

**Testimony of Andrea Johnson
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**In Support of Bill 21-878, Fair Wage Amendment Act of 2016
Submitted to the Subcommittee on Workforce
Council of the District of Columbia**

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Thank you for the opportunity to submit this testimony on behalf of the National Women's Law Center. The National Women's Law Center has been working since 1972 to secure and defend women's legal rights, and to help women and families achieve economic security. More than 68 percent of women over the age of 16 in the District of Columbia are in the labor force.¹ Equal pay is a vital concern for the District's working families, who increasingly depend on women's wages to achieve economic security. Yet, pay discrimination remains a persistent barrier to women's economic success in the District, particularly for women of color, who face some of the largest wage gaps in the country.

With the enactment of the Wage Transparency Act of 2014² and the Fair Shot Minimum Wage Amendment Act of 2016,³ the District of Columbia has emerged as a leader in expanding and securing equal pay for women and people of color. By prohibiting employers from demanding job applicants' salary history information, the Fair Wage Amendment Act of 2016 would put an end to an unnecessary business practice that allows pay discrimination to follow individuals from job to job and that perpetuates gender and racial wage gaps in the District of Columbia. This bill will bring the District of Columbia another important step closer to achieving equal pay.

I. Women in the District of Columbia Continue to Face a Substantial Wage Gap

When comparing women of all races to men of all races, women in the District of Columbia typically make 86 cents for every dollar made by men.⁴ African American women in the District make only 55.6 cents for every dollar made by white, non-Hispanic men—placing the District second only to Louisiana for the worst wage gap for African American women in the nation.⁵ And the gap is even larger for the District's Latinas, who make only 50.4 cents for every dollar made by white, non-Hispanic men.⁶

The 14 cent wage gap that women overall face in the District, while smaller than the 20 cent national average, still significantly diminishes their earning power. In 2015, women's median

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earnings in the District of Columbia were only \$62,191, in comparison to median earnings for men of \$72,230.⁷ That is a difference of a whopping \$10,039 annually.⁸ Put another way, that is equal to about seven months of rent and utilities or about two years of health care contributions.⁹ For African American women in the District, the race and gender wage gap compared to white, non-Hispanic men translates to an annual loss of \$39,880, and \$44,543 per year for Latinas.¹⁰

The wage gap affects women as soon as they enter the labor force, expands over time, and leaves older women with a gap in retirement income. Over the course of a 40-year career, a woman who works full time, year round in the District, typically loses \$401,560 to the wage gap.¹¹ A woman would have to work nearly six years longer to make up this gap.¹² When we look specifically at African American women and Latinas in the District, losses to the wage gap amount to over \$1.5 million over a 40-year career.¹³

Closing the wage gap would help lift women and children in the District out of poverty. Over 16 percent of women in the District live in poverty, with higher rates for some women of color, including a 23.9 percent rate for African American women.¹⁴ Moreover, 15 percent of working mothers of very young children in the District work in low-wage occupations.¹⁵ Closing the wage gap in the District of Columbia is thus not only fair, it is urgently needed.

II. Women Continue to Face Significant Barriers to Achieving Equal Pay

A. Employers Continue to Discriminate Against Women in Setting Their Pay

The Equal Pay Act was passed by Congress more than 50 years ago and the District of Columbia's Human Rights Act¹⁶ has banned discrimination in compensation for nearly 40 years. These laws were intended to eradicate the practice of paying women less for the same jobs as men. But although pay discrimination is less overt today than it was when those laws were passed, it continues to flourish. Indeed, women still confront many of the same biases that led critics of the Equal Pay Act to suggest that women should receive lower salaries because they are intrinsically worth less.

The stereotype that families do not rely on women's income and that women do not need higher pay often underlies employer decisions to pay men more than women and to offer career-track, family-supporting jobs to men only.¹⁷ The testimony from *Wal-Mart v. Dukes*, in which women sued the retailer for discrimination in pay and promotions, illustrates this point. Women testified that managers in Wal-Mart stores around the country explained pay differences by saying, for example, that men "are working as the heads of their households, while women are just working "for the sake of working" and to earn extra money.¹⁸ The reality is that women's income is critical to families' economic security, but unequal pay means that women are taking home less than their fair share.

