Reform is needed to ensure that working people in New Jersey receive the overtime pay they have earned

When first created, overtime pay rules were intended to ensure that most workers who put in more than 40 hours a week would be paid for the extra hours they work. The rules were meant to protect workers who have modest earnings and who lack sufficient bargaining power with their employers to enforce their own rights. But over time the share of workers eligible for these legal protections has declined dramatically. The pay threshold that determines which salaried workers are automatically eligible for overtime pay has been so eroded by inflation that, at $23,660, it is now lower than the poverty rate for a family of four. While in 1975 more than 60 percent of salaried workers nationally fell below the threshold, today less than 7 percent do.

A Texas district court has blocked the U.S. Department of Labor's implementation and enforcement of a new federal rule raising the salary threshold from $23,660 per year to $47,476 per year. The Trump administration is appealing the court's decision but is almost certain to propose that any new rule have a much lower threshold, likely in the low $30,000s. New Jersey policymakers can restore this critical protection by amending state regulation to raise the salary threshold to $59,124 in the Garden State.

The current federal OT salary threshold of $23,660 is way too low and fails to protect the workers it was intended to protect

A salary threshold at this level means workers earning as little as $23,660 annually can be classified as "executives" or "professionals" and denied their time-and-a-half pay—indeed, they can be denied *any* pay for the extra hours they work beyond 40 hours in a week. Currently only 8.3 percent of the full-time salaried workforce in New Jersey have annual earnings that fall below the threshold. It seems unlikely that all those in the remaining 91.7 percent of full-time salaried workers earn enough and have enough responsibility and bargaining power that it is okay for their employers to make them work late into the night or on weekends without paying them extra for it.

The proposed state threshold of $59,124 more closely tracks a level of salary that would reasonably be paid to a managerial, administrative, or professional worker today

An annual salary of $59,124 is equivalent to the 40th percentile earnings of full-time salaried workers in the Northeast region of the United States. This new threshold would mean that the share of salaried workers benefiting from overtime protections would rise from 8.3 percent to about 30 percent This is a significant but still conservative boost to the salary threshold. While historical estimates at the state level are unavailable, we do know that in 1975—the last time the federal overtime salary threshold was fully adjusted for inflation—more than 60 percent of full-time salaried workers nationwide fell below the threshold and were therefore eligible for overtime.

Raising the threshold to $59,124 would benefit 622,000 workers, or 30 percent of the state's salaried workforce

Many of these workers would be newly eligible for overtime protections; they are classified (perhaps wrongly) as having job duties that put them in the white collar exemption category, but since their pay falls between the old threshold and the proposed new threshold, they would get overtime protection by virtue of their salary alone. The rest would have their rights strengthened: they were already eligible for overtime because they don't have white collar duties, and because they make less than $23,660 their employers cannot reclassify them as “exempt” simply by changing their described duties.

Workers would benefit from fairer pay

Currently, an assistant manager at a fast-food restaurant making as little as $23,660 a year can be forced to work 60–70 hours a week for no more pay than if he or she worked 40 hours. The extra 20–30 hours are completely free to the employer, so the employer can schedule the additional hours without restraint. Under the proposed update, affected workers who work more than 40 hours a week would likely get more money, either through overtime pay or through increased salaries to meet the new threshold.

Families would benefit from better work–life balance

Under the updated rule, employers would no longer be able to schedule affected workers for extra hours with no pay, unless they raise the workers’ pay to the new salary threshold. As a result, it is likely that newly overtime-eligible workers will work fewer overtime hours—hours that they *had* been working for free. This will effectively ensure more time away from work to handle family responsibilities or engage in other pursuits.

Raising the overtime threshold could also create jobs

By reducing overwork, raising the overtime threshold could expand employment. Under the rule, some employers might choose to hire new workers to cover the hours that the newly overtime-eligible workers had been working without pay.

Raising the overtime threshold won’t require employers to adopt new compliance systems

Nearly all employers already have systems and policies in place for ensuring compliance with overtime rules. Newly overtime-protected employees would simply be covered by these same systems and policies.

Sources: For background, see Celine McNicholas, Samantha Sanders, and Heidi Shierholz, *What’s at Stake in the States If the 2016 Federal Raise to the Overtime Pay Threshold Is Not Preserved—and What States Can Do about It*, Economic Analysis and Research Network (EARN) and the Economic Policy Institute (EPI), November 2017. For census region data, see “Research Series on Deciles of Usual Weekly Earnings of Nonhourly Full-time Workers from the Current Population Survey,” from the U.S. Bureau of Labor Statistics. For state data, see the tables in Celine McNicholas, Samantha Sanders, and Heidi Shierholz, *Specific Policy and Legislative Guidance for Updating State Overtime Protections*, Economic Analysis and Research Network (EARN) and the Economic Policy Institute (EPI), November 2017.