

**Written Testimony of  
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National Women's Law Center  
In SUPPORT of B24-0708  
Before the D.C. Council Committee on Labor and Economic Development  
December 9, 2022**

Thank you for the opportunity to submit this testimony on behalf of the National Women's Law Center. NWLC has been working since 1972 to secure and defend women's legal rights and opportunities, and to help women and families achieve economic security. A large part of our work involves supporting local and state policymakers across the country in their efforts to pass laws that will help close gender and racial wage gaps.

Pay range transparency is a top equal pay policy priority right now and a movement we are seeing sweep the country. B24-0708 gives employers a crucial tool for more efficiently and fairly setting pay and avoiding gender and racial wage gaps.

### **1. Secrecy around pay ranges perpetuates gender and racial wage gaps**

Women and people of color have long faced bias, which shows up in discriminatory pay and hiring practices by individual employers and a market that devalues jobs predominantly held by women.<sup>1</sup> Secrecy around pay allows this devaluation of women's work to often go unchecked and bias and wage gaps to grow.<sup>2</sup>

Closing the gender wage gap has motivated recent legislative actions to promote workplace pay transparency, such as protection from retaliation for discussing pay with co-workers. However, putting the onus on individual workers to collect information and negotiate to fix pay discrepancies will always be an incomplete solution.

Research shows that pay negotiations are notoriously unfavorable to women: Employers tend to perceive women negatively and as greedy and aggressive when they negotiate. Consequently, women's negotiations are less likely to be met with higher pay and promotions;<sup>3</sup> perhaps relatedly, some research shows that women often ask for less when they negotiate than men.<sup>4</sup> Women may also tend to ask for less because it is a common practice for job applicants to ask for an amount that is a 10 to 20 percent increase over their prior salary.<sup>5</sup> Given that women and people of color are typically paid less than white, non-Hispanic men in the same occupations,<sup>6</sup> they would have to request a particularly large percentage increase over their current pay for their request to be on par with their white, non-Hispanic male counterparts.<sup>7</sup>

### **2. Pay range transparency helps narrow gender wage gaps**

Fortunately, studies show that when job applicants are clearly informed about the context for negotiations, including the typical pay for the position, gender differences in negotiation outcomes diminish, which could help narrow gender wage gaps.<sup>8</sup> Providing applicants with a pay

range that the employer is willing to pay helps level the negotiating playing field by giving applicants important information that can inform an opening offer that is less tied to their previous pay levels or personal identity.

Importantly, being required to post pay ranges also prompts employers to proactively review and evaluate their compensation practices and address any unjustified disparities between employees.

Pay range information also helps current employees evaluate whether they are being paid fairly and work with their employers to resolve pay disparities or, if an employer refuses to pay market rate, to seek new job opportunities that pay fairly. Women benefit from this as women not only tend to be underpaid at their job, but they are also often less likely to move for a better job and thus less likely to do market checks and find out what their position is actually worth.<sup>9</sup>

An emerging line of research points to a reduction in gender pay gaps and increased wages for women after states and/or employers have enacted pay transparency policies, including policies banning employers from relying on an applicant's salary history to set pay—a policy that has been shown to incentivize more employers to post wages in job announcements.<sup>10</sup> In addition, a recent study of Colorado's new pay range transparency law also found that posted salaries increased by about 3.6% on average following the new law, suggesting that greater transparency spurs more worker-friendly pay.<sup>11</sup>

The much narrower wage gap in the public sector – where agencies typically have transparent and public pay structures – is further evidence that greater pay transparency helps reduce wage disparities. Nationally, the gender wage gap for all full-time, year-round workers, based on median earnings, is 16%,<sup>12</sup> but in the federal government, where pay rates are publicly available, women were typically paid 93 to 94 cents for every dollar earned by their male counterparts.<sup>13</sup> Union members also experience a narrower gender wage gap compared to nonunion members likely in part because unions help to ensure transparency around wages, including greater access to and control over information about salaries, and set pay scales.<sup>14</sup>

