



PARTNERSHIP TO PROTECT
WORKPLACE OPPORTUNITY

June 9, 2016

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

Ranking Member Bobby Scott
Committee on Education and the
Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Kline and Ranking Member Scott:

On behalf of the Partnership to Protect Workplace Opportunity (the Partnership), we thank you for holding today's hearing on the Department of Labor's recently finalized regulation amending the exemptions for executive, administrative, professional, outside sales, and computer employees (the "EAP exemptions" or "white collar exemptions"). The Partnership consists of a diverse group of associations and companies, representing employers with millions of employees across the country in almost every industry (see <http://protectingopportunity.org/about-ppwo/>). 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.

On June 30, 2015, DOL proposed increasing the overtime 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 was 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 was met with widespread opposition from tens of thousands small and large businesses, nonprofits, local governments, academic institutions, and the 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. Comments and letters were sent from organizations around the country asking the Department, the Administration and Members of Congress to rethink this rule (samples are included in the attached document).

The Secretary of Labor responded to questions posed by Members of Congress about these concerns by stating that the Department met with these stakeholders and heard their input prior to issuing the proposed rule; however, the proposed and final regulation clearly do not reflect that input with respect to the salary threshold or automatic updates.

The salary threshold in the final regulation was lowered from \$50,440 to \$47,476, and the automatic escalator mechanism was changed from annually to every three years. This is still a more than 100% increase in the salary threshold and represents a token reduction that will not alleviate the harm this rule will do to nonprofits, colleges, and small businesses and their employees. Moreover, the fact that this reported reduction was leaked after OMB held more than 40 listening sessions with concerned stakeholders requesting that the rule be comprehensively reevaluated makes clear that the Secretary and the administration did not take seriously the public's concerns with its proposal and only Congressional action can stop the damage this regulation will cause. While changing the automatic increase from every year to every three years is an improvement, this provision is still unauthorized by the statutes and will still mean that future increases will go into effect without the benefits of a rulemaking, and without taking exigent economic conditions into account.

Accordingly, we urge all the members of the Committee on Education and the Workforce to cosponsor H.R. 4773, the *Protecting Workplace Advancement and Opportunity Act*, which would require the Labor Department to conduct a detailed economic analysis before making dramatic changes to federal overtime pay requirements, and would prohibit any automatic increases. In essence, the bill requires the Department to move forward in a responsible rather than reckless manner. The legislation is supported by **340** national, regional, state, and local organizations representing nonprofits, institutions of higher education, schools, cities, counties and small and large businesses across the country, as outlined in the attached April 18th letter. In addition, the following 7 organizations listed below have subsequently supported H.R. 4773.

Thank you for convening today's hearing and for the opportunity to submit this letter for the record.

Sincerely,

The Partnership to Protect Workplace Opportunity and the following organizations:

American Land Title Association
American Trucking Associations
American Truck Dealers
Manufactured Housing Institute
National Association for the Self-Employed
National Association of Broadcasters
National Automobile Dealers Association



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



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Sampling of Non-profit comments from the Federal Register:

National:

- **Operation Smile** “The leadership team at Operation Smile is opposed to the proposed changes to the salary threshold tests, specifically the drastic increase to a salary level of \$50,400... Since its founding in 1982, Operation Smile has provided more than 220,000 free surgical procedures for children and young adults born with cleft lip, cleft palate and other facial deformities...Yet still, this proposed update will **increase our payroll cost by nearly \$1 million annually affecting over 50 percent of our workforce**. Considering that a cleft lip surgery performed somewhere in the world costs an average of \$240, **this would mean 4,166 fewer surgeries provided by Operation Smile globally each year**... Our focus needs to be on managing programs not overtime.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5060>
- **Habitat for Humanity** “Habitat for Humanity (Habitat) and other charitable organizations will be disproportionately impacted by the proposed rule and unable to comply without reducing access to products and services... it is estimated **that 65 percent of Habitat affiliates employing paid staff will be impacted by the proposal... The nearly \$27,000 increase in the minimum salary to qualify for the overtime exemption, for example, represents one-third to one-quarter of the cost of building a typical Habitat home**. For a smaller, rural affiliate... it may be impossible to absorb the increased cost... Such an affiliate may have no choice but to cease operations, even if it is the only affordable housing provider in the community it serves.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5647>
- **The Salvation Army National Headquarters** “We respectfully urge the Wage and Hour Division to reconsider the substantial increase in the minimum salary threshold for “exempt” employees that is contemplated by the Proposed Regulations... the proposed increase in the minimum salary for “exempt” employees would substantially increase the cost of delivering our services, most of which are provided free of charge. Based on information that has been collected to date, it appears that 50% or more of our employees nationwide who are currently classified as “exempt” would become “non-exempt”... The significance of the effect of this change to our organization cannot be over-stated... We anticipate that staff cuts would therefore become necessary and that we would be required to reduce the religious and charitable programming that we provide nationally.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2789>
- **National Council for Behavioral Health** “The National Council is a non-profit association representing 2,350 community-based mental health and addiction treatment providers... we strongly regret that we are unable to support the proposed rule in its current form. As written, the rule would have a potentially devastating effect on health care organizations