Women with caregiving responsibilities—and mothers in particular—also face persistent discrimination in the workplace, which leads to lower wages. Working mothers still face

discrimination based on gender stereotypes about mothers' competence and commitment at work. A 2007 study found that when comparing equally qualified women candidates, women who were mothers were recommended for significantly lower starting salaries, perceived as less competent, and less likely to be recommended for hire than non-mothers.¹⁹ The effects for fathers in the study were just the opposite—fathers were recommended for significantly higher pay and were perceived as more committed to their jobs than non-fathers.²⁰ It is thus not surprising that, in 2015, mothers who worked full time, year round in the District typically made only 71 cents for every dollar paid to fathers.²¹ Such caregiver discrimination disproportionately affects women, and in particular women of color, who are more likely to be employed while raising young children or caring for other individuals, and more likely to be the sole source of income for their families.²²

B. Women Continue to Face Barriers to Entering Higher-Paying, Nontraditional Jobs and Are Concentrated in Lower-Wage Jobs

Although the days of separate job ads for male and female workers are gone, women remain sorely underrepresented in many higher-wage fields that are historically nontraditional for their gender. Of the 25 detailed occupations with the highest median annual earnings for full-time workers, only five are majority female.²³ In contrast, three of the highest-wage occupations are over 90 percent male.²⁴ These occupations all have median annual earnings for full-time workers above \$83,400 for someone who works year-round.²⁵

All too often, wages in occupations that are made up predominantly of women – “pink collar” occupations such as child care workers, family caregivers, or servers – pay low wages²⁶ *simply because* women are the majority of workers in the occupation.²⁷ One study that used the share of women in an occupation to predict wages in that job a decade later found that “women’s occupations” – those that were two-thirds or more female – had wages that were 6 percent to 10 percent lower a decade later than “mixed occupations.”²⁸

Not only do women face significant barriers to entering higher-wage, nontraditional jobs, they continue to be overrepresented in low-paying jobs. Four out of ten women work in female-dominated occupations,²⁹ and nearly two-thirds of workers earning the lowest wages are women.³⁰ In 2011, half of working women were clustered in 28 out of 534 possible job categories, and the vast majority of these 28 job categories were low paying.³¹

In the District of Columbia, women make up more than 56 percent of the low-wage workforce, as compared to more than 50 percent of the workforce overall.³² And more than half of the lowest-paid workers in the District – those earning the minimum wage or less – are women.³³ Nationally, women make up two-thirds of workers paid \$10.50 an hour or less and nearly half of these workers are women of color.³⁴ And most women paid the minimum wage are not being supported by a spouse’s income.³⁵

III. Asking for a Job Applicant's Salary History Perpetuates Gender and Racial Wage Gaps

When employers rely on job applicants' prior salary in hiring or in setting pay, pay disparities or discrimination from past employment are perpetuated throughout applicants' careers and qualified applicants are blocked from much-needed employment opportunities. This common practice can hurt all job applicants, but is especially detrimental to women and people of color who face conscious and unconscious bias in the job application and negotiation process and are more likely to be working in lower-paying jobs.

For example, if a job applicant's prior employer discriminated against her in setting her pay or the applicant previously worked in a female-dominated profession where pay is lower precisely because women do the jobs and "women's work" is devalued, and the new employer sets her pay based on that prior job's salary, the pay discrimination that applicant faced in her previous job will follow her, depressing her new wages.

