

119TH CONGRESS
2D SESSION

S. _____

To amend the Fair Labor Standards Act of 1938 to establish a minimum salary threshold for bona fide executive, administrative, and professional employees exempt from Federal overtime compensation requirements, and automatically update such threshold each year, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Fair Labor Standards Act of 1938 to establish a minimum salary threshold for bona fide executive, administrative, and professional employees exempt from Federal overtime compensation requirements, and automatically update such threshold each year, 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 “Restoring Overtime
5 Pay Act of 2026”.

1 **SEC. 2. MINIMUM SALARY THRESHOLD FOR BONA FIDE EX-**
2 **ECUTIVE, ADMINISTRATIVE, AND PROFES-**
3 **SIONAL EMPLOYEES EXEMPT FROM FEDERAL**
4 **OVERTIME COMPENSATION REQUIREMENTS.**

5 (a) IN GENERAL.—Section 13 of the Fair Labor
6 Standards Act of 1938 (29 U.S.C. 213) is amended—

7 (1) in subsection (a)(1)—

8 (A) by inserting “subsection (k) and” after
9 “subject to”; and

10 (B) by inserting “(except as provided
11 under subsection (k)(2)(C))” after “Administra-
12 tive Procedure Act”; and

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

14 “(k) MINIMUM SALARY THRESHOLD.—

15 “(1) IN GENERAL.—Beginning on the effective
16 date of the Restoring Overtime Pay Act of 2026, the
17 Secretary shall require that an employee described in
18 subsection (a)(1), as a requirement for exemption
19 under such subsection, be compensated on a salary
20 basis, or equivalent fee basis, within the meaning of
21 such terms in subpart G of part 541 of title 29,
22 Code of Federal Regulations (or any successor regu-
23 lation), at a rate per week that is not less than the
24 weekly rate of the applicable annualized salary
25 threshold under paragraph (2).

26 “(2) SALARY THRESHOLD.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graphs (B) and (C), the applicable annualized
3 salary threshold shall be—

4 “(i) \$45,000, beginning on the effec-
5 tive date of the Restoring Overtime Pay
6 Act of 2026;

7 “(ii) \$55,000, beginning on January
8 1, 2027;

9 “(iii) \$65,000, beginning on January
10 1, 2028;

11 “(iv) \$75,000, beginning on January
12 1, 2029; and

13 “(v) beginning on January 1, 2030,
14 an annualized amount that is equal to the
15 rate of the 55th percentile of weekly earn-
16 ings of full-time salaried workers nation-
17 ally, as determined by the Bureau of Labor
18 Statistics based on data from the second
19 quarter of 2029.

20 “(B) INCREASED THRESHOLD.—The Sec-
21 retary may establish, through notice and com-
22 ment rulemaking under section 553 of title 5,
23 United States Code, a salary threshold that is
24 a rate that—

1 “(i) is greater than the applicable
2 annualized salary threshold under subpara-
3 graph (A); and

4 “(ii) is calculated based on a data set
5 and methodology established by the Sec-
6 retary that are capable of being updated in
7 accordance with subparagraph (C).

8 “(C) AUTOMATIC UPDATES.—

9 “(i) IN GENERAL.—Not later than 1
10 year after the salary threshold first takes
11 effect under subparagraph (A)(v), and an-
12 nually thereafter, or, in the case in which
13 the Secretary establishes an increased sal-
14 ary threshold under subparagraph (B), an-
15 nually after establishing such increased
16 salary threshold, the Secretary shall up-
17 date the rate of the salary threshold in ef-
18 fect under subparagraph (A)(v) or (B), as
19 applicable, so that such rate is equal to—

20 “(I) in the case in which the Sec-
21 retary does not establish an increased
22 salary threshold under subparagraph
23 (B), the 55th percentile of weekly
24 earnings of full-time salaried workers
25 nationally, as determined by the Bu-

1 reau of Labor Statistics based on data
2 from the second quarter of the cal-
3 endar year preceding the calendar
4 year in which such updated amount is
5 to take effect; and

6 “(II) in the case in which the
7 Secretary establishes an increased sal-
8 ary threshold under subparagraph
9 (B), the greater of—

10 “(aa) the 55th percentile de-
11 scribed in subclause (I); and

12 “(bb) the increased salary
13 threshold established under sub-
14 paragraph (B), as updated in ac-
15 cordance with the data set and
16 methodology established by the
17 Secretary under subparagraph
18 (B)(ii).

19 “(ii) NONAPPLICABILITY OF RULE-
20 MAKING.—Section 553 of title 5, United
21 States Code, shall not apply to any update
22 described in this subparagraph.

23 “(D) NOTICE REQUIREMENT.—Not later
24 than 60 days before a revised salary threshold
25 under this paragraph takes effect, the Secretary

1 shall publish a notice announcing the amount in
2 the Federal Register and on the internet
3 website of the Department of Labor.”.

4 (b) PUBLICATION OF EARNINGS.—Not later than 21
5 days after the end of each calendar quarter, the Bureau
6 of Labor Statistics shall publish on its public website, for
7 each week of such quarter, data on the weekly earnings
8 of full-time salaried workers by census region (as des-
9 ignated by the Bureau of the Census).

10 **SEC. 3. NONEXEMPT DUTIES LIMIT FOR BONA FIDE EXECU-**
11 **TIVE, ADMINISTRATIVE, OR PROFESSIONAL**
12 **EMPLOYEES.**

13 Section 13(a)(1) of the Fair Labor Standards Act of
14 1938 (29 U.S.C. 213(a)(1)), as amended in section
15 2(a)(1), is further amended—

16 (1) by striking “of a retail or service establish-
17 ment shall not” and inserting “shall”;

18 (2) by striking “because of” and all that follows
19 through “administrative activities,”;

20 (3) by striking “less than 40” and inserting
21 “not less than 20”; and

22 (4) by striking “such activities” and inserting
23 “activities not directly or closely related to the per-
24 formance of executive or administrative activities”.

1 **SEC. 4. EFFECTIVE DATE.**

2 This Act, and the amendments made by this Act,
3 shall take effect on the first day of the third month that
4 begins after the date of enactment of this Act.