



INSTITUTE FOR WOMEN'S POLICY RESEARCH
1707 L Street NW ♦ Suite 750 ♦ Washington, DC 20036

January 8, 2009

Re: Lilly Ledbetter Fair Pay Act, H.R. 11, and Paycheck Fairness Act, H.R. 12

Dear Representative:

Little progress has been made in narrowing the wage gap in the past two decades. Women's pay for full-time, year-round work has hovered around 75 percent of men's for 20 years, despite substantial increases in women's education and work experience relative to men. While women have enhanced their educational qualifications, gained experience on the job, and worked more hours, the labor market is failing to reward them appropriately. We have had an important reminder this past year that markets can be subject to important distortions. The Lilly Ledbetter Fair Pay Act and the Paycheck Fairness Act would work toward the correction of a serious and long standing distortion in the labor market, that continues to occur because of discrimination based on sex, race, and other personal characteristics unrelated to job performance.

According to universally accepted labor market theory, a labor market free of distortion would pay equally-qualified workers the same regardless of their sex, race, ethnicity, or other personal characteristics provided the jobs require equal qualifications. Each worker should be able to get access to jobs where their skills are maximally rewarded and they should be treated equally on the job regardless of their gender, race, or ethnicity. Such a labor market would maximize the productivity of the workforce, since no one would be underemployed (working and being paid below their skill level). It is important to our country's well being that distortion in the labor market be reduced. It is not just a matter of fairness. The current state of the labor market reduces our Gross Domestic Product by failing to employ people in their most productive pursuits and by discouraging their work effort by paying them less than their labor is worth.

Moreover the low pay due to discrimination against women and minorities creates deprivation and suffering. Much of the poverty that American children suffer results from the underpayment of the millions of mothers who provide those children's sole or major support.

While the United States has equal employment opportunity laws on the books, their interpretation by courts is often not favorable to workers making discrimination claims and the government agencies charged with enforcing the laws are woefully understaffed. The Lilly Ledbetter Fair Pay Act and the Paycheck Fairness Act will improve the effectiveness of the 1963 Equal Pay Act and 1964 Civil Rights Act, strengthening women's ability to use the laws to redress discrimination.

The Lilly Ledbetter Fair Pay Act will reinstate the common interpretation of the law before the Supreme Court's 2007 decision ruling that Lilly Ledbetter's complaint of discrimination came

too late because she should have filed her complaint within 180 days of the first illegal pay discrimination against her. The Lilly Ledbetter Fair Pay Act clarifies that each and every pay check constitutes a new act of discrimination. Lilly Ledbetter lost \$223,776 across her 19-year career at Goodyear and now in retirement continues to lose thousands of dollars per year in her pension. The Supreme Court's decision in Ledbetter's equal pay case has affected many decisions in the lower courts involving other kinds of discrimination, such as that based on age and disability. The Lilly Ledbetter Fair Pay Act clarifies that acts of discrimination under all these laws continue beyond the initial discriminatory event and therefore give workers more time to use the law to correct these grave instances of labor market failure.

The Paycheck Fairness Act increases resources to improve enforcement of the Equal Pay Act, providing for greater resources for the enforcement agencies and improved information flow about pay rates, so that workers and enforcement agencies can more easily learn whether discrimination is occurring. Such information flows are important to the operation of all markets and especially labor markets, where, to be maximally efficient, workers must have the opportunity to find the jobs that reward their skills at the highest rate.

When markets fail to perform as they should, it is appropriate for government to step in and regulate them. Clearly the regulations we already have are not doing the job and need to be strengthened. We commend the US Congress for turning to this important issue and look forward to the day when US workers can be assured that they will receive fair pay for their work. Our economy will be enormously strengthened as a result.

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