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(Original Signature of Member)

116TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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 every 3 years.

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. TAKANO introduced the following bill; which was 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 every 3 years.

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 2019”.

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 2019, 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 salary threshold under paragraph (2).

25 “(2) SALARY THRESHOLD.—

1           “(A) IN GENERAL.—Subject to subpara-  
2           graphs (B) and (C), the salary threshold shall  
3           be an amount that is equal to the 40th per-  
4           centile of earnings of full-time salaried workers  
5           in the lowest-wage census region, as determined  
6           by the Bureau of Labor Statistics based on  
7           data from the second quarter of the calendar  
8           year preceding the calendar year in which such  
9           amount takes effect.

10           “(B) INCREASED THRESHOLD.—The Sec-  
11           retary may establish, through notice and com-  
12           ment rulemaking under section 553 of title 5,  
13           United States Code, a salary threshold that is  
14           an amount that—

15                   “(i) is greater than the 40th per-  
16                   centile of earnings of the full-time salaried  
17                   workers described in subparagraph (A);  
18                   and

19                   “(ii) is calculated based on a data set  
20                   and methodology established by the Sec-  
21                   retary that are capable of being updated in  
22                   accordance with subparagraph (C).

23           “(C) AUTOMATIC UPDATES.—

24                   “(i) IN GENERAL.—Not later than 3  
25                   years after the salary threshold first takes

1 effect under subparagraph (A), and every  
2 3 years thereafter, or, in the case in which  
3 the Secretary establishes an increased sal-  
4 ary threshold under subparagraph (B),  
5 every 3 years after establishing such in-  
6 creased salary threshold, the Secretary  
7 shall update the amount of the salary  
8 threshold in effect under subparagraph (A)  
9 or (B), as applicable, so that such amount  
10 is equal to—

11 “(I) in the case in which the Sec-  
12 retary does not establish an increased  
13 salary threshold under subparagraph  
14 (B), the 40th percentile of earnings of  
15 full-time salaried workers in the low-  
16 est-wage census region, as determined  
17 by the Bureau of Labor Statistics  
18 based on data from the second quar-  
19 ter of the calendar year preceding the  
20 calendar year in which such updated  
21 amount is to take effect; and

22 “(II) in the case in which the  
23 Secretary establishes an increased sal-  
24 ary threshold under subparagraph  
25 (B), the greater of—

1 “(aa) the 40th percentile de-  
2 scribed in subclause (I); and

3 “(bb) the increased salary  
4 threshold established under sub-  
5 paragraph (B), as updated in ac-  
6 cordance with the data set and  
7 methodology established by the  
8 Secretary under subparagraph  
9 (B)(ii).

10 “(ii) NONAPPLICABILITY OF RULE-  
11 MAKING.—Any update described in this  
12 subparagraph shall not be subject to the  
13 requirements of notice and comment rule-  
14 making under section 553 of title 5,  
15 United States Code.

16 “(D) NOTICE REQUIREMENT.—Not later  
17 than 60 days before a revised salary threshold  
18 under this paragraph takes effect, the Secretary  
19 shall publish a notice announcing the amount in  
20 the Federal Register and on the internet  
21 website of the Department of Labor.

22 “(3) DUTIES TEST.—The Secretary shall, in  
23 addition to the requirement under paragraph (1),  
24 continue to require employees to satisfy a duties

1 test, as prescribed by the Secretary, in defining and  
2 delimiting the terms described in subsection (a)(1).”.

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

9 (c) EFFECTIVE DATE.—This Act, and the amend-  
10 ments made by this Act, shall take effect on the first day  
11 of the third month that begins after the date of enactment  
12 of this Act.