

United States Senate
WASHINGTON, DC 20510

April 11, 2014

President Barack Obama
The White House

Dear Mr. President,

We applaud your recent proposal to strengthen overtime protections for American workers as part of your Year of Action. Thank you for turning your attention to these long overdue and necessary reforms.

We are living in a time of increasing income inequality, rising family economic insecurity, stagnant wages for the middle class and falling income for our nation's lowest paid workers. These trends have stymied economic growth and created great economic uncertainty for tens of millions of working families.

Your Presidential Memorandum of March 13 directing the Secretary of Labor to modernize and simplify the regulations that determine who is eligible for overtime pay is a strong step that will help shore up incomes and ensure a fair day's pay for a hard day's work. As you rightly note, "Because these regulations are outdated, millions of Americans lack the protections of overtime and even the right to the minimum wage." Indeed too many Americans are working longer and harder than ever without anything to show for their efforts in their paychecks. These long hours also put undue strains on workers and their families.

Current regulations fail to protect the vast majority of the workforce. Today, the salary threshold that determines who is automatically eligible for overtime coverage is so low that earning as little as \$24,000 a year (\$455 a week) could result in exemption from overtime depending on an employee's duties. This is a drastic change from the past when most workers were automatically eligible for overtime. In 1975, 65 percent of salaried workers fell below the overtime threshold—and thus were automatically eligible for overtime—but today only 12 percent fall below the threshold. Thus, almost 90 percent of salaried workers could potentially be exempt from overtime depending on their duties. It is time for an update.

Raising the salary threshold to a more robust level will help to restore the 40-hour workweek for those who are overworked, and will also ensure that, as you have said, "If you have to work more, you should get paid more." In determining how to pursue overtime reforms, we strongly encourage you to consider Senator Harkin's proposal to improve overtime protections. The Rebuild America Act, S. 2252 in the 112th Congress, proposed to raise the salary threshold from \$455 to \$1,045 a week, phased in over several years, and then link it to inflation so that it does not devalue in the future. A threshold of \$1,045 reflects the inflation-adjusted value of the overtime threshold from 1975 (in 2011 dollars), which was the last time that the threshold was set at an appropriate level given salary levels at the time. The proposal would establish a much more adequate threshold than the current level, guaranteeing that workers earning less than \$54,000 a year would receive overtime pay for hours worked more than 40 per week, regardless of their duties. These workers are not the highly-compensated executives and professionals to

whom the statutory exemption was intended to apply. They are struggling middle class workers who are too often overworked without any additional compensation.

The Rebuild America Act also proposed to close a loophole in current regulations that allows employers to exempt workers who do not spend most of their time performing exempt duties. This loophole has been abused; for instance, poorly paid employees who are called "managers" but spend most of their time performing routine, non-managerial duties have been deemed to be exempt executives. Reestablishing a policy that a worker's primary duty is that which the worker spends the majority of his or her time performing—which was the policy prior to 2004—would ensure that only bona fide executives are exempt from overtime.

Ensuring that Americans are fairly compensated for a hard day's work while putting money in their pockets to provide for their families is a critical way to rebuild our economy going forward. It is also a matter of simple fairness. We look forward to working together with you and the Department as this process moves forward.

Thank you again for your ongoing efforts to help working families succeed and strengthen the middle class.

Sincerely,



Senator Tom Harkin
Chairman, Committee on Health
Education, Labor and Pensions



Senator Robert P. Casey, Jr.
Chairman, Subcommittee on
Employment and Workplace Safety



Senator Patty Murray
Chairman, Budget Committee
Member, Committee on Health,
Education, Labor and Pensions



Senator Bernard Sanders
Member, Committee on Health
Education, Labor and Pensions



Senator Elizabeth Warren
Member, Committee on Health,
Education, Labor and Pensions



Senator Sherrod Brown
United States Senator

Cc: The Honorable Thomas E. Perez, Secretary of Labor