

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL RIGHTS

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December 13, 2016  
Start: 10:16 a.m.  
Recess: 11:35 a.m.

HELD AT: 250 Broadway - Committee Room  
16<sup>th</sup> Floor

B E F O R E: Darlene Mealy  
Chairperson

COUNCIL MEMBERS:  
Mathieu Eugene  
Rafael Salamanca, Jr.  
Daniel Dromm  
Andy L. King

## A P P E A R A N C E S (CONTINUED)

Letitia James  
Public Advocate

Brittney Saunders  
Deputy Commissioner for Strategic  
Initiatives, City Commission on Human  
Rights

Sarah Brafman  
A Better Balance

Jacqueline M. Ebanks  
Women's City Club of New York

Kate Nielson  
American Association of University Women

Kristy Wallace  
Ellevest Network

Beverly Neufeld  
PowHer New York

Margaret McIntyre  
NELA New York

Melanie Stern  
Spring Bank

Shannon McPhee  
Chashama Organization

Sarah Zolt-Gilburne  
Chashama Organization



1  
2 CHAIRPERSON MEALY: Good morning  
3 everyone. Good morning everyone.

4 UNIDENTIFIED: [cross-talk] Good morning.

5 CHAIRPERSON MEALY: Alrighty. We're  
6 going to open up this Civil Rights hearing. I'm  
7 Darlene Mealy, and I'm the Chair of the New York City  
8 Committee on Civil Rights. I'd like to introduce who  
9 is here on our panel right now, our Public Advocate,  
10 Tish James. Today, the Committee on Civil Rights  
11 will hear Introductory Bill Number 1253, a very  
12 important piece of legislation that will prohibit  
13 employers from making salary history inquiries or  
14 relying on salary history to determine a prospective  
15 applicant's salary. Although the pay gap is narrowly  
16 in New York State at 87 percent, it results in a  
17 difference of \$6,788 in medium annual income between  
18 women and men working full-time. Overall, women in  
19 New York State earn around \$19.6 billion less than  
20 men in wages each year. Women of color are  
21 disproportionately around hurt by the gender wage  
22 gap. Hispanics, black and African-American and Asian  
23 women experience a wage gap of 46 percent, 55  
24 percent, 63 percent respectively related to white men  
25 in New York City. Today, the Committee will hear

1  
2 testimony from our Deputy Commissioner, Strategic  
3 Initiative of Human Rights Commission and various  
4 interest groups. We hope to discuss the impact that  
5 this legislation will have on all New Yorkers. I  
6 want to thank my Civil Rights Committee staff for  
7 their hard work, Zae Emmanuel Haloo [sp?], Counsel to  
8 the Committee, Mr. B. [sp?], Mehiring Rig [sp?],  
9 Legislative Counsel who drafted the bill, Annie  
10 Decker, Deputy Director of Drafting Unit, and Rachel  
11 Codoro [sp?], Deputy Director of Government Affairs  
12 Division. Now we will turn it over to our Public  
13 Advocate to make some remarks who sponsored this  
14 legislation that we're having here today.

15 PUBLIC ADVOCATE JAMES: Thank you. I  
16 want to thank Chair Mealy and her staff for holding  
17 this hearing on legislation which is my office's top  
18 priority, and additionally I want to thank the 33  
19 Council Members who have already signed on as co-  
20 sponsors to this bill. In fact, every woman member  
21 of the City Council has signed on, and I greatly  
22 appreciate their support. I also want to express my  
23 gratitude to the advocates and business leaders who  
24 have come out in support of this legislation. Today  
25 the Civil Rights Committee will consider a bill that

