



# PARTNERSHIP TO PROTECT WORKPLACE OPPORTUNITY

April 18, 2016

Dear Senator:

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 S. 2707, 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.

S. 2707, 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 S. 2707, 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