

Congress of the United States
Washington, DC 20515

December 19, 2016

The Honorable Donald Trump
President-elect of the United States
Presidential Transition Headquarters
1800 F Street, NW, Room G117
Washington, DC 20270

Dear President-elect Trump:

On December 1, 2016, more than four million people were slated to become eligible for overtime pay, thanks to the Department of Labor's overtime rule. This rule restores the 40-hour workweek by ensuring that people who earn less than \$47,476 each year either get to go home to their families after putting in 40 hours of work or get paid time-and-a-half for the extra hours they work.

In 1975, the overtime threshold below which most salaried workers were automatically eligible for overtime pay covered more than 60 percent of full time salaried workers. Today it covers only seven percent. The failure to update the overtime rule means that too many low-level workers are deemed 'salaried' and then work 50, 60, or even 70 hours a week—working the last 10, 20, or 30 hours for no pay at all. The overtime threshold has been allowed to erode so badly that today a worker with earnings below the poverty line for a family of four makes too much to automatically qualify for overtime.

On December 1, about 33 percent of the full time salaried workforce would have been covered by the new overtime rule. Unfortunately, a federal district court in Texas dealt a devastating blow to workers on November 22, 2016, when it temporarily blocked the rule from taking effect.

The court asserted that raising the salary threshold exceeded the Department of Labor's authority – an assertion that was entirely without merit. The Fair Labor Standards Act (FLSA) gives the Department of Labor explicit statutory authority to "define and delimit" exemptions to the overtime rule. And, the Secretary of Labor has used a salary threshold as part of the test for exemption since 1938, when the FLSA was enacted. Since then, the salary threshold has been raised by both Republican and Democratic administrations seven times.

The DOL's authority to set a salary threshold has been widely accepted for more than three-quarters of a century. Yet the federal court chose to ignore this precedent, including the precedent from its own circuit, when it ruled that the update to the rule exceeded the agency's authority. On December 1, the day on which the Department of Labor's overtime rule was scheduled to go into effect, the Department of Justice appealed the court's ruling.

The court's ruling comes on the heels of months of steadfast opposition to the rule by Republicans, who have unfortunately chosen to stand with big business instead of helping workers get the pay they have earned.

During your campaign you promised that, "Under a Trump presidency, the American worker will finally have a president who will protect them and fight for them."¹ We are asking you to make good on that promise by ensuring that the overtime rule takes effect without any further delay. We ask you to announce your intention to stand up for hardworking Americans by vigorously pursuing the Department's appeal and squarely rejecting the Republican-controlled Congress's planned attempts to eviscerate this rule in favor of protecting near-record-high profits for millionaires and billionaires. The economic security of four million Americans and their families depends on it.

Sincerely,



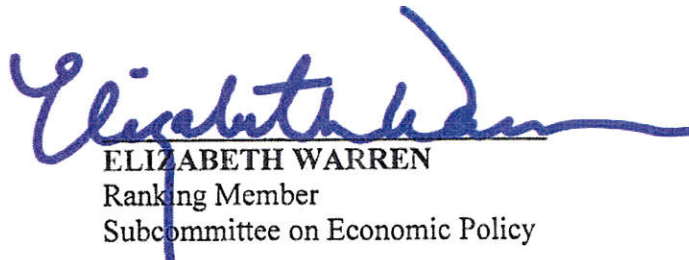
ROBERT C. "BOBBY" SCOTT
Ranking Member
House Committee on Education and the
Workforce



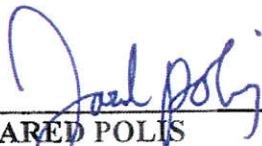
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Senate Committee on Health, Education, Labor,
and Pensions



FREDERICA S. WILSON
Ranking Member
Subcommittee on Workforce Protections



ELIZABETH WARREN
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Subcommittee on Economic Policy

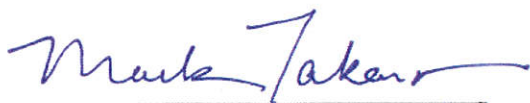


JARED POLIS
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Subcommittee on Health, Employment, Labor,
and Pensions



AL FRANKEN
Ranking Member
Subcommittee on Employment and Workplace
Safety

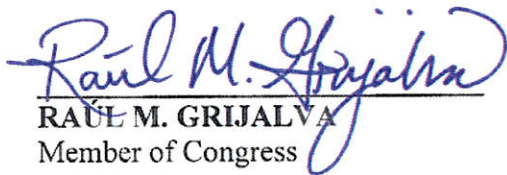
¹ *Trump's Speech on the Economy*, Annotated, June 28, 2016, available at <http://www.npr.org/2016/06/28/483883321/fact-check-trumps-speech-on-the-economy-annotated>.



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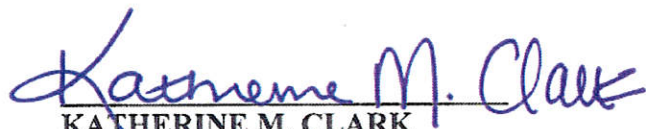
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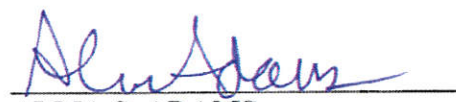
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