Job applicants who reduced their hours or left their prior job for several years to care for children or other family members are also penalized when employers set compensation based on their prior salaries which are not reflective of existing labor market conditions or the applicants' current qualifications. This penalty contributes to the gender wage gap because it falls especially heavily on women, and particularly women of color, who continue to shoulder the majority of caregiving responsibilities while at the same time serving as primary breadwinners in 41 percent of families with children, and co-breadwinners in another 22 percent of these families.³⁶

Asking for salary history in the hiring process only compounds the negotiation disadvantages and past biases that women and people of color experience. For example, research has documented that women who negotiate their salaries are already at a disadvantage because they are perceived as greedy, demanding, not nice, and less desirable candidates, leading to lower starting pay.³⁷ When a new employer requests a candidate's prior salary information, they are likely to anchor salary negotiations around the prior salary, with only small room for adjustment,³⁸ thereby further entrenching, even if unwittingly, the effect of bias in her new salary. Importantly, this reliance on salary history not only disadvantages women and people of color in negotiation and setting pay, it also negatively impacts subsequent raises, bonuses, and promotions that are tied to the employee's initial salary. Over time, those lower salaries add up to huge losses that affect an employee's and her family's financial well-being and ultimately her retirement.

Using salary history information to screen out job applicants also exacerbates past biases and pay disparities leaving a discriminatory impact on the composition of the workforce. Some employers automatically disqualify or compare applicants based on the assumption that an applicant with a lower salary is of lower quality than an applicant with a higher salary.³⁹ But when women and people of color experience, on average, lower wages compared to white, non-Hispanic men, relying on salary history in this way serves to perpetuate the underrepresentation of women and people of color in many workplaces and positions.

Even when pay has not been affected by discrimination, employers who use salary history to screen applicants unfairly block many qualified applicants from much-needed employment opportunities. For example, an individual who is laid off late in his or her career, or leaves the workforce temporarily to care for him or herself or a loved one, might have difficulty finding a new comparable job and need to accept a lower-paying job to make ends meet. But employers who screen out job applicants whose salary exceeds a certain amount on the assumption that those applicants would not actually accept the job if offered, unfairly block applicants' efforts to achieve economic security. Likewise, employers who screen out job applicants with salaries below a certain threshold unfairly penalize individuals who take a lower paying job due to a tight market, the bankruptcy of a prior employer, or to work in the public sector.⁴⁰

IV. The Fair Wage Amendment Act of 2016 Would Play an Important Role in Closing Persistent Gender and Racial Wage Gaps

The Fair Wage Amendment Act of 2016 would help break the cycle of wage discrimination and close the wage gap in the District of Columbia. Under the Act, an employer is prohibited from screening out applicants whose prior salaries do not meet minimum or maximum criteria. An employer also cannot ask for a job applicant's prior salary as a condition of that applicant being interviewed or as a condition of that candidate being considered for an offer of employment. These provisions will help ensure that job applicants are evaluated and compensated based on their skills for the jobs to which they have applied, not their gender or race or their apparent value to a prior employer. In other words, the Act ensures that employers pay employees for their new job, not their old one.

Importantly, the Act would also bar employers from going around a job applicant and seeking the applicant's prior salary from the applicant's previous employer. However, the Act does explicitly permit an employer to seek such information from a job applicant's present or prior employer if the employer has already made an offer of employment to the job applicant with a corresponding offer of compensation; the job applicant has provided written authorization for the employer to seek such information; and the employer is only seeking the information for the sole purpose of *confirming* the prior salary information already volunteered by the job applicant.

While under the Act, a job applicant would still be allowed to voluntarily disclose her prior salary to the prospective employer, the bill will ensure that she will not be screened out of a job opportunity or condemned to depressed wages due to gender and racial inequalities or factors unrelated to an applicant's fit for the job.

V. Requesting Salary History Information Is Not a Fair, Necessary, or Good Business Practice

The Fair Wage Amendment Act of 2016 would not only benefit working people in the District of Columbia, it would put an end to a business practice that, while common, is neither necessary nor good for employers' bottom line. Companies like Google have foregone the practice of relying on salary history, opting instead to "figure out what the job is worth, not the person."⁴¹

Although employers may like to obtain as much information as possible in the hiring process, a job applicant's prior salary does not determine a job's market value. Many companies keep detailed information about pay ranges for a large variety of jobs in a variety of geographic regions⁴² and even more companies are now able to access such market information through websites like Glassdoor and PayScale. And most large corporations already have set ranges for a job's pay.⁴³ Nor does past salary demonstrate a job applicant's worth. As discussed above, it can often be misleading. Employers are better served by evaluating job applicants' experience, skills, accomplishments, track record, and the responsibilities they will be assuming to determine their value.⁴⁴ Moreover, when employees are paid fairly, research shows that their morale and retention improves and they tend to be more focused, dedicated, and productive, helping the employer's bottom line.⁴⁵