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...serving low-income individuals with serious and persistent mental illnesses and addictions, resulting in the need for service cutbacks and program closures... The untenable financial pressure resulting from the proposed changes would force provider organizations into disastrous service reductions and program closures.”

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2514>

- **National Head Start Association (NHSA)** “NHSA is the national voice of the more than a million children in Head Start and Early Head Start programs in the United States... Our concerns on the regulatory change are driven entirely by the potential negative impacts on Head Start and Early Head Start agencies... In addition to the potential direct negative impacts on staff, we remain concerned that the proposed NPRM will negatively impact the quality of services we provide to children and families as well... Without additional funding, these programs may be forced to reduce the working hours of essential staff, causing a reduction in the hours and days of operation of some programs. This development would undermine and diminish the ability for programs to meet the needs of the children and families they are trying to serve as well as pose a significant adverse impact on working parents, their employers, and the nation's broader economy.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5194>
- **Catholic Charities USA** “We feel compelled to share what we believe could be substantially negative, and in many cases disproportionate impacts on our agencies as nonprofits. Our overriding concern is that these negative operational impacts will ultimately result in a decline in services, or quality of services, to the most vulnerable members of society who our agencies serve... Specifically, agencies shared that they may need to reduce weekend and evening service hours, close certain program sites, cut back on community outreach activities, or limit staff from “going the extra mile”... The greatest impact would be felt by emergency services programs...These include drop-in centers, domestic violence shelters, crisis pregnancy services, and refugee resettlement programs... the regulations as proposed could place significant burdens on our agencies and ultimately negatively impact their ability to serve in their communities, resulting in a net negative, rather than positive, impact for the most vulnerable in our communities.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5320>
- **Special Olympics** “As the rulemaking stands, it could substantially impair Special Olympics leading role in providing much-needed services to those with intellectual and developmental disabilities. Higher thresholds of overtime compensation for our staff, if realized, would have a negative impact on our ability to advance our mission, serve people with intellectual disabilities, raise money, and perform adequately under current government partnerships in providing health and educational opportunities for millions of people.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5149>
- **America’s Blood Centers** “America’s Blood Centers (ABC) represents North America’s largest network of non-profit community blood centers... As non-profit and community-



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based institutions, our concern stems from the significant impact to community blood centers across the country that such broad, sweeping change would have on our ability to continue to serve our communities... The **cost impact associated with the proposed overtime threshold [\$1.5 million]** will be associated with negative consequences for maintaining the infrastructure needed for a robust blood supply..."

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4601>

Colorado:

- **Colorado Youth Corps Association** "Paying overtime rates for staff members who operate residential programs would decimate program budgets and likely force many corps programs to either close or eliminate all camping/residential programs, ultimately hurting the low income corps members the regulations were meant to help. In addition, corps staff members typically work long hours in the field season and much shorter hours in the off season. Paying overtime in the field season would have a dramatic effect on these non-profits' ability to operate on their slim budgets."
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5298>
- **Colorado Behavioral Healthcare Council** "Our member organizations serve low-income and uninsured populations whose cost of care is covered primarily by Medicaid or state and local general funds. Medicaid reimbursement rates and grant funding levels are set by states, counties, or other third party entities. Thus, provider organizations like ours have limited ability to raise new revenue in response to increased costs of doing business. DOL's proposal to double the overtime pay exemption threshold would place a massive new burden on organizations already struggling to stay in business. Moreover, linking the threshold to inflation would force employers into perennially chasing a rising salary target without any ability to raise state-determined payment rates or otherwise ensure revenue increases to offset these changes."
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2454>
- **Young House Family Services** "The proposed rule to increase the salary threshold to \$50,440 per year for exempt employees would have a devastating financial impact on our agency and ability to continue to provide needed services to children and families in our area. This change would affect at least 45% of our current employees, including direct care professionals. Many of our caseworkers spend several hours each week just driving to clients' rural homes to provide services, which adds to their work time. If this rule passes, for financial reasons we expect we would have to prohibit caseworkers from working more than 40 hours per week, which would unfortunately ultimately impact the direct services they provide to families... In our "business" we are not able to raise our fees, since those are established by the contractors chosen by the State of Iowa. This system is also currently undergoing major changes and we will now have to contract with 4 different managed care entities; we could be facing lower reimbursement rates in the future, which would also have



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profoundly damaging effects on our agency revenue.

