

FACT SHEET: Growing Middle Class Paychecks and Helping Working Families Get Ahead By Expanding Overtime Pay

Every week, millions of Americans work more than 40 hours a week but do not receive the overtime pay they have earned. Tomorrow, the Department of Labor will be finalizing a rule to fix that by updating overtime protections for workers. In total, the new rule is expected to extend overtime protections to 4.2 million more Americans who are not currently eligible under federal law, and it is expected to boost wages for workers by \$12 billion over the next 10 years.

For much of the 20th century, the 40-hour workweek was a pillar of economic security for working families. The rules of the road were simple: if you were called on to put in extra work, your employer had to pay you extra regardless of whether you received an hourly wage or a salary. This left most Americans with more money in their pockets, more time to balance obligations at home and at work, and the opportunity to get ahead with more time outside of work for school or additional training.

Yet over the past 40 years, overtime protections eroded as a result of inflation and lobbyists' efforts to weaken them. The share of full-time workers qualifying for overtime based on their salaries has plummeted from 62 percent in 1975 to 7 percent today—even though the protections are more important than ever. Parents now have more demands on their time, with all parents working in more than six out of ten households with children. And despite a recent acceleration in wage growth and businesses adding 14.6 million jobs over a record 74 straight months of job growth, most Americans have seen relatively stagnant wages for the past few decades.

That's why tomorrow, the Department of Labor is finalizing a rule to update overtime protections so they can help millions more Americans. The final rule, which takes effect on December 1, 2016, doubles the salary threshold—from \$23,660 to \$47,476 per year—under which most salaried workers are guaranteed overtime (hourly workers are generally guaranteed overtime pay regardless of their earnings level). Additionally, this new level will be automatically updated every three years to ensure that workers continue to earn the pay they deserve. Increasing overtime protections is another step in the President's effort to grow and strengthen the middle class by raising Americans' wages. This extra income will not only mean a better life for American families impacted by overtime protections, but will boost our economy across the board as these families spend their hard-earned wages.

RESTORING OVERTIME PROTECTIONS

In March 2014, President Obama signed a memorandum directing the Department of Labor to modernize our nation's overtime rules, which have been comprehensively updated only once since the 1970s.

Overtime protections were first put into place by the Fair Labor Standards Act of 1938, and established the general standard that workers be paid time-and-a-half for any hours worked over 40 hours in a week. In general, all hourly employees are guaranteed overtime, and salaried employees are presumed to have the same guarantee unless they both: (1) make more than a salary threshold set by the Department of Labor, and (2) pass a test demonstrating that they primarily perform executive, administrative, or professional duties. A limited number of occupations are not eligible for overtime pay (including teachers, doctors, and lawyers) or are subject to special provisions.

Tomorrow's rule takes into account input from 270,000 public comments and extensive outreach meetings with employers, business associations, small businesses, workers, worker advocates, non-profit organizations, educational institutions, and state and local government representatives. It will:

- Raise the salary threshold from \$23,660 to \$47,476 a year, or from \$455 to \$913 a week. This doubles the current salary threshold while being responsive to public comments regarding regional variations in income by setting the salary threshold at the 40th percentile of full-time salaried workers in the lowest income Census region (currently the South). Tying the salary threshold to the lowest-wage region of the country has strong historical precedent in previous rulemakings.
- Raise Americans' wages by an estimated \$12 billion over the next 10 years, with an average increase of \$1.2 billion annually. At the same time, employers retain considerable flexibility in how they comply with the new rule, such as increasing salaries to at least the new threshold to keep positions that are primarily executive, administrative, or professional exempt from overtime pay; paying overtime for hours worked in excess of 40 in a week; or reducing overtime hours.
- Extend overtime protections to 4.2 million additional workers who are not currently eligible for overtime under federal law. Others who may already be eligible for overtime will also benefit as the higher salary threshold will serve as a useful bright line test for workers—and their employers—to understand whether they are eligible for overtime. The number of workers in each state who will benefit from the rule can be found [HERE](#).
- Update the salary threshold every three years. The updates will ensure the threshold is maintained at the 40th percentile of full-time salaried workers in the lowest income region of the country. Based on projections of wage growth, the threshold is expected to rise to more than \$51,000 with the first update on January 1, 2020.
- Raise the "highly compensated employee" threshold – from \$100,000 to \$134,004 – above which only a minimal showing is needed to demonstrate an employee is not eligible for overtime. This upper threshold was designed to ease the burden on employers in identifying overtime eligible employees since it is more likely that

workers earning above this high salary level perform the types of job duties that would exempt them from overtime requirements.

- Respond to employers' concerns by making no changes to the "duties test" and allowing bonuses and incentive payments to count toward up to 10 percent of the new salary level. Workers earning more than the salary threshold are still subject to the duties test to determine eligibility for overtime. In their comments to the proposed rule, employers argued that changing the duties test would be difficult and costly to implement, and the final rule leaves the existing duties test in place. Additionally, for the first time, employers will be able to count bonuses and commissions toward as much as 10 percent of the salary threshold. The Department of Labor will also release three technical guidance documents, designed to help private employers, non-profit employers, and institutions of higher education come into compliance with the new rule.