Ensuring Workers Get PAID Act of 2021
Introduced by Rep. Stefanik (R-NY) and Sen. Braun (R-IN)

Background

America's job creators rely on their workers daily and have every incentive to ensure their employees are supported fully. The *Ensuring Workers Get PAID Act* is designed to give employers another tool to do so. In March 2018, the U.S. Department of Labor (DOL) launched the Payroll Audit Independent Determination (PAID) pilot program to provide an efficient method for employers to proactively rectify inadvertent overtime and minimum wage violations under the Fair Labor Standards Act (FLSA). The PAID program encouraged employers to conduct payroll self-audits and voluntarily self-report any FLSA wage and hour violations that were discovered to DOL in order to quickly resolve claims and improve compliance moving forward. This resulted in employees receiving 100 percent of the back wages they are owed in a timelier manner, as opposed to traditional DOL investigations that take more time, are more costly, and reach fewer employers. Despite the program's success, the Biden Administration abruptly ended the PAID program in January 2021, erroneously claiming it deprived workers of their chance at a private right of action to enforce wage violations.

Success of the PAID Program

The PAID program has a proven track record of success for workers, employers, and taxpayers. A DOL report on the PAID program (available upon request) found that between April 1, 2018 and September 15, 2019:

- The average back wages paid to employees per case for PAID cases ($55,828) were more than four times the average back wages paid to employees per traditional investigation ($11,355);
- The average back wages paid to employees per enforcement hour for PAID cases ($2,864) was more than 10 times greater than the average back wages paid to employees per enforcement hour for traditional investigations ($279);
- Self-audits through the PAID program averaged 19 hours per case for Wage and Hour investigators as compared to 41 hours per traditional compliance action; and
- PAID self-audits reached employers that DOL would not typically prioritize for enforcement, including government establishments and industry sectors with higher wage occupations. [1]

Why the Bill to is Needed

- The *Ensuring Workers Get PAID Act* would codify the PAID program, ensuring this proven compliance assistance tool stays in agency practice to support employers who come in good faith to correct wage errors and improve overall compliance with the law.
- The PAID program helps more workers receive the wages they earned when employers make mistakes, allowing employees to receive any unpaid minimum wage or overtime compensation faster – and without the expenses of litigation – while protecting employee rights and leaving the decision to resolve violations in the hands of each employee.
- The PAID program provides employers the ability to correct mistakes and quickly deliver any back wages owed to employees under the agreement that DOL will supervise a settlement of the violations without seeking liquidated damages or costly penalties associated with private litigation or attorney's fees.

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[1] Dep't of Labor, WHD, Payroll Audit Independent Determination (PAID) Program Report (Sept. 19, 2019).