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5000>

Delaware:

- **Kent Sussex Community Services** Since we depend on public funds to provide these services our contract re-imbursement rates and subsequent salary/wages are at the bottom of the scale. An increase in our costs without an increase in capacity for revenue would severely impair our ability to maintain work scope and quality standards expected in our state contracts and licensure. We have a disproportionate number of persons in supervisory, management or professional clinical roles who are paid well below 50,000 per year. We would like nothing better than to increase the salary/wage range for everyone but this would require a major overhaul of State and Federal budgets related to Behavioral Health public services.
- **Mosaic (also in Colorado, Iowa, and Nebraska)** “Mosaic has received minimal provider rate increases in most of the states where we operate. Drastically increasing the overtime threshold will place an additional unfunded mandate on our organization. If states do not increase reimbursement rates, Mosaic and other providers would be put in a difficult position, which is compounded by stagnant and declining revenues and increased demand for services. Inevitably, increasing unfunded mandates without appropriate funding will lead to reduced hours for DSPs, increased turnover, and a potential disruption of services for people with intellectual disabilities.”

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5068>

Florida:

- **Sunrise Community, Inc (also in Maryland)** “Sunrise currently provides many disability services at a net loss. Without a federal mandate for Parity of Home and Community Based waiver services as well as ICF/IDD services, the federal mandate to increase the wage threshold for exempt employees is too high for viable operations and the regional economies in which we operate. Regrettably, an unintended consequence of this Proposed Rule would be two-fold and include the destruction of much needed infrastructure for inclusive, community-based services as well as failure to transition people from institutional settings as mandated by the Olmstead Act of 1999. Adequate funding levels and parity of services across states are absolutely essential to meet the Proposed Rule. Without adequate funding, the Proposed Rule will force large scale closure of disability service providers on a national basis.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2278>



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Idaho:

- **Development Workshop, Inc.** “Currently, the state sets the service fee rate for rehabilitation services for people with disabilities and those who are underprivileged. The fee for service would not cover the increased costs associated with the proposed ruling and would hinder the ability of community rehabilitation providers to provide services. Its implementation would result in a reduction in necessary services aimed at helping individuals with disabilities, or who are disadvantaged, to gain and maintain their employment and greater independence.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5483>

Iowa:

- **Riverview Center (also in Illinois)** “Riverview Center is a non-profit organization serving survivors of sexual and domestic violence in Iowa and Illinois. Our nearly 40 staff would greatly be impacted negatively by this change...These new guidelines negatively impact Riverview Center clients as well. Survivors of domestic and sexual violence would have less access to advocates/therapists as their hours of work would be limited to reduce salary payments.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-1889>

Kentucky:

- **ANCOR commissioned research from Avalere Health:**
 - **Snapshot:** <http://cqrcengage.com/ancor/file/c3KOL6GjGYH/By%20the%20Numbers%20One%20Pager.pdf>
 - **Full report:** http://cqrcengage.com/ancor/file/usmhoUJ4DDK/ANCOR%20Cost%20Impact%20Scoring%20Memo_final.pdf
 - **Kentucky data:** <http://cqrcengage.com/ancor/file/3zTOhlgQ5md/Kentucky%20IDD%20Services%20Snapshot.pdf>
- **The Bair Foundation (also in South Carolina)** “In assessing the proposed FLSA overtime change, The Bair Foundation believes the impact on children in foster care will be unconscionable. The Bair Foundation is a therapeutic foster care organization that provides foster homes for children who are abused and neglected... With salaries and benefits being 40% of our budget, and a good percentage of our staff being affected by the change, our Company cannot withstand this huge and drastic change... Services would be severely impacted and the continuous support of children in foster homes would be interrupted, which is a devastating occurrence in the life of a child. With over 400,000 children placed in the foster care system and 100,000 children available for adoption each year, if non-profits cannot take care of these children, who will?”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-1675>



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Louisiana:

