

**Testimony in Support of LD 513, “An Act Regarding Overtime Protections for Certain Maine Workers”**

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James Myall, Economic Policy Analyst

Good afternoon Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing. My name is James Myall. I’m an Economic Policy Analyst at the Maine Center for Economic Policy. I’m here today to testify in support of LD 513, “An Act Regarding Overtime Protections for Certain Maine Workers.”

All Mainers deserve to be paid fairly for the work they do. When workers go above and beyond expectations, they should be paid accordingly. However, for too many Maine workers today, earning as little as \$42,000 a year can allow their employer to make them work 50 or 60 hours a week without any extra pay. That was never the intention of federal or state labor laws, and this bill would fix that.

For many decades we had a common definition of a standard workweek in this country that was enshrined in the Fair Labor Standards Act. Eighty-five years ago, this legislation set the foundation of modern labor law, including the definition of the forty-hour workweek as standard, and the right of most workers to receive overtime pay if they worked beyond that.

The FLSA and Maine law still require that almost all hourly workers are eligible for overtime pay, as well as salaried workers who are not in “executive, administrative, or professional” roles. These employees can be defined either by their job responsibilities or by their salary level. In recent decades, the salary level has increasingly become the most important test, as employers have found ways to manipulate the so-called “duties test” to their advantage. It has become too easy for an employer to give an employee a supposed “promotion” which consists of a phony job title and a salary with no additional responsibilities, and make them work more hours without any extra pay. In fact, a recent study found that this practice is widespread, and cheats employees out of billions of dollars in unpaid overtime each year.<sup>1</sup>

LD 513 would address this situation by strengthening the alternative “salary test” for overtime eligibility. Currently, most salaried workers in Maine are eligible for overtime if they earn more than 3,000 times the minimum wage on an annual basis (currently \$41,400). This currently protects 13 percent of salaried workers. As a sign of how much the law has eroded over the past few decades, back in 1977, the salary threshold covered 66 percent of workers.<sup>2</sup>

LD 513 is not so ambitious as to restore the 1977 standard. However, it would increase the number of covered workers to just under one third of salaried workers by 2026, restoring some of the protections lost to workers over the past fifty years.<sup>3</sup> This would build on Maine’s own tradition of having stronger overtime protections than the federal standard, and join five other states which have taken similar steps recently.<sup>4</sup>

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LD 513 recognizes that some nonprofit organizations might struggle to pay their staff overtime at these levels. So it introduces the ability for nonprofit organizations to offer their workers compensatory time in lieu of overtime pay. This would allow nonprofits that have busy seasons to balance out their staff schedules and offer additional paid time off in slower periods.

MECEP estimates that approximately 26,000 more workers in the for-profit sector would be overtime-eligible by 2026 under LD 513, along with 6,000 nonprofit workers. (Public sector workers in local governments are not covered by Maine's overtime statute). However, most of these workers do not actually work more than 40 hours a week. We estimate around 8,600 people would receive additional pay each year, and 1,000 people would receive additional compensatory time. This amounts to \$8.4 million in additional wages.<sup>5</sup> That's a meaningful amount for these individuals – but to put it into perspective, that represents much less than one tenth of one percent of all payroll costs in the state.<sup>6</sup> It should be easily absorbable by employers.

Neither is the administrative burden for employers particularly great. Employers would simply have to record hours worked whenever eligible salaried workers exceed forty hours a week. Most employers already have some nonexempt salaried or hourly staff, and every major payroll system is already equipped to handle overtime pay. There are many ways for employers to comply with this bill with minimal impact.

Ensuring that workers are paid fairly for the full amount of hours they work will improve their economic security and help families make ends meet in an era of rising costs. It will also counter the temptation that some employers may feel to squeeze additional hours out of their salaried workers in this strong labor market.

LD 513 would begin to restore a fundamental right that Mainers took for granted for most of the 20<sup>th</sup> century – a forty hour work week with overtime pay for overtime worked.

Thank you for your time. I'm happy to answer any questions.

## Notes

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<sup>1</sup> Laura Cohen, Umit Gurun and Bugra Ozel, "Too Many Managers: The Strategic Use of Titles to Avoid Overtime Payments." National Bureau of Economic Research. Working Paper 30826. Jan 2023.

<https://www.nber.org/papers/w30826>

<sup>2</sup> MECEP calculation based on US Census Bureau, Current Population Survey, Annual Social and Economic Supplement, 1977-2022 data via the Integrated Public Use Microdata System (IPUMS).

<sup>3</sup> MECEP calculations based on US Census Bureau, Current Population Survey, Annual Social and Economic Supplement, 2008-2022 microdata.

<sup>4</sup> Alaska, California, Colorado, New York and Washington all have overtime salary thresholds above the federal level.

<sup>5</sup> Ibid.

<sup>6</sup> US Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2022. Annual payroll for Maine employees in 2022 was over \$33 billion.