



---

**Opening Statement of Rep. Kevin Kiley (R-CA), Chairman  
Subcommittee on Workforce Protections  
Hearing: “Bad for Business: DOL’s Proposed Overtime Rule”  
November 29, 2023**

(As prepared for delivery)

On June 9, 2016, this Committee held a hearing entitled "The Administration's Overtime Rule and its Consequences for Workers, Students, Nonprofits, and Small Businesses."

Back then, the Obama administration proposed a rule to increase the overtime salary threshold by more than doubling it. Former Chairman John Kline, while recognizing that the overtime threshold should be responsibly reformed, called the Obama administration’s drastic move “extreme” and “partisan.”

Today, we’re facing the same issue. President Biden has proposed a new poorly conceived rule to change the overtime requirements. And it couldn’t come at a worse time. As businesses and nonprofits work to recover from the pandemic and record high inflation, the Biden administration wants to implement a new rule that will jeopardize their survival and put workers at risk.

What’s more, the rule has been issued under the supposed authority of an Acting Secretary of Labor, Julie Su, who the United States Senate has declined to confirm for 9 months. Every action of the Labor Department is under a legal cloud as long as this end-run around the Constitution continues. Today, I am again calling on President Biden to end the tenure of the longest Acting Secretary in United States history. The president must nominate a secretary who will perform his or her duties competently, who will be on the side of American workers, and who can win Senate approval. Only then will the Labor Department be free of the legal uncertainty that currently clouds its important work.

The administration's proposed rule poses a threat to the livelihoods of the very people that the administration claims it wants to help. The overtime rule is expected to impact an estimated 3.6 million working Americans and cost employers an estimated \$1.3 billion, sticking them between a rock and a hard place. If employers cannot afford the new mandate, many will be forced to lay off their employees.

Employees currently exempt from overtime statutes enjoy much greater freedom to pursue professional development opportunities that fit their unique interests and enhance their lifetime earning potential. Nonprofits, especially, benefit from being able to offer exempted employees flexible work arrangements like telework, which will be less practical when more employees become subject to strict timekeeping requirements.

While some employers may choose to increase salaries to surpass the new threshold, these possible benefits to a small percentage of the workforce must be balanced against the many certain harms: cost hikes at colleges and universities that students will in the form of higher tuition; the greater administrative costs that will be shouldered by charities, resulting in fewer services to those in need; the diminished efficiency in federal grant research that will affect all taxpayers.

The most concerning part about this rule is that it puts the policy on autopilot. Future changes should be subject to the regular policy review, including consulting with stakeholders, rather than a one size fits all formula. Automatic increases are bad policy and bad government practice.

Americans are already struggling to recover from the economic challenges posed by Bidenomics. This new rule is simply unneeded at this time; it was just updated by the last administration. That update, unlike this proposal, only came after a very careful consultation process where the necessary stakeholders were involved. On top of this, the salary threshold was updated recently under President Trump. That change was the culmination of long policy conversations amongst stakeholders, and it represented a widely agreed upon consensus. Now, the Biden administration is trying to undo the good will produced by those conversations and the eventual salary threshold increase of 50 percent.

I urge the DOL to withdraw the proposed rule until it has completed a more thorough consultation with relevant stakeholders. And it must permanently withdraw the provision which would tie the hands of future administrations and Congresses.