- **Gulf Coast Social Services** “Gulf Coast Social Services serves low-income and uninsured populations whose cost of care is covered primarily by Medicaid or state and local general funds. Medicaid reimbursement rates and grant funding levels are set by states, counties, or other third party entities—often at levels so low, we are forced to cobble together funding from multiple sources simply to keep our doors open and continue serving community members in need... In addition to the impact on our behavioral health services, our services for persons with developmental disabilities would be severely impacted. Medicaid reimbursement rates for these services can only support management salaries in the \$30,000 to \$40,000 range. These managers are available to the consumers and Direct Care Companions while on call. By redefining the exemptions, management of the daily operations will be compromised and additional financial burdens will be added to an already marginal budget.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4592>

Maryland:

- **Community Behavioral Health Association of MD** “(CBH) is the professional association for Maryland's network of community providers serving the majority of 160,000 children and adults who use our state's public mental health system... We do not support the proposed rule in its current form... CBH members provide front-line treatment, rehabilitation, housing and related services to low-income and uninsured populations whose cost of care is covered primarily by Medicaid or state general funds. Medicaid reimbursement rates and grant funding levels are set by states, counties, or other third party entities... Provider organizations such as ours have limited ability to raise new revenue in response to increased costs of doing business. DOL's proposal to double the overtime pay exemption threshold would place a massive new burden on organizations already struggling to stay in business. Moreover, linking the threshold to inflation would force employers into perennially chasing a rising salary target... many will be forced to close programs and lay off staff, resulting in fewer clients served and reduced access to critical mental health and addiction services for individuals in need... The untenable financial pressure resulting from the proposed changes would force us into disastrous service reductions and program closures.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2448>

Massachusetts:

- **Nonprofit Human Services Organization** “The majority of the funding that we receive is through contracts with the Commonwealth of Massachusetts. These contracts are supposed to be reviewed bi-annually... While some of our contracts have been reviewed, others have not been addressed in over five years and are substantially under funded by antiquated rates... Our current lower level professional staff and managers are paid between \$35,000



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and \$47,000 per year. An increase to the \$50,440 would cause us to incur expenses in excess of \$50,000 per year.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-1187>

Michigan:

- **Michigan Federation for Children and Families** “Wage expenses for the vast majority of nonprofit organizations would increase dramatically, with our members estimating an average increase of between 10 and 20 percent, as they adapt to the new thresholds that guide exempt and nonexempt classifications. In most cases, nonprofit child welfare organizations contract with government and other entities to provide critical services; those contracts are multi-year commitments and do not have the flexibility to cover increased costs. The financial viability of thousands of nonprofit organizations—both small and large—would be threatened if not destroyed. Overnight, facing 20 percent increases in personnel costs, many of our organizations would be forced to close their doors, hurting many of the very people that increased wages are supposed to help. The ripple effect of human service organizations going out of business or having their services seriously limited would extend to thousands of vulnerable children and families who had come to them for assistance.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2515>

Nebraska:

- **CenterPointe** “This change would have devastating financial impacts on our organization, costing over \$200,000 per year over what we currently pay, based on very conservative numbers. As a non-profit, we do not have significant cash reserves, nor can we afford to provide care outside of the 8-5 work day at this cost. Limiting work hours to control costs will compromise the care provided to an already fragile and underserved population.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5190>

New Hampshire:

- **Monadnock Worksource** “...established in 1971 by a group of parents of teens and young adults with developmental disabilities. We employ an average of 23 full time staff...given the rural nature and small size of our local towns, we are an employer of significant size... I urge you to limit raising the salary threshold to no more than the 15th percentile...so that our agency, and similar agencies, can sustain the workforce we need to provide these services essential to the well-being and increasing independence of the people we serve with disabilities and to their families. The proposed rule, if enacted as it stands, will erode our ability to provide the degree of supervision, training, and oversight necessary to



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maintain a high quality of care within the constraints of our budget.”

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5591>

- **Genesis Behavioral Health** “Genesis employs 165 people, most of whom are full-time employees. Most of our exempt employees— managers and professionals—are currently paid less than \$50,000, and under the Administration’s proposal would become eligible for overtime. As a nonprofit organization with limited flexibility in the budget, I have serious concerns about how I will cover potential overtime expenses while still aiming to provide high quality services for our clients.”

