

United States Senate

WASHINGTON, DC 20510

June 1, 2023

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Acting Secretary Su:

We understand the U.S. Department of Labor (DOL) is planning to issue a Notice of Proposed Rule Making (NPRM) to the salary exemption threshold for bona fide executive, administrative, and professional employees under the Fair Labor Standards Act. We urge you to exercise caution and avoid imposing changes to the overtime rule.

An extreme change to the salary threshold could exacerbate our current economic difficulties, including worker shortages, supply chain concerns, and inflationary pressures. Severe changes to the overtime pay exemptions will significantly and negatively impact workers and employers across many industries as it would be costly, difficult to implement, and damaging to our economy's declining labor market.

Small business owners remain the backbone of the American economy. Dramatically changing the salary threshold would adversely impact the pace of job growth, investment, competition, and prosperity that have been so vital during the economic recovery coming out of the COVID-19 crisis.

A prospective rule with thresholds approaching suggestions from recent legislative proposals may harm the very employees that it would purport to benefit. Most small businesses operate under particularly narrow margins and are acutely sensitive to dramatic cost increases. An extreme rule could result in job contraction, reductions in hours, limits to advancement opportunities, and automation in an effort to continue to absorb new costs and keep doors open.

Additionally, operating costs have never been higher. Inflation is at a 40-year high. Supply chain problems have persisted for several years. Workforce shortages continue to be dire in many circumstances. The latest data shows that there are over 10 million job openings in the country – but only 5.8 million unemployed workers.¹ At the same time, we are seeing significant economic contraction, with some sectors facing both inflation and recession in equal parts. Moreover, the overtime threshold was already recently updated by over \$10,000 just three years ago. A new, extreme proposal could have dramatic ripple effects across the economy, especially if imposed at this particularly challenging time for small businesses and job creators.

¹ Bureau of Labor Statistics, "The Employment Situation – March 2023," April 7, 2023, available at <https://www.bls.gov/news.release/pdf/empst.pdf>.

From an administrative standpoint, the American economy is changing, and industries are adapting. Many employees now seek remote, hybrid, or part-time work. New and evolving professional environments will create serious compliance risks, and possibly legal exposure, related to tracking non-exempt employee work hours. Compliance costs will skyrocket, which will divert resources away from creating jobs and hiring employees.

We urge the Department not to impose these changes to the overtime regulations.

Sincerely,



Tommy Tuberville
United States Senator



Chuck Grassley
United States Senator



James Lankford
United States Senator



Mike Braun
United States Senator



Roger Marshall, M.D.
United States Senator



Bill Cassidy, M.D.
United States Senator