108TH CONGRESS
1ST SESSION

S. 495

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.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2003

Mr. GRAHAM of South Carolina introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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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   Paragraph (17) of section 13(a) of the Fair Labor

5   Standards Act of 1938 (29 U.S.C. 213(a)(17)) is amended

6   to read as follows:

7   "(17)(A) any employee who is a computer sys-

8   tems, network, or database analyst, designer, devel-

1 oper, programmer, software engineer, or other simi-

2 larly skilled worker—

3   "(i) 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   subclause (I) or (II); or

22   "(IV) a combination of duties de-

23   scribed in subclauses (I), (II), or (III) the

24   performance of which requires the same

25   level of skills; and

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1   "(ii) who, in the case of an employee who

2   is compensated on an hourly basis, is com-

3   pensated at a rate of not less than $27.63 an

4   hour.

5   "(B) In this paragraph, the term 'network' in-

6 cludes the Internet and Intranet networks and the

7 world wide web.

8   "(C) For the purposes of this Act, an employee

9 who meets the exemption provided by this paragraph

10 shall be considered an employee in a professional ca-

11 pacity under paragraph (1).".

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