



PARTNERSHIP TO PROTECT WORKPLACE OPPORTUNITY

April 18, 2016

Dear Representative:

On behalf of the Partnership to Protect Workplace Opportunity (the Partnership) and the undersigned 340 local and national organizations representing small and large businesses, nonprofits, institutions of higher education, schools, cities and counties, we write to ask that you cosponsor H.R. 4773, the *Protecting Workplace Advancement and Opportunity Act*. This important and reasonable legislation would require the U.S. Department of Labor to perform a detailed impact analysis prior to implementing changes to the exemptions for executive, administrative, and professional employees (the “white collar exemptions”) under the Fair Labor Standard Act’s overtime pay requirements.

The Partnership consists of a diverse group of associations, representing employers with millions of employees across the country in almost every industry (see <http://protectingopportunity.org>). The Partnership’s members believe that employees and employers alike are best served with a system that promotes maximum flexibility in structuring employee hours, career advancement opportunities for employees, and clarity for employers when classifying employees.

Currently, under the Fair Labor Standards Act (FLSA) regulations, a person must satisfy three criteria to qualify as exempt from federal overtime pay requirements: first, they must be paid on a salaried basis; second, that salary must be more than \$455/week (\$23,660 annually); and third, their “primary duties” must be consistent with managerial, professional or administrative positions as defined by the Department of Labor (DOL).

On June 30, 2015, DOL proposed increasing the salary threshold to \$50,440 per year, a 113% increase that would occur all at once in 2016, and in all areas of the country regardless of significant regional economic differences. The Department also proposed automatically increasing the salary threshold on an annual basis. While DOL did not offer a specific proposal to modify the standard duties tests, the Department suggested it is considering adding an unworkable requirement to quantify how much time employees spend performing their primary duties.

While an increase to the salary threshold is due, DOL’s proposed rule has been met with widespread opposition from small and large businesses, nonprofits, local governments, academic institutions, and President Obama’s own Small Business Administration Office of Advocacy – all of which have asked the Labor Department to examine more closely the impact of the drastic and immediate increase and consider less harmful alternatives. The Secretary of Labor has responded to questions posed by Members of Congress about these concerns by stating that the Department met with these stakeholders and heard their concerns prior to issuing the rule; however, the proposed salary threshold clearly does not reflect that input. Based on these statements and others made by Department officials, it is clear the Secretary is not willing to reconsider the rule in a meaningful way without Congressional action.

H.R. 4773, the *Protecting Workplace Advancement and Opportunity Act*, would block the current proposed regulation from taking effect and require the Department of Labor to perform a deeper analysis on the impact of the proposed changes on small businesses, nonprofits, regional economies, local governments, Medicare and Medicaid dependent health care providers, and academic institutions, as well as employee flexibility and career advancement before proceeding with a new rule.

The *Protecting Workplace Advancement and Opportunity Act* is consistent with comments submitted by the Small Business Administration's Office of Advocacy, which noted that DOL's economic analysis severely underestimated the impact the proposed rule would have on small businesses, nonprofits, and small governmental jurisdictions. The comments also criticized the Department's analysis for not considering the impact the proposal would have on various regions of the country with different costs of living.

The bill does not prevent an increase in the salary threshold; it merely requires the Department of Labor to more closely examine the impact of possible changes before proceeding with a final rule. Accordingly, we urge you to cosponsor H.R. 4773, the *Protecting Workplace Advancement and Opportunity Act*.

