
21 stitute a waiver by such employee of any right
22 such employee may have under section 16 of
23 the Fair Labor Standards Act of 1938 (29
24 U.S.C. 216) to a private right of action to re-
25 cover unpaid minimum wages or overtime com-

1 pensation, including any liquidated damages,
2 for the violations addressed by the settlement.

3 (3) PAYMENT OF SETTLEMENT.—For each af-
4 fected employee that accepts a settlement through a
5 release form under paragraph (1)(B), the employer
6 shall—

7 (A) pay such employee the full amount of
8 unpaid minimum wages or overtime compensa-
9 tion owed to such employee under the Fair
10 Labor Standards Act of 1938 (29 U.S.C. 201
11 et seq.) for the violations addressed in the set-
12 tlement; and

13 (B) submit proof of payment of such full
14 amount to the Administrator.

15 (e) ADDITIONAL REQUIREMENTS.—

16 (1) DENIALS.—In the case of an application
17 submitted by an employer under subsection (b)(2)
18 and not approved under subsection (c)(2), the Ad-
19 ministrator may not—

20 (A) use information submitted in the appli-
21 cation in an investigation against the employer;

22 (B) use the fact such employer applied to
23 the program as a basis for any future investiga-
24 tion, except in a case in which the Adminis-
25 trator has reason to believe that the health and

1 safety of an employee is at risk due to an al-
2 leged violation related to a requirement en-
3 forced by the Secretary involving child labor,
4 agricultural worker protections, or housing or
5 transportation requirements under the H-2A or
6 H-2B visa programs; or

7 (C) communicate to any affected employee
8 of such employer in response to receipt of such
9 application to notify such employee of the pri-
10 vate right of action of such employee to resolve
11 potential violations of the Fair Labor Standards
12 Act of 1938 (29 U.S.C. 201 et seq.), particu-
13 larly with respect to the wage practices at issue
14 in the self-audit.

15 (2) EXPANSION OF SCOPE.—The Administrator
16 may not expand the scope of the violations to be in-
17 vestigated or settled through an employer's partici-
18 pation in the program beyond the violations identi-
19 fied by the employer in the application submitted by
20 the employer under subsection (b)(2) or the amend-
21 ed application submitted by the employer under sub-
22 section (c)(1)(C).

23 (3) NO PAYMENTS REQUIRED.—The Adminis-
24 trator may not require any form of payment by an

1 employer to apply, qualify, or participate in the pro-
2 gram.

3 (4) EXEMPTION FROM DISCOVERY.—Any infor-
4 mation submitted in an application to the program
5 under subsection (b)(2), or an amendment to such
6 application under subsection (c)(1)(C), may not be
7 subject to discovery in a Federal or State court pro-
8 ceeding without the consent of the employer that
9 submitted the application.

10 (f) RETALIATION.—Section 15(a)(3) of the Fair
11 Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is
12 amended by inserting before the semicolon the following:
13 “, or has accepted or declined to accept an offer for settle-
14 ment under section 4(d) of the Ensuring Workers Get
15 PAID Act of 2025”.

