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MEMORANDUM

To: Paul A. Miller

From: Alexandria Oakes

Date: 6/9/2016

RE: Summary of House Committee Hearing on the “Administration’s Overtime Rule and Its Consequences for Workers, Students, Nonprofits, and Small Businesses”

U.S. Representative John Kline (R-MN), chair of the Committee on Education and the Workforce convened a hearing on Thursday, June 9th. The hearing focused on the new Overtime Rule and how it would affect workers, students, nonprofits and small businesses. The Overtime Rule raises the minimum salary required to be exempt from overtime pay. It is intended to help workers make more money or have more free time outside of work.

Witnesses

- Mrs. Tina Sharby, *Easter Seals, President of the Society of Human Resource Association Board of Directors*
- Dr. Jared Bernstein, *Senior Fellow at the Center on Budget and Policy Priorities*
- Mr. Michael Rounds, *Associate Vice Provost of Resource Management at the University of Kansas*
- Mr. Alexander Passantino, *Partner with Seyfarth Shaw LLP.*

Committee Chair Rep. John Kline (R-MN) opened the hearing by stating the new Overtime Rule will not benefit American workers specifically lower income workers and students. Rep. Walberg (R-MI) then spoke briefly about how the Overtime Rule will cost American people opportunities for career advancement and stifle small and new businesses. Ranking member Rep. Scott (D-FL) also made opening remarks stating the Overtime Rule will help millions of Americans qualify for overtime pay and will help the middle class. Rep. Wilson spoke briefly noting that the rule will help 8.9 million Americans misclassified as exempt from overtime pay.

Mrs. Sharpy explained how the Overtime Rule will infringe on the ability of nonprofits to do their work properly. She stated that the rule is, “too much too fast” and will cause them to cut important employees and demote others. She stated the rule will cost them \$265,000 in the first year alone and stated she supports the Protecting Workplace Advancement and Opportunity Act.

Dr. Bernstein stated that the Overtime Rule will do nothing but help the working class in America. He stated that the increase is a conservative increase that is both reasonable and necessary. He stated that opposition on the rule is misguided as compliance is simplified, exemptions are offered and it would not hurt nonprofits.

Mr. Rounds stated that the Overtime Rule would negatively impact universities. He explained that government funding has decreased for universities over the past decade making a 100 percent increase to the minimum salary threshold too much all at one time. He goes on to say that the university will have to reclassify employees which may not always be an appropriate change due to the dynamic of work hours on a college campus. He stated that in the end students will suffer with less access to faculty and staff and possible increases in tuition. He also showed support for the Protecting Workplace Advancement and Opportunity Act.

Mr. Passantino explained that the new Overtime Rule will be a very complex transition. He stated that there will be compliance challenges with this new rule especially with smaller businesses. He goes on to say that the rule will cause some employers to lose the ability to be flexible with their employees work schedule and will limit the opportunity for growth for both employers and employees. He states that the regulatory scheme does is outdated and needs to be updated as it is unclear how it can and will work with the Overtime Rule, however the regulatory scheme cannot be updated by December.

Rep. Kline opened with questioning by asking Mr. Passantino about the potential illegality of the automatic pay increase every three years to which he responded it insinuates there is no need to hear from the regulatory community which is highly problematic.

Rep. Scott asked Mrs. Sharby what the issue is with losing \$265,000 when the annual budget is close to 100 million to which she responded that figure does not include overtime cost. Sen. Scott then asked Mr. Rounds if they could raise employee pay to exempt status for about 3 million dollars to which he said yes they could. Rep Scott then asked how much KU pays their head basketball coach to which he responded he does not know.

Rep. Wilson asked Ms. Sharp how the new rule would impact the quality of care nonprofits can provide under the new rule to which she responded it would cause them to have to limit the flexibility of their work and therefore limit the quality of their sometime complex work situations. Rep. Wilson then asked Mr. Rounds how the new rule would impact the quality of work on college campuses to which he responded that a university is a fluid workplace that does not fit into the traditional nine to five model. Mr. Passantino responded to the same question saying modern employees live on a flexible work schedule.

Rep. Courtney asked Dr. Bernstein to put the cost of the Overtime Rule into scale for them to which he responded the cost would make up about less than one tenth of one percent of national payroll. He then asked him if the national grants would align with the new rules to which he responded yes they will.

Rep. Fudge asked Dr. Bernstein how the Overtime Rule would help with economic growth to which he responded it would create straight time jobs by a possible 100,000 jobs.

Rep. Thompson asked Mr. Passantino how the new rule will affect moral in the workforce to which he responded it will negatively affect moral as they may lose out on nondiscriminatory bonuses.

Rep. Walberg asked Mr. Passantino about how employers might combat the cost of paying employees over time to which he responded they could limit hours, lower pay in anticipation of overtime or pay them for time worked over 40hours a week.

Rep. Polis asked Dr. Bernstein how the new rule will impact on higher education who responded that 3.4 percent of workers at colleges and universities qualify for overtime but only .5 percent actually work overtime.

Rep. Foxx asked Mr. Rounds if the cost of compliance will change to which he responded that in context of other regulations cost will increase.

Rep. Bonamici asked Dr. Bernstein is employers can still offer a flexible schedule for employees to which he responded yes they can and it is supported by research that they can still be flexible.

Rep. Carter asked Mr. Rounds and Ms. Sharby how the new rule will affect higher education/nonprofits which he responded it will impede personalization for students and she responded it would have an impact on moral as it will be difficult to communicate reasons for changes to employees.

Rep. Allen asked Mr. Passantino how the economy could grow with the implementation of the Overtime rule to which he responded that employers are not sure how they are going to implement this policy and what appropriate measures would be needed.

Rep. Tankano asked if all nonprofits are taking part in charitable work to which Dr. Bernstein responded those who do charitable work can be exempt from the new overtime rule. He then asked if all employees who are eligible for overtime pay actually work overtime to which Dr. Bernstein responded a lot do not.

Rep. Thompson asked Ms. Sharby how the rule will effect access in rural areas to which she responded it will limit the ability of Easter Seals to do quality work for those in crisis.

Rep. Grothman asked Dr. Bernstein how the Overtime Rule would affect those who do not work a consistent 40 hours a week consistently all year round to which he responded it did not affect them in 2004. He then asked if there would be pressure to end projects prematurely to stay under the 40 hour work week to which he responded he did not feel that would be relevant to those eligible for overtime pay.

Rep. Rokita asked Mr. Passantino how the new rule effect rural areas to which he responded there would be an issue with businesses who have employees in urban and rural areas who make different salaries for the same job. He then asked Ms. Sharby to add a comment to which she responded she does not know how she will recruit new employees and absorb the new cost associated with the rule.

Rep. Adams asked Mr. Rounds if higher education employees would rather yield additions to their salaries for a more flexible work schedule to which he responded in his experience they want to provide the best education to their students as possible and prefer to not be constrained.

Rep. Jefferies asked Mr. Passantino if he felt the 40 hour work week is a part of the American dream to which he responded, "I feel I am living the American dream and I am not subject to a 40 hour work week so no I do not." He then asked Mr. Rounds if as a nonprofit University if by adding money to the pockets of employees would not add to their mission to do good for the community to which he responded yes but it would take away from the main objectives of the University such as education and research.

Rep. Scott gave closing remarks stating that the new regulation will benefit 33 percent of salaried workers in the U.S. and will not hurt higher education or nonprofits in a substantial way. Rep. Kline made a brief comment about the geographic pay issues that could occur with the Overtime Rule and then thanked everyone for a good discussion.