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4248>

New Jersey:

- **Foster Family-based Treatment Association** “I write on behalf of the Foster Family-based Treatment Association, the only national association of providers of therapeutic/treatment foster care (TFC)... Given that agencies are limited to public funds, the proposed minimum salary for exempt employees will result in numerous agencies closing down due to inability to meet the new salary requirements. As a result, the major advances in child welfare reform achieved by this Administration...will be severely impacted and likely reversed forcing more youth into congregate care settings where staff hours/limits can be controlled, yet whose costs are significantly higher than community based care and whose outcomes are less favorable.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-1908>

South Carolina:

- **Habit for Humanity Greenville County, SC** “We are the largest Habitat affiliate in the State of South Carolina with 33 full-time employees. We help families with an area median income between 30 and 60 percent obtain affordable, sustainable homes through homeownership...the proposed changes will greatly impact the finances of our organization...in order for us to keep these 13 employees in exempt status, we would have to increase salaries an additional \$139,500 per year...increase our overall salaries budget by approximately 11%.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4541>

Washington:

- **Service Alternatives Inc.** “...we are a large employer in Washington State, with over 500 employees...our budget is dictated by the reimbursement rate set in our contracts by the state of Washington. When face with an increase in costs, we do not have the option of



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“raising prices” or otherwise passing on the costs...impact on employees...positions may be cut...some benefits may be cut...impact on clients and communities...increased risk to health and safety...can pose a direct threat to our ability to consistently ensure health and safety.”

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5504>



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Sampling of Small Business comments from the Federal Register

Delaware:

- **Washington, Maryland, Delaware Service Station and Automotive Repair Association** “We have heard the following from our membership on what business decisions this proposed rule may cause them to make: raising the prices of goods and services to pass on the cost to consumers; layoffs; changing employees from salary to hourly, which could impact benefits or mean reduced pay for weeks where less hours are worked; reducing base pay to account for overtime pay; turning full time employees into part time employees; reclassifying job duties; inability to expand the size of the business (slowing or stopping job creation); and providing less flexibility in hours worked.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-3900>

Florida:

- **Southeastern Alliance of Child Care Associations** “Based on informal surveys of some of its centers’ members, SACCA estimates that up to 80% of child care directors in the Southeast are paid less than USDOL’s proposed projected minimum salary level of \$50,440 per year, and that more than half of child care directors in the Southeast are paid less than \$35,000 per year.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4275>
- **Florida Farm Bureau Federation** “The proposed rule will reduce entry-level management positions in agriculture particularly. Advancing from a picking crew member to crew leader or from a packing house shipper to supervisor is an achievement many workers aspire to. These low-level managers frequently lack advanced degrees and experience which would command high salaries. Still, increasing the employee's wages from hourly to salary can be significant in agriculture but fall well short of \$970 per week. This is especially true when hourly wages are exempt from overtime pay due to the agriculture worker exemption. Instead of developing these early managers with training classes and greater responsibility, employers expressed that they would be more likely to limit their duties and hours and place more responsibility on their upper management or themselves.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2811>

Idaho:

- **Boise Metro Chamber of Commerce** “Studies have shown that while a few workers will experience pay raises, millions will either see their hours reduced, or will see their salary reduced in anticipation of potential over-time.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-3930>

Iowa:



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- **Iowa Bankers Association** “On average, 8 percent of Iowa bank employees would be affected by the changes. Based on a survey we conducted of our member banks, the cost to bring current exempt employees to the proposed salary level could cost each bank, on average, \$156,000 annually.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4746>

Louisiana:

- **Small Business Advisory Council of Louisiana** “The cost estimates made by the DOL/WHO are wholly inadequate and inaccurate. Our members have given us much higher estimates for the cost of understanding the Impact of the changes in their specific workplaces, determining new administrative measures to limit overtime penalties while still accomplishing the mission of the business, setting up revised recordkeeping and payroll systems, and paying employees any overtime penalties they are due.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5746>
- **Baton Rouge Area Chamber** “Here in the Greater Baton Rouge Area, small businesses make up over 99% of local establishments and provide over 80% of all jobs in the region. A new and potentially dramatic increase in labor costs to these businesses is a real threat to the livelihood of Capital Region workers, and to the well-being of our communities. The proposed rules, if implemented, will have direct and severe impacts on business throughout the region - an area recognized by the Investing in Manufacturing Communities Partnership as one of the nation's most important manufacturing corridors - while having few if any positive effects on payrolls.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5293>
- **First Heritage Credit** “Sixty-two of our 74 Branch Managers make under \$51,000.00 base salary. Eighty-one percent (62 of 74) of our Branch Managers would be reclassified to nonexempt under changes to the salary test. If there is a change in the duties test, 100% of our Branch Managers could possibly be reclassified, as the nature of our business necessarily requires them to do some "clerical" work.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5621>

Nebraska:

- **Nebraska Furniture Mart** “is a home furnishings retail store that sells furniture, appliances, electronics and flooring...about 400 staff members will be affected by this change...the minimum salary in place for exempt staff at Nebraska Furniture Mart per our compensation plan is \$30,295.72...is market based, meaning we research what other companies in our markets pay for similar jobs. We classify each job into a pay grade with minimum compensation for each job at or above the market pay rate. Each year, we review the market pay for every job in our company, and make adjustments to pay in the case the



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market dictates higher wages... already offering staff competitive salaries. This significant of an increase in the minimum threshold for salaried staff will have a tremendous impact, especially for Midwest companies... There are many actions that must take place prior to making large scale changes involving staff moving from salaried to hourly pay, some of which include:

- Changing staff status in both our HRIS and Payroll systems
- Changing compensation in both our HRIS and Payroll systems
- Making changes to benefits as hourly and salaried staff are eligible for different benefits
- Training salaried staff who move to hourly on using various time clocks throughout the building, time clocks on their computers and managing their time
- Training salaried staff who move to hourly how to use and input PTO requests as this process varies for hourly and salaried staff
- Training managers who currently supervise only salaried staff on proper timekeeping for hourly staff

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2827>

New Hampshire:

- **Kennebunk Savings** “Kennebunk Savings is a mid-sized community financial institution...which operates throughout...seacoast New Hampshire...employ over 300 people...support our community, and when we thrive they thrive. This year we’ll give back 10% of our earnings—over \$790,000—to nonprofit organizations...detrimental impacts will be: cut backs in employees or hours...fewer new job opportunities...our employee base is more than 85% female and many of our employees face demands as caregivers for children or aging parents...our ability as an employer to offer flexible schedules means a great deal to their overall well-being and engagement with the company. The proposed rules will have a detrimental effect on allowing flexible schedules for our employees”

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5312>

- **Seacoast Mental Health Center, Inc.** “For too many years we have tried to absorb costs on the backs of employees to mitigate the erosion of services for consumers in need. We can no longer do that. Should these rules go into effect, particularly when paired with our current funding environment, we will have fewer staff providing fewer services to fewer clients. The untenable financial pressure resulting from the proposed changes would force us into disastrous service reductions and program closures.”

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2569>

New Jersey:

- **Atlantic Stewardship Bank** “is a full service commercial bank with 12 branches and employ 151 associates and feel strongly this new rule will negatively impact the bank’s employees



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and future consideration for their advancement...at our bank we are already addressing changes to associates and their career path in order to accommodate this proposal. Several Associates will not be promoted which will negatively affect their salary and responsibilities...the proposal will cause a significant decrease in morale among exempt employees who become nonexempt”

<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-3901>

South Carolina:

- **Famous Toastery, in WSJ Article** “a restaurant chain with six locations in North Carolina and South Carolina, some jobs are changing to ensure the company doesn’t face runaway labor costs. The chain is moving managers from salaried to hourly pay and asking employees to perform new duties...the company is installing fingerprint scanners to be used for punching in and out of shifts, so that workers cannot clock in for a co-worker who is late. Company leaders will also receive alerts if any employee is nearing 40 hours and still has more shifts left that week, allowing management to intervene before overtime kicks in.”
<http://www.wsj.com/articles/overtime-rules-send-bosses-scrambling-1437472801>

Washington:

- **Building Industry Association of Washington** “...is the champion of affordable housing in Washington State and represents nearly 8,000 member companies engaged in all aspects of new home construction and remodeling...reconsider the proposed rule as changes to the current overtime standard will reduce job advancement opportunities...leads to construction delays, increased costs and fewer affordable housing options for consumers...this new rule will negatively impact over 3,500 employees in the residential construction trade.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2897>

Wyoming:

- **21st Century Equipment LLC. (also in Colorado and Nebraska)** “My Company, 21st Century Equipment, LLC is a John Deere Agricultural Equipment dealer. As a small business owner, we currently employ approximately 400 full-time employees, of which 68 would potentially be affected by this proposed change...Should we convert everyone affected by the rule change to non-exempt, overtime would cost us up to \$700,000 per year...Employees in my company earn income far in excess of the proposed salary levels, however, that level is reached through base salary (which does not meet the minimum salary proposal) plus commission and incentives that are in place to insure optimal job performance.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4752>



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Sampling of Public Sector Comments from the Federal Register:

Colorado:

- **RE-1 Valley School District** “The Impact on a school district’s budget will be hard hitting...Our non-teaching staff are dedicated to our role in supporting students; that very often means we’re working long hours...You might think, as one of the staff who would be affected by the new minimum salary standard, that I would welcome the possibility of an increase, but I’m more concerned that a requirement such as this will force layoffs or lower hourly salaries if forced to move staff to non-exempt status.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-3618>