Sincerely,

The Partnership to Protect Workplace Opportunity and the following organizations:

National Organizations

ACPA-College Student Educators International
Aeronautical Repair Station Association
Agricultural Retailers Association
American Apparel & Footwear Association
American Association of Advertising Agencies (4A's)
American Association of Collegiate Registrars and Admissions Officers
American Bakers Association
American Bankers Association
American Car Rental Association
American Concrete Pressure Pipe Association
American Council of Engineering Companies
American Frozen Food Institute
American Hotel & Lodging Association
American Institute of CPAs
American Insurance Association
American Moving & Storage Association
American Rental Association
American Society of Association Executives
American Society of Travel Agents
American Staffing Association
American Subcontractors Association, Inc.
American Supply Association
American Veterinary Distributors Association (AVDA)
AmericanHort
Argentum (formerly the Assisted Living Federation of America)
Asian American Hotel Owners Association

Associated Builders and Contractors
Associated Equipment Distributors
Association for Student Conduct Administration
Associated General Contractors
Association of American Veterinary Medical Colleges
Association of College and University Housing Officers-International
Association of School Business Officials International (ASBO)
Auto Care Association
Blue Roof Franchisee Association
Building Service Contractors Association International (BSCAI)
CAWA – Representing the Automotive Parts Industry
Coalition of Franchisee Associations
College and University Professional Association for Human Resources
Consumer Technology Association
Convenience Distribution Association
Door Security and Safety Professionals
Electronic Transactions Association
Equipment Dealers Association (formerly the North American Equipment Dealers Association)
Financial Services Institute
Food Marketing Institute
Franchise Business Services
Gases and Welding Distributors Association
Global Cold Chain Alliance
Heating, Air-conditioning & Refrigeration Distributors International (HARDI)
HR Policy Association
INDA, Association of the Nonwoven Fabrics Industry
Independent Electrical Contractors
Independent Insurance Agents & Brokers of America
Independent Office Products and Furniture Dealers Association
Information Technology Alliance for Public Sector
International Association of Amusement Parks & Attractions
International Association of Refrigerated Warehouses
International Bottled Water Association
International Dairy Foods Association
International Foodservice Distributors Association
International Franchise Association
International Public Management Association for Human Resources
International Warehouse Logistics Association
IPC Association Connecting Electronics Industries
ISSA, the Worldwide Cleaning Industry Association
Metals Service Center Institute
Motor & Equipment Manufacturers Association
NAHAD – The Association for Hose & Accessories Distribution
NASPA – Student Affairs Administrators in Higher Education
National Apartment Association
National Association of Chemical Distributors
National Association of College and University Business Officers
National Association of College Stores
National Association of Convenience Stores
National Association of Development Organizations

National Association of Electrical Distributors
National Association of Home Builders
National Association of Landscape Professionals
National Association of Manufacturers
National Association of Mutual Insurance Companies
National Association of Professional Insurance Agents
National Association of Sporting Goods Wholesalers
National Association of Wholesaler-Distributors
National Beer Wholesalers Association
National Christmas Tree Association
National Club Association
National Council of Chain Restaurants
National Council of Farmer Cooperatives
National Fastener Distributors Association
National Federation of Independent Business
National Franchisee Association
National Grocers Association
National Insulation Association
National Lumber and Building Material Dealers Association
National Marine Distributors Association
National Multifamily Housing Council
National Newspaper Association
National Office Products Alliance
National Pest Management Association
National Public Employer Labor Relations Association
National Ready Mixed Concrete Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
National RV Dealers Association
National School Transportation Association
National Small Business Association
National Tooling and Machining Association
NATSO, Representing America's Travel Plazas and Truckstops
Newspaper Association of America
NIRSA: Leaders in Collegiate Recreation
North American Die Casting Association
NPES The Association for Suppliers of Printing, Publishing and Converting Technologies
Office Furniture Dealers Alliance
Outdoor Power Equipment and Engine Service Association
Pet Industry Distributors Association
Precision Machined Products Association
Precision Metalforming Association
Promotional Products Association International
Retail Industry Leaders Association
Secondary Materials and Recycled Textiles Association (SMART)
Selected Independent Funeral Homes
Service Station Dealers of America and Allied Trades
Small Business & Entrepreneurship Council
SNAC International

