



Requested Action:

Ask your Representative and Senators to encourage DOL to withdraw its proposed overtime regulation.

Background:

On July 9, the U.S. Department of Labor (DOL) proposed increasing the minimum salary to qualify as an exempt employee from the current \$455 per week (or \$23,660 per year) to \$970 per week (\$50,440 per year) next year, an unprecedented increase of more than 100%.

In addition, for the first time ever, the DOL is proposing to index the salary test for all exemptions annually based on percentiles of earnings or changes in inflation. This significant change would require employers to review their classification of exempt employees annually to ensure compliance with the salary test.

DOL has not proposed any regulatory changes to the duties tests, which require employees to perform certain primary duties to qualify for an overtime exemption. However, DOL is seeking feedback on whether these duties tests should be revised.

Talking Points:

- This proposed rule, combined with recent state increases in minimum wages and other new regulatory compliance cost, will force the businesses to lay off employees or decrease their pay.
- DOL's proposal greatly underestimates the costs associated with rule compliance. DOL's cost estimate of \$34.19 per employee to make the applicable adjustments, including determining an employee's exemption status, notifying employees of policy changes, and updating payroll systems is actually much closer to \$52.00 to \$68.00 per employee, according to an NALP survey of its membership. Similarly, the survey found that DOL underestimates the time spent by management scheduling and monitoring each affected employee.
- Many managers and supervisors would lose the schedule flexibility that they currently enjoy if there are forced to rigidly catalogue their hours worked each week.
- Any increases in exempt-status levels should be phased in with at least a year notice before implementation, since businesses cannot absorb the very real and significant costs with little notice.
- The proposed rule does not take into account regional differences in labor markets and the cost of living.
- The automatic annual updates to the salary requirements do not appropriately account for significant fluctuations in the economy.
- In the proposed rule, DOL suggests that it may change the primary duties test without an opportunity for the public to comment on a specific and transparent regulatory proposal.