Florida:

- **William Fritz, Indian River Schools, Florida** “I serve as the Assistant Superintendent for Human Resources for a mid-size Public School District in Florida. The proposed changes to the salary basis test would extend overtime to approximately 35 of our employees. Given that we are one of 14,000 school districts in the United States, this change will create an undue burden on our Nation's schools. The State of Florida will not provide fiscal resources to remunerate the School Board, so this amounts to an unfunded mandate. The only way a school system can adjust for this change is to reduce services to students, given that our industry operates with low-overhead. Please maintain the salary basis test at its current level.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-1885>
- **Marion County Board of Commissioners, Florida** “Marion County is concerned that DOL's proposed rule would more than double the overtime pay minimum salary level for an employee to qualify as "exempt" from overtime pay. This is a substantial increase over a one-year period. In Marion County, 129 of the current 238 exempt employees would be eligible for overtime pay. Marion County has estimated that the additional financial burden would cost the County as much as **\$1,773,587 in Gross Overtime Salaries in the first year alone, in addition to other expenses, such as increased payroll taxes and benefit costs.**”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5087>
- **Florida Department of Economic Opportunity (DEO)** “DEO compared the results of its analysis with the estimates provided by the White House and USDOL for the affected workers and the costs associated with the Overtime Mandate. DEO’s analysis shows the White House and USDOL overestimate by 195,000 the number of Florida workers who will qualify for overtime, while seriously underestimating—by billions of dollars—the high cost to Florida businesses. DEO estimates that the Overtime Mandate **will cost Florida businesses approximately \$1.7 billion.** DEO’s Florida estimated cost, by itself, is 82.7% of USDOL’s entire National Estimate of \$2.08 billion.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5473>



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- **Small County Coalition in Florida** “Many of our small counties and school districts are fiscally constrained and operate on limited revenues. Many of our small local governments feel that these impacts could result in a reduction of services or increasing taxes.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4486>

Iowa:

- **Iowa State Association of Counties** “For example, in Clay County, Iowa, providing additional overtime to one employee would cost approximately \$7,250 in the first year. Black Hawk County, Iowa has 87 employees that are currently exempt from overtime and 14 of those employees could become eligible for overtime under the proposed rules. Increased costs could easily outpace the ability of a county to bring in additional dollars through its taxing authority.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5448>

Michigan:

- **Detroit Housing Commission** “...the vast majority of [public housing authorities] operate on thin, fixed budgets without sufficient reserves to meet what will constitute more than a doubling of the current salary requirements for exempt employees. PHAs, as a whole, are not revenue-generating entities. Unlike local units of government, PHAs do not have the power to impose taxes to raise funds. Unlike a private employer, PHAs cannot make more “widgets” or increase the cost of its “widgets” to generate revenue. PHAs must accomplish their mission within the limited funds available to them... Since PHA funding is finite, there will have to be some trade-offs. Either customer service would be negatively affected because overtime is limited or there would be fewer employees to do the work because PHAs will be required to leave positions unfilled for lack of funding. PHAs will yet again be requiring their employees to do more with less. There is, however, a point at which the needs of the customer cannot be met with limited staff resources so the PHAs’ low and moderate income residents will suffer.”
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4324>

New Hampshire:

- **City of Claremont** “The City of Claremont, NH is opposed to these suggested changes. We are limited on funds and the employees receive very generous benefit packages and because they are unionized, we would be in a position that we would have to lay off workers.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-0924>

South Carolina:



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- **Georgetown County Board on Disabilities and Special Needs** “While our agency has always tried to thoughtfully abide by DOL rules and compensate its employees, we still will have a \$60,000 per year impact to our budget in order to implement a salary threshold of this magnitude. Many workers who fall under these exemptions in our field started out as DSPs, and advanced into supervisory or administrative positions that require independent judgement and flexibility. We encourage their exempt employees to take part in various career and education enhancement and training programs in order to advance in their career paths. Placing restrictions on overtime for these employees would take away options for workers to pursue career-advancing extra activities, including participation in committee work and professional organizations that are foster career growth and professional development of workers.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-4750>

Washington:

- **Jamestown S’Klallam Tribe** “The use of a single national salary threshold would adversely affect already limited revenues, especially for tribes in rural areas...the average salary offered by many tribal governments and enterprises is substantially lower than the national average...even though the proposed rule will directly and disproportionately affect Tribal governments, there has been no consultation on this rule-making.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5627>



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Sampling of Higher Education Impacts from the Register and Media Stories:

Florida:

- **Comments of the State University System of Florida** “At this point, a review of the raw data costs alone for all twelve (12) state of Florida universities' employees currently meeting the exempt tests would be in excess of \$62,000,000.00 of annual recurring salary costs if salaries were to be increased to the new proposed minimum salary threshold of \$50,440 in 2016.” <http://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2242>

Iowa:

- **Comments of the University of Iowa** “The over 2,700 individuals we employ and whose status would immediately change from exempt salaried to non-exempt hourly” and “the alternative of paying overtime would generally be cost prohibitive; the annual cost of one hour of overtime per week for each of our 2,700 impacted employees would increase University payroll costs by over \$4 million.” <http://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2316>
- **Comments of the Iowa Community College Trustees** “The NPRM mandate impacts Iowa Community Colleges by \$12,648,786 in the first quarter of 2016 alone in salary and benefit expense.” <http://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2398>

Kentucky:

- **March 30, 2016 Inside Higher Ed OpEd** “As president of Thomas More College, a small faith-based college in Kentucky, I worry that the changes would take a grave toll on institutions like mine that are enrollment and tuition driven... [W]e project our budget would increase by \$1.4 million each year... that is more than a 12 percent annual increase... An increase of that magnitude could potentially have catastrophic effects on us and other small institutions nationwide.” <https://www.insidehighered.com/views/2016/03/29/proposed-new-overtime-pay-regulations-could-negatively-impact-colleges-and-their>
- **Kentucky Community and Technical College System** “...we have estimated we could potentially be subject to **additional wages of at least \$2.5 million for a fiscal year, and it could impact approximately 863 of our administrative and staff employees...** more than doubling the threshold will significantly impact employers and employees and requires a more thorough analysis for the economic consequences... The wages and cost of living in small towns in Kentucky is astronomically different than San Francisco and New York City



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and this should be considered... There is also a perception of demotion for employees who have a change in status."

Maryland:

- **University of Maryland Extension** "These changes proposed by the Wage and Hour Division, DOL, would substantially impact the fiscal operations of Extension and our College of Agriculture and Natural Resources (AGNR). These rule changes would cost AGNR approximately \$117,446 in base funding and effect 22 persons within our institution. Because of this projected increase in base funding our College may not be able to retain our current number of FTEs or employed exempt positions, thus potentially impacting the personal livelihoods of our employees."
<https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5668>
- **February 11, 2016 Letter by Public Sector Employers to Congress:** "The University System of Maryland's preliminary estimate is an increase in costs between \$16 million and \$40 million in just the first year."

Michigan:

- **March 29, 2016 Hearing before House Workforce Protections Subcommittee:** "For the University of Michigan, the largest higher education employer in the state, the changes would affect more than 3,100 people in roles critical to our missions, including research fellows and lab staff, student housing officers, admissions recruiters, academic advisors, financial aid administrators, social workers, clinical dietitians, 2 clinical research coordinators and fundraisers. The projected cost at U-M to implement the change is as high as \$34 million; early statewide estimates from The Michigan Association of State Universities peg the cost at more than \$60 million for 11 of the 15 total member institutions reporting." <http://edworkforce.house.gov/uploadedfiles/thomas.pdf>

Nebraska:

- **Nebraska State College System** "While I support the concept of providing appropriate salary levels and classifications for our employees, the proposed salary threshold increase would alter the status of a great number of our employees who are currently exempt. As three small colleges in rural Nebraska, the State Colleges have a significant economic impact in the regions that we serve, primarily in salaries and the purchase of goods from vendors in our service areas. The proposed rules as written would drastically change how we conduct business and provide service to our students and our communities. Having such a drastic one time increase puts the State Colleges at risk of



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having to reduce the number of employees to offset the increased financial costs of overtime pay.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-2111>

South Carolina:

- **South Carolina Independent Colleges and Universities** “The SCICU membership includes 5 Historically Black Colleges and Universities (HBCU), 2 Women’s colleges, and a 2-year college. Many of our members are church-related and faith-based...employ 7,000 throughout the State...would be significantly affected by the changes in the NPRM. Our members agree...the proposed minimum salary threshold, however, is simply too high.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-5569>
- **ECOP, South Carolina State University** “The mission of Cooperative Extension is to extend the research knowledge of the university to people where they live and work, encouraging changed behavior, and increasing quality of life, business effectiveness, and community vitality...Extension programs have estimated financial effects of this ruling anywhere from \$400,000 annually at a smaller university to \$3.5 million in a larger one.” <https://www.regulations.gov/#!documentDetail;D=WHD-2015-0001-3880>