Society for Human Resource Management
Society of American Florists
Society of Independent Gasoline Marketers of America
SPI: The Plastics Industry Trade Association
Textile Care Allied Trades Association
Textile Rental Services Association
The Latino Coalition
Tire Industry Association
Truck Renting and Leasing Association
U.S. Chamber of Commerce
Water & Sewer Distributors of America
Wine & Spirits Wholesalers of America
WorldatWork

Regional, State, and Local Organizations

Alabama Chapter (CUPA-HR)
Alabama Restaurant & Hospitality Alliance
Alabama SHRM State Council
Alaska Hotel & Lodging Association
Alaska SHRM State Council
Alliance of Automotive Service Providers of Pennsylvania
American Society of Employers
Arizona Lodging & Tourism Association
Arizona SHRM State Council
Arkansas Hospitality Association
Arkansas SHRM State Council
Associated Builders & Contractors, Rocky Mountain Chapter
Associated Builders and Contractors - Virginia Chapter
Associated Builders and Contractors Heart of America Chapter
Associated Oregon Industries
Automotive Aftermarket Association of the Carolinas and Tennessee, Inc
Automotive Aftermarket Association Southeast
Automotive Parts & Services Association-Texas
Building Industry Association of Washington
California Hotel & Lodging Association
California Retailers Association
California State Council of SHRM
California, Nevada, Arizona Automotive Wholesalers Association
Capital Associated Industries (NC)
Carolinas Food Industry Council
Chesapeake Automotive Business Association
Colorado Hotel & Lodging Association
Colorado Retail Council
Colorado SHRM State Council
Connecticut Lodging Association
Connecticut Retail Merchants Association
Connecticut SHRM State Council
Delaware SHRM State Council, Inc.
Employers Coalition of North Carolina
Far West Equipment Dealers Association

Florida Building Material Association
Florida Chapter (CUPA-HR)
Florida Restaurant & Lodging Association
Florida Retail Federation
Garden State Council SHRM, Inc.
Georgia Hotel & Lodging Association
Georgia Retail Association
Georgia SHRM State Council
Hawaii Lodging & Tourism Association
Hotel Association of New York City, Inc.
Hotel Association of Washington DC
HR Florida SHRM State Council, Inc.
HR State Council of New Hampshire
Idaho Retailers Association, Inc.
Idaho SHRM State Council
Illinois Chapter (CUPA-HR)
Illinois Hotel & Lodging Association
Illinois Retail Merchants Association
Illinois SHRM State Council
Indiana Restaurant & Lodging Association
Indiana Retail Council, Inc.
Indiana SHRM State Council
Iowa Retail Federation
Iowa SHRM State Council
Kansas Chapter (CUPA-HR)
Kansas State Council of SHRM, Inc.
Kentucky Chapter (CUPA-HR)
Kentucky Retail Federation, Inc.
Kentucky SHRM State Council
Kentucky-Indiana Automotive Wholesalers Association
Louisiana Hotel & Lodging Association
Louisiana Retailers Association
Louisiana SHRM State Council
Maine Innkeepers Association
Maine SHRM State Council
Manufacturer & Business Association
Maryland Association of CPAs
Maryland Chapter (CUPA-HR)
Maryland Hotel & Lodging Association
Maryland Retailers Association
Maryland SHRM State Council
Massachusetts Lodging Association
Massachusetts State Council of SHRM
Michigan Chapter (CUPA-HR)
Michigan Lodging and Tourism Association
Michigan Retailers Association
Michigan SHRM State Council
Midwest Automotive Parts & Service Association
Minnesota Chapter (CUPA-HR)
Minnesota Grocers Association

