

106TH CONGRESS  
1ST SESSION

# H. R. 3038

To amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain computer professionals.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 1999

Mr. ANDREWS (for himself, Mr. GRAHAM, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain computer professionals.

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. EXEMPTION FOR COMPUTER PROFESSIONALS.**

4       Section 13(a) of the Fair Labor Standards Act of  
5       1938 (29 U.S.C. 213(a)) is amended by amending para-  
6       graph (17) to read as follows:

7               “(17) any employee who is a computer systems,  
8       network, or database analyst, designer, developer,

1 programmer, software engineer, or other similarly  
2 skilled worker—

3 “(A) whose primary duty is—

4 “(i) the application of systems or net-  
5 work or database analysis techniques and  
6 procedures, including consulting with  
7 users, to determine hardware, software,  
8 systems, network, or database specifica-  
9 tions (including functional specifications);

10 “(ii) the design, configuration, devel-  
11 opment, integration, documentation, anal-  
12 ysis, creation, testing, securing, or modi-  
13 fication of, or problem resolution for, com-  
14 puter systems, networks, databases, or pro-  
15 grams, including prototypes, based on and  
16 related to user, system, network, or data-  
17 base specifications, including design speci-  
18 fications and machine operating systems;

19 “(iii) the management or training of  
20 employees performing duties described in  
21 clause (i) or (ii); or

22 “(iv) a combination of duties de-  
23 scribed in clauses (i), (ii), or (iii) the per-  
24 formance of which requires the same level  
25 of skills; and

1           “(B) who, in the case of an employee who  
2           is compensated on an hourly basis, is com-  
3           pensated at the rate set by the amendment en-  
4           acting this paragraph made by section 2105(a)  
5           of the Employee Commuting Flexibility Act of  
6           1996.

7           For purposes of paragraph (17), the term ‘network’  
8           includes the Internet and intranet networks and the  
9           world wide web. An employee who meets the exemp-  
10          tion provided by paragraph (17) shall be considered  
11          an employee in a professional capacity pursuant to  
12          paragraph (1).”.

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