

116TH CONGRESS  
1ST SESSION

# H. R. 488

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 HOUSE OF REPRESENTATIVES

JANUARY 11, 2019

Mr. CALVERT introduced the following bill; which was referred to the  
Committee on Education and Labor

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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 "Employee Bonus Pro-  
5       tection Act".

6       **SEC. 2. REGULAR RATE FOR OVERTIME PURPOSES.**

7       Section 7(e) of the Fair Labor Standards Act of 1938  
8       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 plan, incentive bonus plan, commission  
7       plan, or performance contingent bonus plan”; and

8           (2) by adding at the end the following:

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

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