Minnesota Lodging Association
Minnesota Retailers Association
Minnesota SHRM State Council
Mississippi State Council of SHRM
Missouri Retailers Association
Missouri State Council of SHRM, Inc.
Missouri Tire Industry Association
Montana Chamber of Commerce
Montana Equipment Dealers Association
Montana Lodging & Hospitality Association
Montana Restaurant Association
Montana Retail Association
Montana SHRM State Council
Montana Tire Dealers Association
Nebraska Chamber of Commerce & Industry
Nebraska Hotel & Motel Association
Nebraska Retail Federation
Nebraska SHRM State Council
Nevada Chapter of (CUPA-HR)
Nevada Hotel & Lodging Association
Nevada SHRM State Council
New England Tire & Service Association
New Hampshire Lodging & Restaurant Association
New Hampshire Retail Association
New Jersey Chapter (CUPA-HR)
New Jersey Gasoline, C-Store, Automotive Association
New Jersey Hotel & Lodging Association
New Jersey Retail Merchants Association
New Mexico Retail Association
New Mexico SHRM State Council
New York Metro Chapter (CUPA-HR)
New York State Association of Service Stations and Repair Shops, Inc.
New York State Hospitality & Tourism Association
New York State SHRM, Inc.
North Carolina Chapter (CUPA-HR)
North Carolina Restaurant & Lodging Association
North Carolina Retail Merchants Association
North Carolina SHRM State Council
North Dakota SHRM State Council
Northeastern Retail Lumber Association
Ohio Chapter (CUPA-HR)
Ohio Council of Retail Merchants
Ohio Equipment Distributors Association
Ohio Hotel & Lodging Association
Ohio SHRM State Council
Oklahoma Hotel & Lodging Association
Oklahoma Retail Merchants Association
Oklahoma SHRM State Council
Oregon Restaurant & Lodging Association
Oregon Retail Council

Oregon SHRM State Council
Pelican Chapter, Associated Builders and Contractors, Inc.
Pennsylvania Association of Automotive Trades
Pennsylvania Food Merchants Association
Pennsylvania Institute of Certified Public Accountants
Pennsylvania Restaurant & Lodging Association
Pennsylvania Retailers Association
Pennsylvania SHRM State Council
Public Employer Labor Relations Association of California
Public Employer Labor Relations Association of Maryland
Public Employer Labor Relations Association of Ohio
Retail Association of Maine
Retail Association of Nevada
Retail Council of New York State
Retailers Association of Massachusetts
Rhode Island Hospitality Association
Rhode Island Retail Federation
Rhode Island SHRM State Chapter
SHRM Hawaii State Council
SHRM Pacific Council
Rocky Mountain Chapter (CUPA-HR)
South Carolina Chapter (CUPA-HR)
South Carolina Restaurant & Lodging Association
South Carolina Retail Association c/o NCRMA
South Carolina SHRM State Council
South Dakota CPA Society
South Dakota Retailers Association
South Dakota SHRM State Council
Southwest Car Wash Association
Southwestern Pennsylvania Chapter (CUPA-HR)
Tennessee Hospitality & Tourism Association
Tennessee SHRM State Council
Texas Hotel & Lodging Association
Texas Independent Automotive Association
Texas Retailers Association
Texas SHRM State Council
Texas Tire Dealers Association
United Equipment Dealers Association
Utah Chapter (CUPA-HR)
Utah Food Industry Association
Utah Hotel & Lodging Association
Utah Human Resource State Council
Utah Retail Merchants Association
Vermont Chamber of Commerce
Vermont Retail & Grocers Association
Vermont SHRM State Council
Virginia Hospitality & Travel Association
Virginia Retail Merchants Association
Virginia SHRM State Council
Washington Lodging Association

Washington Maryland Delaware Service Station and Automotive Repair Association
Washington Retail Association
Washington State Chapter (CUPA-HR)
Washington State Human Resources Council
West Virginia Chapter (CUPA-HR)
West Virginia Hospitality & Travel Association
West Virginia Retailers Association
West Virginia SHRM State Council
Western Equipment Dealers Association
Western Suppliers Association
Wholesalers Association of the North East, Inc.
Wisconsin Hotel & Lodging Association
Wisconsin Manufacturers and Commerce
Wisconsin SHRM State Council
Wyoming Lodging & Restaurant Association
Wyoming SHRM State Council