

JOINT STANDING COMMITTEE ON LABOR

March 19, 2025

In Opposition to LD 599

An Act to Codify the Federal Salary Threshold for Overtime Pay

Senator Tipping, Representative Roeder, and dedicated members of the Joint Standing Committee on Labor, my name is David Clough, Maine State Director for NFIB, and I am here today on behalf of **29** groups representing thousands of employers across nearly every sector of Maine’s economy. We respectfully oppose this legislation due its direct and indirect costs affecting both private and public employers of all sizes in Maine. These added costs may affect employees, customers and clients, and taxpayers.

LD 599 resumes debate on the very controversial issue of raising Maine’s overtime salary threshold to a level significantly higher than the current federal level – and significantly higher than the current state level.

LD 599 would set the overtime payment salary threshold at the highest of:

- 3000 times the Maine minimum wage (\$43,951 in 2025);
- \$58,656 (Biden Administration rule blocked by a federal judge in 2024);
- 35th percentile of weekly earnings for full-time salary workers in the lowest-wage census region as calculated by the U.S. Bureau of Labor Statistics, as of July 1, 2027, and every 3 years thereafter; and
- Annualized rate established by the U.S. Department of Labor.

Please note the summary statement in LD 599 mistakenly characterizes the federal overtime salary threshold amount. The federal salary threshold for 2025 is \$35,568 and that threshold is used by nearly every state in the nation.

Maine is one of only six states – Alaska, California, Colorado, Maine, New York, Washington – that set a salary threshold above the federal level.

www.employco.com/PDFs/January2025_1-State-Overtime-Salary-Levels.pdf

Compliance & Process Costs

Raising the overtime payment salary threshold in Maine from \$43,951 to \$58,656 would impose significant new payroll costs on thousands of public and private employers. These employers would also need to determine if salaried employees (executive, administrative, and professional) under that threshold should be reclassified as “nonexempt” and paid time-and-a-half overtime for work that exceeds 40 hours per week. Because salaried employees do not

measure hours worked weekly, employers would have to establish a method for “clocking” the working hours regardless of whether the work was performed in the office or elsewhere.

As explained by the Maine Department of Labor:

Maine state statute recognizes the exemption from overtime for people working in a "bona fide executive, administrative or professional capacity" and requires that employers pay a salary according to the requirements of the Federal Fair Labor Standards Act (FLSA).

Both Maine and federal law use a three-pronged test to determine if an employee is exempt from the overtime provisions of the law. The three prongs of the test are:

1. The employee must be paid on a salary basis. This means an employee regularly receives a predetermined amount of compensation each pay period.
2. The salary must exceed a certain salary threshold. In Maine, as of January 1, 2024, the salary threshold must be at least **\$42,450.20 per year** or **\$816.35 per week**. As of January 1, 2025, the threshold will be **\$43,951 per year** or **\$845.21 per week**.
3. The employee's job duties must meet certain tests. There are slightly different tests for the administrative, professional and executive exemptions.

Keep in mind:

- "Employer" includes not only businesses, but non-profits and governmental entities.
- "Salary" is a method of pay; paying a worker on salary does not mean that a worker is exempt from overtime.

As a first step, employers should review the job duties currently being performed by their employees—not only job titles or job descriptions—who fall into the salary range between the old and new exempt thresholds. Employers who have questions are encouraged to reach out to their employment compliance advisors.

www.maine.gov/labor/labor_laws/overtime/

Win/Lose Compliance Effects

While LD 599 intends to boost the compensation of many employees, workers currently considered salaried or management employees may find their position converted to hourly, as employers would need to keep close track of hours worked to stay within budgetary constraints.

Employees would be under greater pressure to get work done within a 40-hour week or seek authorization to work overtime. This could have the inevitable effect of making some workers appear less productive than others, a situation prompted by a new focus on hours worked versus work accomplishment. And it could have the inevitable effect of a worker being less able to put extra effort into pride of work or taking less time on satisfying a customer. These and other compliance adjustments may create morale issues in the workplace.

Compliance challenges could be especially difficult for newly-covered salaried employees who work remotely, perhaps putting more pressure on employers to not allow these alternative work arrangements. Again, LD 599's pursuit of significantly more overtime compensation – moving from quality of work accomplished to quantity of hours worked – can result in win-win for some but lose-lose for others.

Public, Nonprofit, Small Business Effects

Increasing the cost of employment, as called for in LD 599, will have particular effects on various types of employers.

- The additional payroll expense will put pressure on local government and school budgets.
- Nonprofit employers that rely on patron contributions, for example, or that provide a contracted fee-for-service, may find the added overtime costs difficult to manage – and in some cases impossible to manage, if the nonprofit cannot attract more funding.
- Small businesses, whose size limits flexibility in adjusting to higher costs, may find it even harder to maintain competitiveness with large businesses and multinational corporations.

Maine's overtime salary threshold is already higher than 44 other states. Maine employers are already coping with increased costs and starting in 2026 will be coping with uncertainty regarding the workplace effects of Paid Family & Medical Leave.

We respectfully urge an Ought Not to Pass vote on LD 599.

Thank you for being mindful of our concerns.

ABC Maine
 Associated General Contractors of Maine
 HospitalityMaine
 Maine Association of Insurance Companies
 Maine Automobile Dealers Association
 Maine Auto Recyclers Association
 Maine Better Transportation Association
 Maine Beverage Distributors Association
 Maine Campground Association
 Maine Energy Marketers Association
 Maine Grocers & Food Producers Association
 Maine Forest Products Council
 Maine Hospital Association
 Maine Jobs Council

Maine Motor Transport Association
 Maine Pellet Fuels Association
 Maine State Chamber of Commerce
 Maine Tourism Association
 Manufacturers Association of Maine
 Mid-Maine Chamber of Commerce
 New England Convenience Stores & Energy
 Marketers Association
 NFIB Maine
 Paper Trails
 Portland Regional Chamber of Commerce
 Professional Logging Contractors of the Northeast
 Retail Association of Maine
 Retail Lumber Dealers Association of Maine

Sheridan Construction

Ski Maine Association