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www.nsba.org  
Phone: 703.838.NSBA Fax: 703.683.7590  
1680 Duke Street Alexandria, Virginia 22314-3493

November 21, 2016

The Honorable Lamar Alexander  
Chairman, Health, Education, Labor and Pensions  
U.S Senate  
835 Senate Hart Office Building  
Washington, D.C. 20510

The Honorable Kurt Schrader  
U.S. House of Representatives  
2431 Rayburn House Office Building  
Washington, D.C. 20515

Re: The “Overtime Reform and Review Act”

Dear Chairman Alexander:

The National School Boards Association (NSBA), representing more than 90,000 local school board members across the nation, with and through our state associations, urges Congress to take immediate action to mitigate the effects of the U.S. Department of Labor’s (DOL) recently approved overtime regulations and immediately pass legislation that will provide much needed relief to local school board members in meeting the requirements of the new rule.

Public education is an essential function of local government. Local school districts are collectively America’s largest employer, with nearly 6.2 million employees. The DOL’s salary threshold increase of more than 100 percent, and the accelerated implementation of such, is beyond the capacity of many of our country’s school districts and communities. As you know, the increase in the salary threshold for overtime eligibility that is set to become *fully* effective on December 1, 2016—halfway through a school district’s budget year—provides insufficient time for local boards of education to make budgetary adjustments to meet the new requirements.

Even before issuance of the final rule, NSBA advocated for legislation to minimize and delay provisions of the rule to provide relief for public school districts in meeting the salary threshold requirements of the rule. The regulation will have significant adverse consequences on school districts and other public sector employers, as local governmental entities are not fiscally capable of accommodating this increase. Moreover, multi-level collective bargaining agreements in effect in several school districts may have to be renegotiated, prompting additional expenses that have not been budgeted. Ultimately, the impact on student achievement and local education workforce

priorities should be considered. With the regulatory implementation date looming, local school board members are considering how to cover the costs of the salary threshold increase and employees are already at risk of reclassification. **As the need for immediate action intensifies, NSBA urges Congress to act without delay to provide relief from the impact of the new overtime regulation to:**

- Provide *immediate relief* to cash-strapped school districts already operating with limited resources by delaying the effective date of the regulation and reducing the amount of the initial salary increase;
- Eliminate the full, automatic increase mandated by the rule and allow for a “phase in” implementation timeline that takes into consideration the budgeting process utilized by school districts;
- Provide additional time for school districts to modify limited local budgets to absorb cost increases resulting from the new requirements;
- Clarify that automatic salary threshold increases are not permitted under the Fair Labor and Standards Act (FLSA); and
- Consider a mechanism whereby local governmental entities may be exempt from subsequent increases in the salary threshold.

While each of these specific elements is key to minimizing the effect of the DOL’s final rule on local school board members and local school districts, delaying the pending implementation date of the finalized regulation and allowing for a phase-in implementation period of the requirements of the rule must be Congress’ top priority. **NSBA applauds both S. 3464, the *Overtime Reform and Review Act*, and H.R. 5813, the *Overtime Reform and Enhancement Act*, for this purpose.**

We thank Members of Congress who are working to provide immediate and direct relief for local school districts and pursuing measures that help local school districts comply with provisions of the DOL’s rule. NSBA supports and appreciates the commitment and effort each of the authors of the bills has demonstrated in seeking relief for school board members; and, we look forward to working with congressional leaders to address the significant negative impact this final overtime rule will have on local school districts as employers and their employees. Thank you for your consideration and support.

Sincerely,



Thomas J. Gentzel  
Chief Executive Officer and Executive Director

CC: The Honorable Susan Collins (R-Maine)      The Honorable Jim Cooper (D-TN)  
The Honorable James Lankford (R-Okla.)      The Honorable Collin Peterson (D-MN)  
The Honorable Tim Scott (R-S.C.)      The Honorable Henry Cuellar (D-TX)

The Honorable Jeff Flake (R-Ariz.)  
The Honorable John Cornyn (R-TX)  
The Honorable Pat Roberts (R- KS)  
The Honorable Bill Cassidy (R-LA)  
The Honorable James Inhofe (R-OK)  
The Honorable Thom Tillis (R-NC)  
The Honorable Reid Ribble (R-WI)  
The Honorable Tom Reed (R-NY )  
The Honorable Ron Kind (D-WI)  
The Honorable Madeleine Bordallo (D-GU)

The Honorable Jeff Fortenberry (R-NE)  
The Honorable Tom Emmer (R-MN)  
The Honorable Jeff Miller (R-FL)  
The Honorable David Jolly (R-FL)  
The Honorable Scott Peters (D-CA)  
The Honorable David Rouzer (R-NC)  
The Honorable Krysten Sinema (D-AZ)  
The Honorable Ami Bera (D-CA)  
The Honorable Terri Sewell (D-AL)