

Testimony of Congresswoman Eleanor Holmes Norton
Committee on Education and Labor
Subcommittees on Civil Rights and Human Services and Workforce Protections
“Paycheck Fairness Act (H.R. 7): Equal Pay for Equal Work”
February 13, 2019

Chairwoman Bonamici, Chairwoman Adams, Ranking Member Comer and Ranking Member Byrne, I am pleased to testify on H.R. 7, the Paycheck Fairness Act. I strongly support this critical bill and applaud Chairwoman Bonamici and Chairwoman Adams for making H.R. 7 a priority for this Committee. I would like to thank Chairman Scott for his leadership on this issue as well. As the first woman to chair the U.S. Equal Employment Opportunity Commission (EEOC), I enforced the Equal Pay Act (EPA). I particularly appreciate that H.R. 7 would bring long awaited strength to the EPA. This bill would remove obstacles in the EPA to facilitate a complainant’s participation in class action lawsuits challenging systemic pay discrimination, improve the U.S. Department of Labor’s ability to enforce the EPA, and direct the EEOC to survey wage information to help with analysis and enforcement. I would have appreciated all these tools when I chaired the EEOC.

I particularly appreciate that Representative Rosa DeLauro, a great champion for equal pay, has included my Pay Equity for All Act in H.R. 7, which I will focus on in my testimony. The Pay Equity for All Act would prohibit employers from asking job applicants their salary history. Even though many employers may not intentionally discriminate against applicants or employees based on gender, race or ethnicity, setting wages based on salary history is routinely done in the workplace and can reinforce the wage gap. Evidence clearly shows that members of historically disadvantaged groups often start out their careers with unfair and artificially low wages compared to their white male counterparts, which itself may reflect discrimination, and these disparities are compounded from job to job throughout their careers.¹

Job and salary offers should be based on an applicant’s skill and merit, not salary history. The Pay Equity for All Act addresses this problem by assessing penalties against employers who ask applicants for their salary history during the interview process or as a condition of employment. The bill would also provide job applicants and employees with a private right of action against employers who violate these provisions. One study has shown that in cases where bargaining over salary occurred, when employers were not allowed to ask the salary history of an applicant, the applicant was offered and accepted wages 9% higher than the applicant’s initial bid compared to wages offered by control group employers who were allowed to ask about salary history.² Employers also tend to interview more applicants when they cannot ask about

¹ See, e.g., Deborah Ashton, *Does Race or Gender Matter More to Your Paycheck?*, Harvard Bus. Review (2014), <https://hbr.org/2014/06/does-race-or-gender-matter-more-to-your-paycheck>; Sarah Jane Glynn, Ctr. for Am. Progress, *Fact Sheet: The Wage Gap for Women* (2012), <https://www.americanprogress.org/issues/economy/news/2012/08/16/12029/fact-sheet-the-wage-gap-for-women/>.

² E.g., Moshe A. Bache and John J. Horton, *How Do Employers Use Compensation History?: Evidence from a Field Experiment* (June 21, 2017), at 2, 27-28, <http://moshebarach.com/wp-content/uploads/2017/06/WageHistory.pdf>.

salary history.³ Making my bill, the Pay Equity for All Act, a provision of H.R. 7 is an important step toward closing the pay gap and making sure all qualified applicants are able to be considered for positions.

H.R. 7 would also direct the EEOC to collect data on salaries based on several criteria, including sex, to help assist federal agencies in enforcing labor and employment laws. Use of objective data was key to my own work at the EEOC, which was most successful when the data enabled us to bring class actions, achieving remedies for large numbers of complainants at once. This may be one reason women and minorities have made more progress getting jobs than getting equal pay once they have those jobs.

We must work to close the pay gap in this country, both the pay differences between men and women and the pay differences that negatively affect racial minorities. I look forward to working with you to enact H.R. 7.

³ *See, e.g., id.*