In addition, the discriminatory impact of screening out job applicants based on their prior salary reduces the pool of diverse talent available to an employer directly undermining employer efforts to diversify their workforce. But a diverse workforce and equitable employment practices can confer a wide array of benefits on a company, including decreased risk of liability, access to the best talent, increased employee satisfaction and productivity, increased innovation, an expanded consumer base, and stronger financial performance.⁴⁶

VI. By passing the Fair Wage Amendment Act, the District of Columbia Would Join a Growing Chorus of States Seeking to Ban the Salary History Question

By passing the Fair Wage Amendment Act of 2016, the District of Columbia would join the federal government and a growing chorus of states and localities that are seeking to end employers' unnecessary and harmful reliance on job applicants' salary history in hiring and setting pay.

In 2015, the federal Office of Personnel Management issued a new policy discouraging government agencies from considering candidates' prior salary in setting their pay. The policy memo explained that "[r]eliance on existing salary to set pay could potentially adversely affect a candidate who is returning to the workplace after having taken extended time off from his or her career or for whom an existing rate of pay is not reflective of the candidate's current qualifications or existing labor market conditions."⁴⁷

In August of 2016, the Massachusetts legislature unanimously passed, and Governor Charlie Baker signed into law, an equal pay bill that, among other provisions, bans employers from seeking a job applicant's prior salary history before extending a job offer.⁴⁸ The Massachusetts' bill was enacted not only with strong bipartisan support, but with the support of many in the Massachusetts' business community, including the Greater Boston Chamber of Commerce, and the Marlborough and Metrowest Chambers of Commerce.⁴⁹

Since the passage of the Massachusetts' law, there has been a groundswell of support for bringing an end to employer reliance on prior salary information. In September, California amended its equal pay act to state that "prior salary cannot, by itself, justify any disparity in compensation."⁵⁰ And just this month, in New York City, Mayor Bill de Blasio signed an Executive Order blocking

city agencies from asking about an applicant's previous compensation before extending a job offer.⁵¹ At the National Women's Law Center, we have been contacted by state legislators and advocates from across the country, including Illinois, Maryland, and New Jersey, who are interested in pursuing legislation banning the salary history question in their upcoming legislative sessions. And at the federal level, the District of Columbia's own Delegate, Eleanor Holmes Norton, introduced legislation in September that would prohibit employers from screening job applicants based on their prior salary or requesting job applicants' prior salary information.⁵²

VII. Minor Modifications to the Fair Wage Amendments Act Would Further Strengthen Its Protections

The Fair Wage Amendment Act of 2016 could be strengthened by making a few minor modifications. As currently drafted, employers who violate the law are only subject to a civil fine assessed by the Mayor. Although a job applicant may suffer real harm by being screened out of a job opportunity or paid depressed wages due to an employer's reliance on her prior salary, the Act does not provide a mechanism for a victim to file a complaint or be compensated for her damages. Amending the Act to provide for a private right of action and damages will ensure that victims are made whole and employers are adequately deterred from violating the law.

Moreover, it is important that the Fair Wage Amendment Act not stand alone as a solution to discriminatory wage gaps, but be part of a comprehensive effort to strengthen the District's equal pay protections. While banning employer reliance on salary history is an important step towards closing the wage gap, it is also necessary to close several loopholes and gaps in the District's current equal pay laws. The Equal Pay Amendment Act of 2016 that was introduced at the beginning of this year proposes several important fixes, including requiring employers to pay an equal wage for "substantially similar work," not just the exact same job; requiring employers to demonstrate that unequal wages are the result of differences in bona fide factors such as education, training, or experience and that those factors advance a legitimate business purpose; requiring employers to maintain records of the wages paid to employees; and renewing the statute of limitations each time a discriminatory paycheck is issued. Importantly, the Equal Pay Amendments Act also provides that, by itself, an individual's prior salary cannot justify a pay differential. This limitation would make clear that the employer could not use prior salary as a defense to an equal pay claim.

