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Testimony of Assistant House Majority Leader Rachel Talbot Ross sponsoring
**LD 607, An Act To Restore Overtime Protections for Maine
Workers**

Before the Joint Standing Committee on Labor and Housing

Senator Hickman, Representative Sylvester and honorable members of the Labor and Housing Committee, my name is Rachel Talbot Ross. I represent House District 40, which comprises the Portland neighborhoods of Parkside, Bayside, East Bayside, Oakdale and the University of Southern Maine campus. Thank you for the opportunity to come before you today to present **LD 607, An Act To Restore Overtime Protections for Maine Workers**.

Working-class Mainers deserve to be paid overtime when they work longer hours. For thousands of lower-income Mainers, however, this is not the case.

Nearly all hourly workers are guaranteed overtime pay when they work more than 40 hours a week. Overtime protections also apply to lower-income salaried workers. In fact, workers are only exempt from overtime requirements if they meet three tests as required by federal and state law:

- They must be salaried;
- They must be paid more than the salary threshold, which I will speak to in a moment; and,
- They must be employed in an executive, administrative, or professional occupation.

Over the past few decades, the salary threshold has not kept up with inflation. That threshold is currently \$35,500 federally and \$36,450 in Maine. This means only 20% of Maine's salaried workers are eligible for overtime protections. Compare that to 1977, when the salary threshold of \$250 per week was enough to allow 66% of Maine's salaried workers to claim overtime.

These Mainers need and deserve overtime protections just as much today as they did in 1977. LD 607 would restore overtime protections to these workers by increasing the salary threshold to a more reasonable level.

Today I am proposing an amendment that reflects the work this committee did on a similar proposal last year before the Legislature unexpectedly adjourned due to the COVID-19

pandemic. The proposed amendment, which I have attached to this testimony, would change the schedule of increases to the overtime threshold slightly while also amending other provisions of state law with similar thresholds for consistency. As you will see, the amendment raises the salary threshold incrementally between now and Jan. 1, 2024.

What would these changes mean to Maine's workforce? Once fully phased in, LD 607 with this proposed amendment would give an additional 28,000 Mainers access to overtime protections. Of this group, many either do not work overtime or already receive overtime pay, but roughly 9,500 workers would receive overtime pay for extra hours worked that they are not receiving today. That would mean an estimated \$8.8 million in additional salary or overtime pay for working class Maine families.

This is an impressive number that has the potential to make a real difference for these workers. But I also want to be clear that this would not be an unfair burden on employers. The changes impact a relatively small number of employees and would cost less than one-tenth of 1% of overall private sector payrolls in Maine. Businesses who prefer not to pay their protected employees overtime have the choice of either better managing their employees hours and workloads or increasing salaries to make workers exempt.

You may hear several concerns today that I would like to address. The first is the idea that this change would force employers to reclassify employees. There is no basis for this. Because salaried workers can be eligible for overtime protections, there is no reason to change a worker's pay status because they qualify for overtime. Similarly, there would be no need to change an employee's job title or benefits.

Another potential concern is whether this would have a negative impact on our nonprofit community. According to the Maine Association of Nonprofits' 2020 compensation survey, the average salary for an executive director at even the smallest Maine nonprofits is already \$58,000 a year. At that salary, they would not be affected by LD 607.

Here is the bottom line: Being salaried should not mean you have to work long hours without compensation. Hardworking Mainers deserve to be paid fairly for the extra hours they put in, regardless of whether they are salaried or hourly workers.

Thank you for your consideration. James Myall of the Maine Center for Economic Policy, who has worked closely with me on this measure, is here to testify today and can answer questions of a more technical nature. I would be happy to answer any questions you may have for me.

Proposed amendment to LD 607
Presented by Rep. Rachel Talbot Ross

Sec. 1. 26 MRSA §663, sub-§3, ¶K, as amended by PL 2009, c. 529, §2, is further amended to read:

K. A salaried employee who works in a bona fide executive, administrative or professional capacity and whose regular compensation, when converted to an annual rate, meets or exceeds 3000 times the State's minimum hourly wage or the rate established in this paragraph or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher;

(1) Until December 31, 2021, the rate is 3,000 times the state minimum wage

(2) Beginning January 1, 2022 until December 31, 2022, the rate is 3,500 times the state minimum wage

(3) Beginning January 1, 2023 until December 31, 2023, the rate is 4,000 times the state minimum wage; and

(4) Beginning January 1, 2024, the rate is 4,500 times the state minimum wage; and

Sec 2. 26 MRSA §663, sub-§12, as enacted by PL 2007 c. 360 §2, is amended to read:

12. Automobile mechanic. "Automobile mechanic" means a person who is primarily engaged in the servicing of automobiles or trucks as an employee of an establishment primarily engaged in the business of selling automobiles or trucks to the ultimate purchaser, as long as the person's annual compensation meets or exceeds 3,000 times the state minimum hourly wage the rate established in section 3, paragraph K or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher, except when the employee is paid by the employer on an hourly basis.

Sec 3. 26 MRSA §663, sub-§13, as enacted by PL 2007 c. 360 §3, is amended to read:

13. Automobile parts clerk. "Automobile parts clerk" means a person employed for the purpose of and primarily engaged in requisitioning, stocking and dispensing automobile parts as an employee of an establishment primarily engaged in the business of selling automobiles or trucks to the ultimate purchaser, as long as the person's annual compensation meets or exceeds 3,000 times the state minimum hourly wage the rate established in section 3, paragraph K or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher, except when the employee is paid by the employer on an hourly basis

Sec 4. 26 MRSA §663, sub-§14, as enacted by PL 2007 c. 360 §4, is amended to read:

14. Automobile service writer. "Automobile service writer" means a person employed for the purpose of and primarily engaged in receiving, analyzing and referencing requests for service, repair or analysis of motor vehicles as an employee of an establishment primarily engaged in the business of selling automobiles or trucks to the ultimate purchaser, as long as the person's annual compensation meets or exceeds 3,000 times the state minimum hourly wage the rate established

in section 3, paragraph K, or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher, except that "automobile service writer" does not include an employee who is paid by the employer on a hourly basis.

Sec 5. 26 MRSA §603, sub-§3, ¶E, as amended by PL 2007, c. 640, §1, is further amended to read:

E. A salaried employee who works in a bona fide executive capacity and whose regular compensation, when converted to an annual rate, meets or exceeds 3000 times the State's minimum hourly wage the rate established in this paragraph or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher;

(1) Until December 31, 2021, the rate is 3,000 times the state minimum wage

(2) Beginning January 1, 2022 until December 31, 2022, the rate is 3,500 times the state minimum wage

(3) Beginning January 1, 2023 until December 31, 2023, the rate is 4,000 times the state minimum wage; and

(4) Beginning January 1, 2024, the rate is 4,500 times the state minimum wage;