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Congress should get to work on overtime

By Will Marshall and Cody Tucker

After a long stretch of economic stagnation, the stars may be aligning at last for America's hard-pressed middle class. The U.S. economy's growing strength, plus a push in Washington to update overtime rules, could combine to boost incomes and give working families a long overdue raise.

New government figures show that the Obama recovery is finally reaching average Americans. Median household income rose by five percent in 2015, the biggest single-year spike since 1967. Families at all income levels made progress, with the bottom 10 percent reaping the largest gains. Rising incomes lifted 3.5 million people, including one million children, out of poverty and modestly reduced inequality.

Reinforcing the good economic news is a move in Washington to ensure that millions of low-paid white-collar workers can once again qualify for overtime pay. The question is whether it will fall victim to partisan deadlock.

On the merits, few doubt the need to modernize overtime rules. The salary threshold for determining which workers are automatically eligible for overtime pay has been stuck at \$23,660 since 2004. (Workers who make more than the threshold can still qualify for overtime if they have mostly menial duties.) Even with that adjustment, however, inflation has pushed many workers over the threshold, drastically shrinking the share of workers who automatically qualify for overtime from around half in 1975 to under 10% today.

Even as many have lost the opportunity to earn time-and-a-half, low salaried workers have been hit especially hard by anemic wage growth since 2000. Yet raising the overtime threshold is just one of many urgent items – along with filling a key Supreme Court vacancy, funding efforts to contain the Zika virus, and fixing a broken corporate tax code – the Republican-led Congress has declined to take up.

Faced with an inert Congress, the Obama administration, as it has often done, decided to bypass lawmakers and take executive action on overtime. Last May, the Department of Labor unveiled new rules that would more than double the salary threshold, to \$47,476, effective this December, and index future hikes to inflation.

GOP Congressional leaders cried foul, accusing the White House of again usurping their Constitutional powers by legislating through regulation. Their complaints have failed to stir

much public outrage, probably because of their party's well-earned reputation for blind obstructionism.

Republicans also raised substantive objections to the rule, saying it raises the threshold by too much, too soon, and predicting it would lead companies to cut back workers' hours. Forty-four GOP Senators have **signed onto a motion** to roll back the rule, but they probably don't have the votes to override a presidential veto.

Enter a group of pragmatic Democrats with a compromise aimed at protecting the interests of both workers and employers. Rep. Kurt Schrader (D-Ore.) has **introduced a bill** that would enshrine the high salary threshold in law – rather than a regulation a future Republican President could reverse – while giving businesses more time to make the difficult internal adjustments the overtime change requires. It's also backed by Reps. Jim Cooper of Tennessee, Collin Peterson of Minnesota, Gwen Graham of Florida and Henry Cuellar of Texas.

The existing overtime threshold is “horribly outdated” and must be raised, **Schrader says**. But he also warns that forcing businesses to raise the threshold by more than 100 percent by Dec. 1 could impose heavy burdens on employers in lower cost-of-living areas where salaries are often lower, such as small businesses, non-profits and universities, as well as state and local governments. “Without sufficient time to plan for the increase, cuts and demotions will become inevitable,” he said.

His bill would raise the threshold by more than 50 percent by Dec. 1 and phase in the rest of the increase over three years. Although it has drawn fire from impatient liberals, this approach sensibly gives smaller enterprises time to absorb higher labor costs, promising both less workplace disruption and better buy in from employers.

His proposal would also void the DOL rule that automatically increases the salary threshold every three years to account for inflation. This is a closer call, but ultimately it's a policy question that's best left to lawmakers. As with any new law, Congress should monitor its implementation, hear from stakeholders and make adjustments as necessary. Trying to manage labor policy through bureaucratic fiat is less flexible; leading, for example, to the possibility of automatic hikes in the salary threshold in the midst of the next recession.

What Schrader's impatient **liberal detractors** miss is that his bill, which has attracted strong support among employers, creates an opportunity to put Congressional Republicans on the spot by dealing with their objections. If enough of them don't support it, they will reap the worst of both worlds – confirming in the midst of a national election that their party really doesn't want to give working Americans a pay raise and having to swallow the more rigid DOL rules to boot.

Despite rumblings in the White House about a possible veto, Schrader's compromise also deserves President Obama's support. It's a win-win for workers and employers – and for progressives who understand that enlightened labor policies work best when they are grounded in a real-world understanding of how labor markets work.

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