All of these provisions play an important role in closing the wage gap, but none is sufficient in and of itself. It is therefore crucial that the Fair Wage Amendment Act and the Equal Pay Amendments Act be supported together.

VIII. Conclusion

While stopping employers from asking about salary history won't completely close the wage gap, it's a huge step in the right direction. And since the wage gap has barely budged in more than a decade, we need to take action now. We urge the members of this Committee to once again stand up

for working people in the District of Columbia by supporting the Fair Wage Amendment Act of 2016.

¹U.S. Census Bureau, American Community Survey 2015, *available at* http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_14_1YR_DP03&prodType=table.

² D.C. Code § 32-1451 *et seq.*

³ D.C. Code § 32-1003.

⁴ NAT'L WOMEN'S LAW CTR (NWLC). THE WAGE GAP, STATE BY STATE, <http://nwlc.org/resources/wage-gap-state-state/>.

⁵ *Id.*

⁶ *Id.*

⁷ NWLC calculations based on U.S. Census Bureau, American Community Survey 2015, Tables B20017, B20017B, B20017H and B20017I *available at* <http://www.census.gov/acs/www/>.

⁸ *Id.*

⁹ Median gross rent for D.C. is \$1304 per month and comes from U. S. Census Bureau, American Community Survey (ACS) 5-Year Estimates. Gross rent is the contract rent plus the estimated average monthly cost of utilities (electricity, gas, and water and sewer) and fuels (oil, coal, kerosene, wood, etc.) if these are paid by the renter (or paid for the renter by someone else). Average annual employee contribution for employer-based family coverage in D.C. is \$5,120.

Data come from U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, Medical Expenditure Panel Survey: 2015. Table II.D.2 (2015) Average total employee contribution (in dollars) per enrolled employee for family coverage at private-sector establishments that offer health insurance by firm size and State: United States, 2015, *available at* https://meps.ahrq.gov/data_stats/summ_tables/insr/state/series_2/2015/tiid2.

¹⁰ NWLC calculations based on U.S. Census Bureau, American Community Survey 2014, Tables B20017, B20017B, B20017H and B20017I *available at* <http://www.census.gov/acs/www/>.

¹¹ NWLC calculations based on U.S. Census Bureau, 2015 American Community Survey, *available at* <http://www.census.gov/acs/www/>.

¹² *Id.*

¹³ NWLC calculations based on U.S. Census Bureau, 2010-2014 American Community Survey Five-Year Averages, *available at* <http://www.census.gov/acs/www/>.

¹⁴ NAT'L WOMEN'S LAW CTR., WOMEN AND POVERTY, STATE BY STATE (Sept. 2015), <http://www.nwlc.org/resource/women-and-poverty-state-state>.

¹⁵ NWLC calculations based on U.S. Census Bureau, 2010-2014 American Community Survey 5-year averages using IPUMS. "Very young children" defined as related children in the home under the age of 6.

¹⁶ D.C. Code. § 2-1401 *et seq.*

¹⁷ NAT'L WOMEN'S LAW CTR., SEX STEREOTYPES: HOW THEY HURT WOMEN IN THE WORKPLACE – AND IN THE WALLET (Jan. 2013), *available at* http://www.nwlc.org/sites/default/files/pdfs/suits_fact_sheet_-_sex_stereotypes_01.30.2013.pdf.

¹⁸ Brief Amici Curiae of the American Civil Liberties Union and National Women's Law Center, et al., in Support of Respondents at 18, Wal-Mart Stores, Inc. v. Dukes, 131 S. Ct. 2541 (2011) (citation omitted).

¹⁹ SHELLEY J. CORRELL, STEPHAN BENARD, and IN PAIK, GETTING A JOB: IS THERE A MOTHERHOOD PENALTY, AMERICAN JOURNAL OF SOCIOLOGY, Vol. 11 No. 5 (Mar. 2007), pp. 1297- 1339, *available at* http://gender.stanford.edu/sites/default/files/motherhoodpenalty_0.pdf.

