

Support the Ledbetter Fair Pay Restoration Act (H.R. 11) and the Paycheck Fairness Act (H.R. 12)



January 8, 2009

Dear Representative:

On behalf of the 100,000 bipartisan members of the American Association of University Women, I urge you to **support the Lilly Ledbetter Fair Pay Act (H.R. 11)**, which will restore the law to how it was applied by the EEOC and the courts prior to the *Ledbetter* decision; and the **Paycheck Fairness Act (H.R. 12)**, which will provide a much-needed update to the Equal Pay Act of 1963. Both measures passed the House in the 110th Congress, and a swift reaffirmation of both bills will demonstrate a clear commitment on the part of the 111th Congress to reduce pay inequities. Taking strong steps towards pay equity could also play a critical role in any effort to stimulate the economy and ensure self-sufficiency for women, who tend to be hurt first and worst during economic downturns.

According to the U.S. Census Bureau, women who work full time, earn, on average, only 78 cents for every dollar men earn.¹ The figures are even worse for women of color. AAUW's recent report, *Behind the Pay Gap*, controlled for factors known to affect earnings such as education and training, parenthood and hours worked, and found that college-educated women still earn five percent less than men one year out of college and 12 percent less than men 10 years out of college, even when they have the same major and occupation as their male counterparts.² These findings suggest that sex discrimination not only continues to be a problem in the workplace, but that it affects the incomes of even the most educated women and affects them immediately out of college.

The **Lilly Ledbetter Fair Pay Act** will address the Supreme Court's problematic 2007 decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, which severely limits the ability of victims of pay discrimination to vindicate their rights under Title VII. AAUW believes this decision is inconsistent with Congressional intent and the Court's own precedents, essentially immunizing employers from accountability for their discrimination once 180 days have passed. AAUW believes the Court's decision ignores the realities of today's workplace; employees generally don't know enough about what co-workers earn or how pay decisions are made to file a complaint precisely when a discriminatory pay decision is made. The *Ledbetter* decision also reversed the EEOC's longstanding practice – known as the paycheck accrual rule – that repeated payments of discriminatory paychecks can be challenged as long as one paycheck occurred within the charge filing period. The new standard thus makes it much more difficult for victims of discrimination to seek vindication and hold employers accountable for their actions. The Lilly Ledbetter Fair Pay Act amends Title VII to clarify that a pay discrimination claim accrues when a pay decision is made, when an employee is subject to that decision, or at any time they are injured by it. This measure will simply return legal practices to what they were the day before the *Ledbetter* decision was issued – nothing more, nothing less.

AAUW also urges you to support the **Paycheck Fairness Act**, which would take meaningful steps to empower women to negotiate for equal pay, create stronger incentives for employers to follow the law, and strengthen federal outreach and enforcement efforts. The Paycheck Fairness Act would:

- Clarify acceptable reasons for differences in pay by requiring employers to demonstrate that wage gaps between men and women doing the same work are truly a result of factors other than sex.
- Deter wage discrimination by strengthening penalties for equal pay violations, and by prohibiting retaliation against workers who inquire about employers' wage practices or disclose their own wages. The bill's measured approach would ensure that women can obtain the same remedies as those subject to discrimination on the basis of race or national origin. AAUW would strongly oppose any efforts to add caps.
- Provide women with a fair option to proceed in a class action suit under the Equal Pay Act, and allow women to receive punitive and compensatory damages for pay discrimination.
- Clarify the establishment provision under the Equal Pay Act, which would allow for reasonable comparisons between employees to determine fair wages.
- Authorize additional training for Equal Employment Opportunity Commission staff to better identify and handle wage disputes.
- Aid in the efficient and effective enforcement of federal anti-pay discrimination laws by requiring the EEOC to develop regulations directing employers to collect wage data, reported by the race, sex, and national origin of employees.
- Require the U.S. Department of Labor to reinstate activities that promote equal pay, such as: directing educational programs, providing technical assistance to employers, recognizing businesses that address the wage gap, collecting wage-related data, and conducting and promoting research about pay disparities between men and women.
- Establish a competitive grant program to develop salary negotiation training for women and girls.

Together, these bills can help to create a climate where wage discrimination is not tolerated and give the new administration the enforcement tools it needs to make real progress on pay equity. **Again, we urge you to vote yes on the Lilly Ledbetter Fair Pay Act and the Paycheck Fairness Act, and to oppose any motions to recommit.** AAUW has been fighting for pay equity for American women since 1913, and we believe that equal pay for equal work is a simple matter of justice.

Votes associated with this legislation will be included in the AAUW Congressional Voting Record for the 111th Congress. If you have any questions, please do not hesitate to contact me at 202/785-7720, or Tracy Sherman, government relations manager, at 202/785-7730.

Sincerely,



Lisa M. Maatz
Director, Public Policy and Government Relations

¹ U.S. Census Bureau and the Bureau of Labor Statistics. (August 2008). *Annual Demographic Survey*. Retrieved August 27, 2008, from http://pubdb3.census.gov/macro/032008/perinc/new05_000.htm.

² AAUW Educational Foundation. *Behind the Pay Gap*, 11. April 23, 2007.