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**For Immediate Release:**  
January 27, 2016

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***Massachusetts High Technology Council Supports Efforts to Address Gender Pay Gap Dilemma, Opposes Duplicative and Unworkable Pay Equity Legislation***

**Waltham, Mass.** – In a letter delivered to State Senators this morning, the Massachusetts High Technology Council renewed its commitment to help solve the gender pay gap dilemma, but called on Senators to reject pending pay equity legislation the Council described as duplicative and unworkable.

“The Massachusetts High Technology Council (the “Council”) is committed to eliminating gender-based discrimination in pay and compensation and we stand ready to help develop and implement workable solutions to the gender pay gap dilemma,” said Mark Gallagher, the Council’s Executive Vice President for Public Policy & Communications.

**“But [Senate Bill 2107, an Act to Establish Pay Equity](#), is misguided in its approach, notwithstanding the noble intentions of its sponsors and supporters,”** said Gallagher. “The legislation is a classic example of a well-intended proposal that is highly likely to result in unintended consequences, including creating impediments to economic success and fair compensation for the female employees it purports to protect and empower. “

Gender-based discrimination in pay is already prohibited under Massachusetts law (Section 105A of Chapter 149 of the Massachusetts General Laws) which reinforces and supplements an existing federal ban on gender-based pay discrimination found in the Fair Labor Standards Act.

“Senate Bill 2107 would make it exceedingly difficult and risky for employers to reward any employee, female or male, through commissions and other merit-based or performance-based compensation systems,” said Gallagher. “The bill imposes on employers a very high burden of proof to establish that compensation differentials fit within narrow but undefined safe harbors which are open to subjective definition and interpretation. **By elevating the level of risk associated with merit-based compensation systems, the law could actually discourage an employer from paying more to a woman employee who is higher-performing than a male counterpart and vice versa.**”

Unlike existing Massachusetts anti-discrimination law and the laws of many other states, Senate Bill 2107 would create a private right of action for any alleged violation.

“Employers that utilize merit-based compensation systems would face significant risk of frequent and frivolous lawsuits by aggressive plaintiffs’ attorneys challenging employer

compensation systems and individual employee decisions,” said Gallagher. **“Existing Massachusetts labor laws already create a high level of complexity, cost and risk for employers. Senate Bill 2107 would only exacerbate this anti-competitive dynamic to the detriment of job creation and economic growth in the Commonwealth.”**

“The Council believes that far greater opportunities to close wage gaps exist where employers and policymakers work together to encourage and empower employers to adopt policies and practices that help them optimize the value they derive from their engagement of women employees who make up a critical component of the Commonwealth’s supremely-talented workforce,” said Gallagher. “The Council and its members are committed to education and elevating awareness about career options for women in the tech sector. “

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