

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

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WASHINGTON, D.C. 20062-2000
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March 30, 2016

The Honorable Lamar Alexander
Chairman
Committee on Health, Education,
Labor, and Pensions
United States Senate
Washington, DC 20510

The Honorable Tim Scott
United States Senate
Washington, DC 20510

The Honorable John Kline
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

The Honorable Tim Walberg
Chairman
Subcommittee on Workforce Protections
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Alexander, Kline, and Walberg and Senator Scott:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, applauds your introduction of the "Protecting Workplace Advancement and Opportunity Act," which would stop the Department of Labor's (DOL) misguided proposed overtime regulation from going forward and require DOL to conduct more complete analyses on its impacts before issuing a new rule.

DOL's proposed overtime regulation is now pending at the Office of Management and Budget for review. Many employers and employees, including those in the private sector, the non-profit sector, and state and local governments, will be adversely affected by the Department's proposal should it be finalized. Specifically, the proposed rule would more than double the current minimum salary threshold, making virtually all employees who earn salaries below that threshold eligible for overtime pay as set by the Fair Labor Standards Act.

While there may be a need to adjust the salary threshold, the magnitude of the proposed rule's updated minimum salary threshold is unnecessarily onerous. The proposal's 113% increase would threaten currently exempt employees' workplace flexibility and opportunity by forcing employers to reclassify them to nonexempt status under the new threshold—essentially amounting to a demotion as millions are moved from salaried to hourly and begin punching a time clock. Overtime eligibility does not guarantee employees actually receive overtime, as employers can, and many would, limit work schedules to 40 hours or fewer in a week. In

addition to the added labor costs, the proposal would also result in added costs for employers more closely monitoring employees' time, and updating their human resource systems.

After blocking the current proposal from being implemented, this bill would require DOL to conduct a more complete economic analysis of the impact on businesses of all sizes, non-profit employers, healthcare providers, and small governmental jurisdictions before promulgating a new rule. DOL relied upon flawed economic data, ignored many differentiating geographic and market factors, and severely underestimated the impacts of this rule. This bill would require DOL to more accurately assess the impact of any similarly proposed rule on a variety of these essential metrics, regions, and employers not previously considered.

Finally, this bill would also, importantly, prohibit any future rule from including automatic updates to the salary threshold as was proposed by this rule. The proposed automatic update mechanism would deprive employers of notice and comment rulemaking, and would ensure that future increases would take effect during difficult economic periods—exactly the worst time to raise labor costs.

DOL's proposed rule redefining the exemptions from overtime compensation would threaten workplace opportunity and the economy. The Chamber thanks you for introducing the "Protecting Workplace Advancement and Opportunity Act" and looks forward to working with you on this important bill.

Sincerely,



R. Bruce Josten