

# A federal guarantee for earned paid time off

*Betsy Stevenson*

The United States is the only advanced economy in which workers are not guaranteed a paid day off. The Fair Labor Standards Act (FLSA) forms the basis for American workers' basic rights, but it does not require employers to offer any vacation, holiday, or sick pay. 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.

Economist Betsy Stevenson (University of Michigan; formerly a Member of the Council of Economic Advisers in the Executive Office of the President and Chief Economist at the Department of Labor) proposes to modernize the 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 earned paid time off (ETO). By putting forward ETO 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.

A federal ETO program through a modernized FLSA could encompass existing laws, reduce the administrative burden for businesses, and ensure that all working Americans, part-time and part-year workers and independent contractors, as well as full-time, full-year workers, have the right to ETO. A guarantee of ETO could boost worker well-being and productivity 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.

This proposal outlines a federal ETO 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). As with the federal minimum wage, the proposed policy allows preemption of state leave policies that set a lower standard for paid time off while allowing for cities or state to require more generous paid leave policies.

## The proposal

ETO 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.

### *ETO sets the baseline for all jurisdictions*

Like with the federal minimum wage, the policy should preempt state policies that set a lower standard for paid time off while allowing for city or state policies that require more generous paid leave.

### *ETO works for all workers*

All employers with one or more employees or 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. Non-tipped workers should be paid their full wage during paid time off. Tipped workers should be paid their normal wage or their full applicable minimum wage, whichever is higher.

### *ETO is accrued hourly*

Stevenson proposes that ETO should accrue at a rate of one hour per 50 hours worked (two percent of hours worked per week) in the first two years of the policy, increasing to one hour per 25 hours worked (four percent of hours worked per week) after two years. In the first two years, workers must be able to accrue up to 40 hours and after two years, 80 hours.

### *ETO is available for use quickly*

Stevenson proposes that employers must make leave available once an employee has accrued at least four hours of leave. Employers who advance leave at the start of a 12-month period do not need to roll leave over. Those who do not advance leave must roll accrued leave for a minimum of 12 months following its accrual.

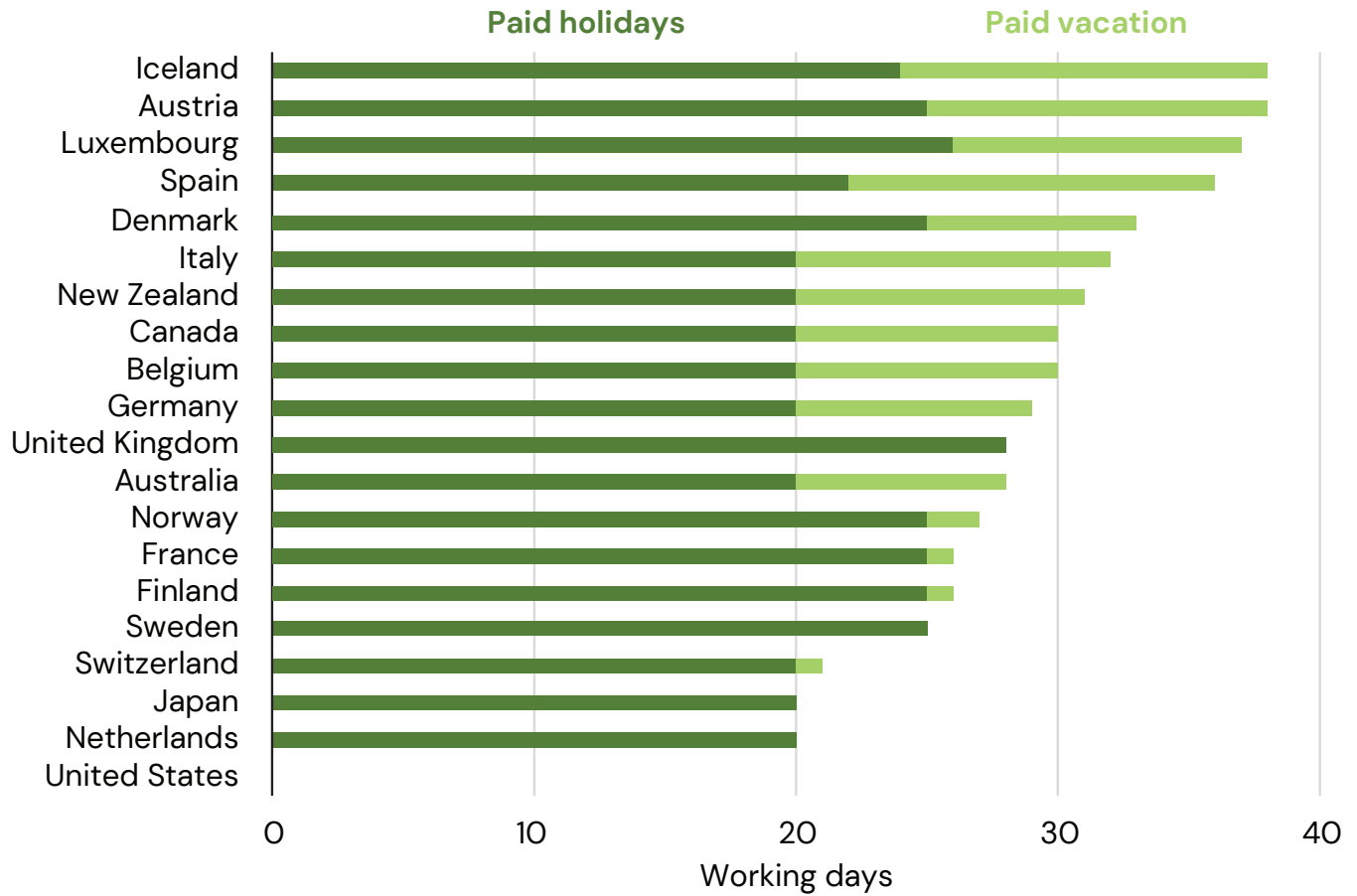
### *ETO can be used for anything*

Workers would control how they use this time off, meaning that they could use it for vacation, personal time, caregiving, or personal medical needs. Employees should be able to use leave in increments of two-hour blocks or less, allowing ETO to be used for teacher's meetings and doctor's appointments in addition to more extended leave.

### *ETO works with notice and without retaliation*

Employers may not dictate when workers take their leave and may not retaliate by taking any adverse action against an employee who takes ETO. Employers may request that employees give notice as soon as possible, ideally well in advance, but they may not require any documentation as to the purpose of the usage of the leave. Employees must give a minimum of two weeks' notice to employers when an absence is forecastable.

## 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 linked here.