²⁰ *Id.*

²¹ NAT'L WOMEN'S LAW CTR, THE WAGE GAP FOR MOTHERS, STATE BY STATE (Nov. 2016), <https://nwlc.org/resources/the-wage-gap-for-mothers-state-by-state-2016/>.

²² NAT'L WOMEN'S LAW CTR, MOVING WOMEN AND FAMILIES FORWARD: A STATE ROADMAP TO ECONOMIC JUSTICE 37 (MAR. 2016), <https://nwlc.org/resources/moving-women-families-forward-state-roadmap-economic-justice/>.

²³ NWLC calculations based on U.S. Census Bureau, Table Packages, Full-Time, Year-Round Workers and Median Earnings in the Past 12 Months by Sex and Detailed Occupation: 2014, *available at*

http://www.census.gov/people/io/publications/table_packages.html?eml=gd&utm_medium=email&utm_source=govdelivery.

²⁴ *Id.*

²⁵ *Id.*

²⁶ NAT'L WOMEN'S LAW CTR., THE 10 LARGEST JOBS PAYING UNDER \$10.10/HOUR ARE MAJORITY WOMEN (Apr. 2013), *available at* <http://www.nwlc.org/sites/default/files/pdfs/womendominatedminwageoccupations.pdf>.

²⁷ Philip N. Cohen, Devaluing and Revaluing Women's Work, HUFFINGTON POST (April 3, 2010), *available at* http://www.huffingtonpost.com/philip-n-cohen/devaluing-and-revaluing-w_b_444215.html.

²⁸ Asaf Levanon, Paula England, & Paul Allison, OCCUPATIONAL FEMINIZATION AND PAY: ASSESSING CAUSAL DYNAMICS USING 1950-2000 U.S. CENSUS DATA, SOCIAL FORCES (Dec. 2009): 865-892, *available at* <http://www.statisticalhorizons.com/wp-content/uploads/2012/01/88.2.levanon.pdf>.

²⁹ ARIANE HEGEWISCH & MAXWELL MATITE, INST. FOR WOMEN'S POLICY RESEARCH, THE GENDER WAGE GAP BY OCCUPATION (Apr. 2015), *available at* <http://iwpr.org/publications/pubs/the-gender-wage-gap-by-occupation-2014-and-by-race-and-ethnicity>. Female-dominated occupations are those that are at least 75 percent female.

³⁰ See NAT'L WOMEN'S LAW CTR., FAIR PAY FOR WOMEN REQUIRES A FAIR MINIMUM WAGE (2015), *available at* <http://nwlc.org/resources/fair-pay-women-requires-fair-minimum-wage/>.

³¹ WIDER OPPORTUNITIES FOR WOMEN, GENDER EQUITY, <http://www.wowonline.org/gender-equity> (last visited June 4, 2013).

³² NWLC calculations based on U.S. Census Bureau, 2015 American Community Survey, *available at* <http://www.census.gov/acs/www/>.

³³ NAT'L WOMEN'S LAW CTR., WOMEN AND THE MINIMUM WAGE, STATE BY STATE (Aug. 2016), <https://nwlc.org/resources/women-and-minimum-wage-state-state/>.

³⁴ See NAT'L WOMEN'S LAW CTR., CHARTBOOK: THE WOMEN IN THE LOW-WAGE WORKFORCE MAY NOT BE WHO YOU THINK (Sept. 2015), *available at* <http://nwlc.org/resources/chart-book-women-low-wage-workforce-may-not-be-who-you-think/>.

³⁵ See FAIR PAY FOR WOMEN, *supra* note 30.

³⁶ NAT'L WOMEN'S LAW CTR., MOVING WOMEN AND FAMILIES FORWARD, *supra* note 22.

³⁷ See HANNAH RILEY BOWLES, LINDA BABCOCK & LEI LAI, SOCIAL INCENTIVES FOR GENDER DIFFERENCES IN THE PROPENSITY TO INITIATE NEGOTIATIONS: SOMETIMES IT DOES HURT TO ASK, 103 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 84 (2007).

