

January 25, 2021

Senator Ben Hansen,
Chairperson, Business & Labor Committee
State Capitol, P.O. Box 94604
Lincoln, NE 68509

Dear Chairperson Hansen and members of the Business & Labor Committee,

My name is Tiffany Seibert Joekel, and I am submitting testimony in support of LB 249 on behalf of the Women's Fund of Omaha.

The wage gap is substantial and real in Nebraska and provides a concrete measure of just how far our state still has to go to ensure that women—particularly Black, Indigenous and women of color—can participate fully and equally in our economy.

Women in Nebraska earn 78 cents for every dollar earned by a man for full-time, year-round work.ⁱ This pay disparity is even more pronounced for women of color. For every \$1 earned by a white man in Nebraska for full-time, year-round work, a Black woman earns 60.8 cents, a Native woman earns 59.9 cents, an Asian woman earns 68.9 cents and a Latina woman earns 55.5 cents.ⁱⁱ

Nebraska women are paid less than men despite being more highly educated. More women in Nebraska age 25 and older have bachelor's degrees (22.7% of women to 20.8% of men) and graduate or professional degrees (12.1% of women to 10.8% of men).ⁱⁱⁱ In fact, women are more highly educated than men in every age category, except those 65 and older.^{iv} Yet at every level of educational attainment, women have lower median earnings than men, and the gap grows as education increases.^v

Research attributes this pay gap to a variety of factors – including occupational segregation and differences in caregiving responsibilities – but there is still a portion of these disparities that can only be explained by discrimination or bias.^{vi}

LB 249 provides a meaningful opportunity to disrupt the impact of pay discrimination. For workers who experience pay disparities related to gender or racial discrimination, salary history information injected into the hiring process will perpetuate the inequality that has held down their pay throughout their entire career. Such workers cannot escape discrimination by taking another job because their prior salary will artificially depress future salary offers, making even well-meaning employers complicit in perpetuating employment discrimination.

Recent research out of Boston University School of Law provides a substantial contribution to our understanding of the impact of salary history bans on the salary of job changers.^{vii} The findings are based upon wage information from approximately 52,000 workers who changed employers between January 2013 to February 2020. Comparing a control group of counties not covered by salary history bans that are in the same labor market areas (commuting zones) as those counties that are under salary history bans, the study found

that after a salary history ban, job-changing workers earn 5 – 6% more on average than comparable job-changers in job markets not under a salary history ban.^{viii} This increase in the pay of job-changers is even larger for women (8%) and African Americans (13%).

We know that many employers share our goal of pay equity and equal employment opportunity for all Nebraskans. Although using salary history may seem like a neutral practice, it has a discriminatory impact by effectively affirming and reinforcing a prior employer’s bias. Employers can instead implement better hiring practices that reflect their commitment to equity – such as including salary information in job postings to save time in the hiring process by allowing potential employees to self-select if the salary range does not meet their expectations.

LB 249 provides a tremendous opportunity to interrupt the impact of bias in perpetuating the wage gap. On average, women employed full time in Nebraska lose a combined total of more than \$3 billion every year due to the wage gap.^{ix} These lost wages mean marginalized workers and their families have less money to support themselves, save and invest for the future, and spend on goods and services. A starting salary held down by past discriminatory pay practices has longer-term implications, including artificially depressed contributions to Social Security, pensions and retirement savings. The persistent earnings inequality by gender, race and ethnicity impact not just the current generation of workers, but also their children and thus the next generation. Women, their families, businesses and our state’s economy suffer as a result.

Disrupting the cycle of pay inequity will build economic stability for families and communities, and we would encourage the advancement of LB 249.

ⁱ U.S. Census Bureau, American Community Survey 5-Year Estimates, "Worked Full-time, year-round in past 12 months," Population 16 years and over with earnings, Table B20017, 2018.

ⁱⁱ U.S. Census Bureau, American Community Survey 5-Year Estimates, "Worked Full-time, year-round in past 12 months," Population 16 years and over with earnings, Tables B20017, B20017H, B20017B, B20017C, B20017D, B20017I, 2018.

ⁱⁱⁱ U.S. Census Bureau, American Community Survey, ACS 1-Year Estimates Subject Tables, 2019, Table S1501.

^{iv} U.S. Census Bureau, American Community Survey, ACS 1-Year Estimates Subject Tables, 2019, Table S1501.

^v Population 25 years and older. Source: U.S. Census Bureau, American Community Survey, ACS 1-Year Estimates Subject Tables, 2019, Table S1501.

^{vi} Nebraska: Women and the Wage Gap," *National Partnership for Women and Families*, (April 2017).

<http://www.nationalpartnership.org/our-work/resources/workplace/fair-pay/4-2017-ne-wage-gap.pdf>

^{vii} Bessen, James, Denk, Erich, and Meng, Chen, "Perpetuating Inequality: What Salary History Bans Reveal About Wages," *Boston University School of Law*, Public Law & Legal Theory Paper No. 20-19, June 2020, Accessed October 27, 2020,

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3628729

^{viii} Bessen, James, Denk, Erich, and Meng, Chen, "Perpetuating Inequality: What Salary History Bans Reveal About Wages," *Boston University School of Law*, Public Law & Legal Theory Paper No. 20-19, June 2020, Accessed October 27, 2020,

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^{ix} Calculated by the annualized difference in Nebraska men’s and women’s median weekly earnings, multiplied by the number of women workers. Source: U.S. Bureau of Labor Statistics, "Highlights of Women’s Earnings in 2018," Table 3, November 2019,

<https://www.bls.gov/opub/reports/womens-earnings/2018/home.htm>.