

# Union Calendar No. 201

106<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1381

[Report No. 106-358]

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

APRIL 13, 1999

Mr. BALLENGER (for himself, Mr. GOODLING, and Mr. DICKEY) introduced the following bill; which was referred to the Committee on Education and the Workforce

OCTOBER 1, 1999

Additional sponsors: Mr. PAUL, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. HILLEARY, Mr. BARRETT of Nebraska, Mr. BOEHNER, Mr. MILLER of Florida, Mr. DUNCAN, Mr. BARTLETT of Maryland, Mr. SHUSTER, Mr. SKEEN, and Mr. KNOLLENBERG

OCTOBER 1, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

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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 “Rewarding Perform-  
 5 ance in Compensation Act”.

6 **SEC. 2. REGULAR RATE.**

7 Section 7(e)(3) of the Fair Labor Standards Act of  
 8 1938 (29 U.S.C. 207(e)(3)) is amended by inserting be-  
 9 fore the semicolon at the end the following: “; or (d) the  
 10 payments are made to reward an employee or group of  
 11 employees for meeting or exceeding the productivity, qual-  
 12 ity, efficiency, or sales goals as specified in a gainsharing,  
 13 incentive bonus, commission, or performance contingent  
 14 bonus plan”.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Rewarding Performance*  
 17 *in Compensation Act”.*

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

19 *Section 7(e) of the Fair Labor Standards Act of 1938*  
 20 *is amended—*

21 *(1) by inserting before the semicolon at the end*  
 22 *of paragraph (3) the following: “; or (d) the payments*  
 23 *are made to reward an employee or group of employ-*  
 24 *ees for meeting or exceeding the productivity, quality,*  
 25 *efficiency, or sales goals as specified in a gainsharing,*

1        *incentive bonus, commission, or performance contin-*  
2        *gent bonus plan”;* and

3                *(2) by inserting after and below paragraph (7)*  
4        *the following:*

5        *“A plan described in paragraph (3)(d) shall be in writing*  
6        *and made available to employees, provide that the amount*  
7        *of the payments to be made under the plan be based upon*  
8        *a formula that is stated in the plan, and be established and*  
9        *maintained in good faith for the purpose of distributing*  
10       *to employees additional remuneration over and above the*  
11       *wages and salaries that are not dependent upon the exist-*  
12       *ence of such plan or payments made pursuant to such*  
13       *plan.”.*

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