³⁸ See Bourree Lam, *The Government Thinks that Interview Questions about Salary History are Holding Women Back*, THE ATLANTIC (Aug. 10, 2015), <http://www.theatlantic.com/business/archive/2015/08/hiring-interview-gender-gap-pay-salary-history-opm/400835/>; TODD J. THORSTEINSON, INITIATING SALARY DISCUSSIONS WITH AN EXTREME REQUEST: ANCHORING EFFECTS ON INITIAL SALARY OFFERS, JOURNAL OF APPLIED SOCIAL PSYCHOLOGY (2011), *available at* <http://onlinelibrary.wiley.com/doi/10.1111/j.1559-1816.2011.00779.x/abstract>.

³⁹ June Bell, *He Earned, She Earned: California Bill Would Limit Use of Salary Information*, SHRM.ORG. August 29, 2016, <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/california-salary-history.aspx> ("salary history 'is one component businesses look at to see if candidates are equally qualified."); Jena McGregor, *The Worst Question You Could Ask Women in a Job Interview*, WASHINGTON POST (April 14, 2015), <https://www.washingtonpost.com/news/on-leadership/wp/2015/04/14/the-worst-question-you-could-ask-women-in-a-job-interview/> ("Higher salaries also have what's known as a "branding" impact. Just as consumers think pricier products are better quality, recruiters and managers can have the same reaction when a job candidate has a higher past salary, Anderson explained. 'It may trigger a conviction that one hire is lower quality than another, even if that isn't the reality.'").

⁴⁰ See Katie Donovan, *Five Reasons Salary History Hurts Your Hiring Goals*, HUFFINGTON POST, Sept. 8, 2015, http://www.huffingtonpost.com/katie-donovan/five-reasons-salary-histo_b_8105182.html.

⁴¹ McGregor, *The Worst Question*, *supra* note 39.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Alison Green, *Massachusetts Makes Asking about Salary History a Thing of the Past*, U.S. NEWS & WORLD REPORT, Aug. 5, 2016, <http://money.usnews.com/money/blogs/outside-voices-careers/articles/2016-08-05/massachusetts-makes-asking-about-salary-history-a-thing-of-the-past>.

⁴⁵ See LAMB, N. & KLEIN, W., *A Proactive Approach to Wage Equality is Good for Business*, EMPLOYMENT RELATIONS TODAY (Summer 2015), available at <http://arjuna-capital.com/news/a-proactive-approach-to-wage-equality-is-good-for-business/>.

⁴⁶ Hunt, V., Layton, D. & Prince, S., *Diversity Matters* 9-13, MCKINSEY & CO. (Feb. 2015) (finding diverse workforces correlate with better financial performance, because diversity helps to recruit the best talent, enhance the company's image, increase employee satisfaction, and improve decision making, including fostering innovation); Hewlitt, S.A., Marshall, M. & Sherbin, L., *How Diversity Can Drive Innovation*, HARVARD BUS. REV. (Dec. 2013), available at <https://hbr.org/2013/12/how-diversity-can-drive-innovation>.

⁴⁷ July 30, 2015, Letter from Beth F. Cobert, Acting Director, U.S. Office of Personnel Management, available at <https://www.chcoc.gov/content/additional-guidance-advancing-pay-equality-federal-government>.

⁴⁸ S. 2107, 189th Gen. Ct. (Mass. 2016) (amending Mass. Gen. Laws Ch. 149 §§ 105A, 105B, 151).

⁴⁹ Massachusetts Equal Pay Coalition, Current Supportive Businesses, <http://www.maequalpaycoalition.com/current-supportive-businesses/> (last visited Nov. 28, 2016).

⁵⁰ A.B. 1676, 2016 Reg. Sess. (Ca. 2016) (amending (amending CAL. LAB. CODE § 1197.5)

⁵¹ NY City Exec. Order No. 21 (Nov. 4, 2016), http://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2016/eo_21.pdf.

⁵² Pay Equity for All Act of 2016, H.R. 6030, 114th Congress.