### **3. Pay range transparency helps businesses more effectively and efficiently hire and set pay**

In the wake of the COVID-19 pandemic, more employers have begun to include pay ranges in their job postings, as doing so helps them attract talent and stay competitive.<sup>15</sup> Indeed, according to a recent Glassdoor survey, nearly 2 in 3 employees prefer to work at a company that discloses pay information over one that does not.<sup>16</sup> Workers are consistently demanding pay transparency, with a recent Monster.com survey showing that 98% of workers say employers should share salary ranges in job postings.<sup>17</sup> And more than half (53%) responded they would refuse to even apply for a job that does not disclose the salary range.<sup>18</sup>

Transparency about pay ranges also helps employers avoid wasting time interviewing someone who would not accept the position because the pay is too low. And pay transparency promotes employee trust, loyalty and productivity, which is good for employers' bottom line.<sup>19</sup>

Unfortunately, many employers, especially in the private sector, are still not transparent about how much a position pays. Various reports have found that only about 12% to 27% of employers

share pay ranges with applicants, employees, or both.<sup>20</sup> Even if they haven't established formal pay ranges for particular roles, employers usually budget a general amount or range for the position for which they are hiring. Pay range transparency laws simply ask employers to share that information with applicants. Already, according to a PayScale survey, 86% of surveyed employers have a compensation structure in place or are working to develop one and around 68% of respondents stated they share their salary ranges with current employees, demonstrating that pay range transparency is possible.<sup>21</sup>

#### **4. States are increasingly enacting and considering pay range transparency requirements**

Seven states have enacted laws requiring employers to provide job applicants the pay range for a position at some point in the hiring process—four in just the last year and a half: Colorado, Washington, Rhode Island, Connecticut, Nevada, Maryland, and California. Of those, Colorado, California, and Washington specifically require pay ranges to be posted in job announcements. New York has passed a similar law, but it is awaiting signature by the governor.

Localities are increasingly passing laws requiring employers to post the pay range in a job announcement including, New York City; Ithaca, NY; Westchester County, NY; and Jersey City, NJ.

At least a dozen states introduced similar legislation in 2022 and we expect to see even more introduce such legislation in 2023.

#### **5. Recommendations for strengthening B24-0708**

Several of the jurisdictions (CO, WA, NY (pending governor signature)) that have required pay ranges in job announcements have also required a “general description of benefits and other compensation.” Benefits can make up a large part of a compensation package (and thus pay negotiation) and a significant portion of an employee’s pay may not be in “salary” or “hourly” pay but in other forms like commissions. Employees also experience discrimination in benefits and other compensation. Ensuring job applicants have this additional basic information helps level the negotiating playing field and will help close the gender gaps that otherwise tend to arise in negotiations and pay setting in the absence of this transparency.

In addition, as with other workers’ rights and civil rights protections, we strongly encourage the Council to ensure that workers exercising their rights under this law or opposing a violation of this law are protected from retaliation.

To ensure that employers are incentivized to follow this law, we also encourage the Council to include strong enforcement mechanisms. This should include a private right of action for individuals to enforce their rights in court as well as an authorization for the relevant enforcement agency to initiate its own investigations, file its own complaints, and levy civil penalties, in addition to receiving and investigating complaints from the public.

We also encourage you to ensure that the law clearly requires employers to be transparent about pay ranges in job announcements even when using agents, recruiters, or other third parties to announce job opportunities.

Finally, several jurisdictions (CA, CT, RI) that have passed pay range transparency laws also require employers to provide pay ranges to current employees. This continued pay transparency throughout an employee's tenure gives employees an important tool for ensuring they are paid fairly and incentivizes employers to regularly evaluate their payrolls and pay setting processes to identify and correct unjustified wage disparities. Adding a requirement that employers annually provide employees the pay range for the position they are employed in would further strengthen this legislation.

We also encourage the Council to pass legislation that would prohibit employers from relying on and seeking job applicants' salary history in the hiring process. As with employer secrecy around salary ranges, it is well documented that when an employer relies on applicants' salary history to set pay, they force women and people of color to carry gender and racial wage gaps from job to job.<sup>22</sup> Both pieces of legislation are necessary for debiasing the hiring process and helping DC employers avoid introducing wage gaps into their workplace.

