

118TH CONGRESS
1ST SESSION

S. 2878

To amend the Fair Labor Standards Act of 1938 to exclude certain activities from hours worked, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2023

Mr. BUDD (for himself, Mr. BRAUN, and Mr. MARSHALL) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Fair Labor Standards Act of 1938 to exclude certain activities from hours worked, and for other purposes.

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 “Flexibility for Workers
5 Education Act”.

6 **SEC. 2. TREATMENT OF ATTENDANCE OR PARTICIPATION**
7 **IN CERTAIN ACTIVITIES.**

8 (a) IN GENERAL.—Section 3(o) of the Fair Labor
9 Standards Act of 1938 (29 U.S.C. 203(o)) is amended to
10 read as follows:

1 “(o) HOURS WORKED.—In determining for the pur-
2 poses of sections 6 and 7 the hours for which an employee
3 is employed, there shall be excluded—

4 “(1) any time spent in changing clothes or
5 washing at the beginning or end of each workday
6 which was excluded from measured working time
7 during the week involved by the express terms of or
8 by custom or practice under a bona fide collective-
9 bargaining agreement applicable to the particular
10 employee; and

11 “(2) any time spent attending or participating
12 in lectures, education or training programs, and
13 similar activities, regardless of whether the activity
14 is offered or facilitated by the employer, provided
15 that—

16 “(A) the attendance or participation occurs
17 outside of the regular working hours of the em-
18 ployee;

19 “(B) the attendance or participation is vol-
20 untary and the continuation of employment and
21 the working conditions related to such employ-
22 ment is not adversely affected by non-attend-
23 ance or non-participation; and

1 “(C) the employee does not perform any
2 productive work for the employer during the at-
3 tendance or participation.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply with respect to hours worked
6 on or after the date of enactment of this Act.

○