

106TH CONGRESS  
1ST SESSION

# S. 1878

To amend the Fair Labor Standards Act of 1938 to provide that an employee's "regular rate" for purposes of calculating overtime compensation will not be affected by certain additional payments.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 1999

Mrs. HUTCHISON (for herself, Mr. NICKLES, Mr. BROWNBACK, Mr. VOINOVICH, Mr. ASHCROFT, Mr. CRAIG, Mr. ENZI, Mr. THOMAS, and Mr. HELMS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Fair Labor Standards Act of 1938 to provide that an employee's "regular rate" for purposes of calculating overtime compensation will not be affected by certain additional payments.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Bonus Incentive Act".

### 5 **SEC. 2. REGULAR RATE FOR OVERTIME PURPOSES.**

6 Section 7(e) of the Fair Labor Standards Act of 1938  
7 (29 U.S.C. 207(e)) is amended—

1           (1) by inserting before the semicolon at the end  
2           of paragraph (3) the following: “; or (d) the pay-  
3           ments are made to reward an employee or group of  
4           employees for meeting or exceeding the productivity,  
5           quality, efficiency, or sales goals as specified in a  
6           gainsharing, incentive bonus, commission, or per-  
7           formance contingent bonus plan”; and

8           (2) by inserting after paragraph (7) the fol-  
9           lowing:

10          “A plan described in paragraph (3)(d) shall be in writing  
11          and made available to employees, provide that the amount  
12          of the payments to be made under the plan be based upon  
13          a formula that is stated in the plan, and be established  
14          and maintained in good faith for the purpose of distrib-  
15          uting to employees additional remuneration over and  
16          above the wages and salaries that are not dependent upon  
17          the existence of such plan or payments made pursuant to  
18          such plan.”.

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