### Conclusion

Requiring employers to provide pay ranges to applicants is a crucial step towards closing the wage gap. And since the wage gap has barely budged in more than a decade, we must act now. We urge the members of this Committee to show up for working people in D.C. by passing B24-0708.

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<sup>1</sup> National Women's Law Center, "The Wage Gap Robs Women of Economic Security as the Harsh Impact of COVID-19 Continues," March 2022, available at <https://nwlc.org/wp-content/uploads/2022/03/Equal-Pay-Day-Factsheet-2022.pdf>

<sup>2</sup> National Women's Law Center, *Combating Punitive Pay Secrecy Policies*, <https://nwlc.org/wp-content/uploads/2019/02/Combating-Punitive-Pay-Secrecy-Policies.pdf>; "The Wage Gap: The Who, How, Why, and What to Do," National Women's Law Center, October 2020, available at <https://nwlc.org/wp-content/uploads/2019/09/Wage-Gap-Who-how.pdf>

<sup>3</sup> Artz, B., Goodall, A. H., & Oswald, A. J. 2018. "Do women ask?" *Industrial Relations* 57(4): 611-636. <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12214>

<sup>4</sup> Hannah Riley Bowles, Linda Babcock, and Lei Lai, "Social Incentives for Gender Differences in the Propensity to Initiate Negotiations: Sometimes It Does Hurt to Ask," *Organizational Behavior and Human Decision Processes*, 2007, available at <https://www.sciencedirect.com/science/article/abs/pii/S0749597806000884>; Marcus Dittrich, Andreas Knabe, and Kristina Leipold, "Gender Differences in Experimental Negotiations," February 25, 2014, available at <https://onlinelibrary.wiley.com/doi/abs/10.1111/ecin.12060>; Anna Dreber, Emma Heikensten, and Jenny Save-Soderbergh, "Why Do Women Ask for Less?," November 20, 2020, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3703813](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3703813); Jenny Save-Soderbergh, "Gender Gaps in Salary Negotiations: Salary Requests and Starting Salaries in the Field," May 2019, available at <https://www.sciencedirect.com/science/article/abs/pii/S0167268119300290>.

<sup>5</sup> Aine Cain, "How Much Money to Ask for During Your Next Salary Negotiation," July 18, 2018, available at <https://www.businessinsider.com/how-much-money-to-askfor-in-a-salary-negotiation-2015-5>

<sup>6</sup> "The Wage Gap, State by State," National Women's Law Center, March 16, 2021, available at <https://nwlc.org/resource/wage-gap-state-state/>

<sup>7</sup> See Bourree Lam, "The Government Thinks that Interview Questions about Salary History are Holding Women Back," *The Atlantic*, August 10, 2015, available at <https://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,” July 12, 2011, available at <https://onlinelibrary.wiley.com/doi/10.1111/j.1559-1816.2011.00779.x>

<sup>8</sup> Andreas Leibbrandt and John A. List, “Do Women Avoid Salary Negotiations? Evidence From A Large-Scale Natural Field Experiment,” National Bureau of Economic Research, November 2012 available at <https://www.nber.org/papers/w18511>; see, e.g., Maria Recalde and Lise Vesterlund, “Gender Differences in Negotiation and Policy for Improvement,” National Bureau of Economic Research, December 2020, available at <https://www.nber.org/papers/w28183>; Hannah Riley Bowles, Bobbi Thomason, and Immaculada Macias-Alonso, “When Gender Matters in Organizational Negotiations,” 2022, available at <https://www.annualreviews.org/doi/epdf/10.1146/annurev-orgpsych-012420-055523>; . See Jennifer E. Dannals et. al., “The Dynamics of Gender and Alternatives in Negotiation,” available at <https://psycnet.apa.org/record/2021-03654-001>

<sup>9</sup> <https://www.sciencedirect.com/science/article/abs/pii/S0049089X15300119>; <https://www.demographic-research.org/volumes/vol40/53/default.htm>

<sup>10</sup> Sourav Sinha, “Salary History Ban: Gender Pay Gap and Spillover Effects,” 2019, available at SSRN: <https://doi.org/10.2139/ssrn.3458194>; James E. Bessen, Chen Meng, and Erich Denk, “Perpetuating Inequality: What Salary History Bans Reveal About Wages,” June 2020, available at SSRN: <https://ssrn.com/abstract=3628729> or <http://dx.doi.org/10.2139/ssrn.3628729>

<sup>11</sup> David Arnold, Simon Quach, and Bledi Taska, “The Impact of Pay Transparency in Job Postings on the Labor Market,” 2022, available at SSRN: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4186234](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4186234).

