April xx, 2016

Dear [Senator]:

On behalf of the Partnership to Protect Workplace Opportunity (the Partnership) and the undersigned xx 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,