<sup>12</sup> The Wage Gap Robs Women of Economic Security as the Harsh Impact of COVID-19 Continues,” National Women’s Law Center, March 2022, available at <https://nwlc.org/wp-content/uploads/2022/03/Equal-Pay-Day-Factsheet-2022.pdf>. While the wage gap is 16 percent on average for all women, it is important to note that women of color, especially Black, Latina, and certain Asian American Pacific Islander ethnicities, have wage gaps that are higher than the average.

<sup>13</sup> “Gender Pay Differences: The Pay Gap for Federal Workers Has Continued to Narrow, but Better Quality Data on Promotions Are Needed,” U.S. Government Accountability Office, December 3, 2020, available at <https://www.gao.gov/products/gao-21-67>. As GAO notes, gender wage gap is greater for certain groups of women, such as Hispanic/Latina, Black, American Indian or Alaska Native women.

<sup>14</sup> National Women’s Law Center, Unions Are Good For Women, 2021, <https://nwlc.org/wp-content/uploads/2021/07/Union-Factsheet-9.8.21.pdf>

<sup>15</sup> Roy Maurer, “More Employers Post Salary Ranges to Attract Workers,” Society for Human Resource Management (SHRM), August 16, 2021, available at <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/salary-ranges-.aspx>

<sup>16</sup> “85% of Employed Women Believe They Deserve a Pay Raise; More Salary Transparency Can Help,” Glassdoor.com, March 9, 2022, available at <https://www.glassdoor.com/research/pay-transparency-survey-2022/>

<sup>17</sup> Workers Overwhelmingly Support Pay Transparency, CNBC, October 2022, <https://www.cnn.com/2022/10/26/workers-overwhelmingly-support-pay-transparency.html>

<sup>18</sup> *Id.*

<sup>19</sup> PayScale, available at <https://www.payscale.com/content/whitepaper/Pay-Transparency-Closing-Gender-Wage-Gap.pdf>; Marcel Schwantes, “New Report: Pay Transparency May Be the Key to Keeping Your Employees in 2021,” Inc.com, February 11, 2021, available at <https://www.inc.com/marcel-schwantes/new-report-paytransparency-may-be-key-to-keeping-your-employees-in-2021.html>; see Deborah Thompson Eisenberg, “Money, Sex and Sunshine: A Market-Based Approach to Pay Discrimination,” 2011, available at [https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2093&context=fac\\_pubs](https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2093&context=fac_pubs)

<sup>20</sup> Kathryn Vasel, “Here’s What Happens When Salary Is Actually Included In Job Listings,” CNN, February 9, 2022, available at <https://www.cnn.com/2022/02/09/success/salary-ranges-pay-transparency/index.html>; “The Reinvention of Company Culture,” LinkedIn, 2022, available at [https://business.linkedin.com/content/dam/me/business/en-us/talent-solutions-lodestone/body/pdf/global\\_talent\\_trends\\_2022.pdf](https://business.linkedin.com/content/dam/me/business/en-us/talent-solutions-lodestone/body/pdf/global_talent_trends_2022.pdf)

<sup>21</sup> “2022 Compensation Best Practices Report,” PayScale.com, available at <https://www.payscale.com/research-and-insights/cbpr/>

<sup>22</sup> National Women’s Law Center, Asking for Salary History Perpetuates Pay Discrimination from Job to Job, Dec. 2020, <https://nwlc.org/wp-content/uploads/2020/01/Asking-for-Salary-History-2020-12.7.2020.pdf>