1 will prohibit employers, private, non-profit, and  
2 government from asking applicants to disclose any  
3 salary history at any point in the hiring process.  
4 The law will be codified in the City's Human Rights  
5 Law and the Commission on Human Rights will ensure  
6 that employers abide by this new law or else face  
7 anything from compensatory damages to civil and  
8 criminal penalties. Several years ago, Massachusetts  
9 took a decisive step forward, and as we speak  
10 Philadelphia is awaiting the passage of the law by  
11 the Mayor of Philadelphia. New York City has always  
12 been a leader for progressive making and this  
13 measure, and with regards to this measure today, we  
14 consider today a step, another step forward for the  
15 progress of women. It's a simple and logical step  
16 that will go a long way to end a pernicious and  
17 pervasive problem. The simple fact that women earn  
18 less than men for doing the same jobs, and the most  
19 insidious part of the wage gap is that it is self-  
20 perpetuating, and women move from one job to the  
21 next. Their salary history follows with them  
22 ensuring that the wage, that the gap only widens as  
23 the years progress. By prohibiting employers from  
24 asking about salary history, we can disrupt the cycle  
25

1 of wage and equality before it has the chance to go  
2 any further. We can also disrupt the feminization of  
3 poverty that we are experiencing not only in New York  
4 but all across our nation, because when women are  
5 paid equally for their work, not only is it the right  
6 thing to do, but all of us benefit. Our families  
7 benefit, our community benefits and the economy  
8 benefits, and I understand that there are some well-  
9 meaning businesses that have concerns about this  
10 legislation that would impact and affect their  
11 ability to hire qualified candidates within their  
12 budget. As someone who is very much concerned about  
13 the economy of our country and of the City of New  
14 York, I recognize their concerns, and I am happy to  
15 work with them while keeping the core of the  
16 legislation intact. However, I also believe that  
17 some of the concerns I've heard could be easily  
18 remedied by doing things that many companies already  
19 do. If a company is concerned about ensuring that it  
20 can afford to pay a prospective applicant what he or  
21 she is worth, they can always post an upfront salary  
22 range. Again, they can be transparent. They can  
23 post a salary range. Additionally, the legislation  
24 explicitly permits an applicant to disclose his or  
25

1 her salary history if he or she desires to do so.

2 Again, this legislation permits an applicant to  
3 disclose, if they want to voluntarily, their salary.

4 Moreover, firms will still be able to look at  
5 aggregate industry data in order to make an informed

6 decision about prevailing salary trends. In fact,

7 the vast majority of firms already do that. We do

8 not want to unduly burden businesses, but the stakes

9 here are extraordinarily high. Nothing less than

10 basic fairness and the promise of equality hang in

11 the balance, and I look forward to a thoughtful and

12 informative discussion today, and I hope to work with

13 all of you to make this bill a reality here in New

14 York City so that New York City can continue to be a

15 beacon of hope and light for all of those that are

16 struggling in the economy. Again, I want to thank

17 the Chair, Council Member Mealy, I want to thank you

18 for all of your work, and I want to thank you for

19 making this a priority. Thank you so much.

20  
21 CHAIRPERSON MEALY: I want to thank our

22 Public Advocate for making this a priority also,

23 because it is about this City, and before we do that

24 we will now have the panel. We're going to swear you

25 in as our oath. Could you raise your right hand? Do



1  
2 you affirm to tell the truth, the whole truth and  
3 nothing but the truth in your testimony before the  
4 Committee and to respond honestly to the Council  
5 Members' questions?

6 BRITTNY SAUNDERS: I do.

7 CHAIRPERSON MEALY: Okay.

8 BRITTNY SAUNDERS: We will begin

9 CHAIRPERSON MEALY: Alright, you may  
10 begin. Introduce yourself.

11 BRITTNY SAUNDERS: Good morning Public  
12 Advocate James, Chair Mealy and members of the Civil  
13 Rights Committee. My name is Brittny Saunders and I  
14 am Deputy Commissioner for Strategic Initiatives at  
15 the City Commission on Human Rights. It is my  
16 pleasure to join you this morning to testify in  
17 support of Intro 1253 which would amend the City's  
18 Administrative Code to prohibit an employer from  
19 inquiring about or relying on a prospective  
20 employee's salary history when determining the salary  
21 to be offered to that individual. It builds upon  
22 Executive Order 21, signed by the Mayor with the  
23 support of the Public Advocate last month, which  
24 implements similar protections for City job-- for  
25 applicants to City jobs.

1  
2 CHAIRPERSON MEALY: Um-huh.

3 BRITTNY SAUNDERS: At the Commission,  
4 our focus is on ensuring fairness through vigorous  
5 enforcement of the Human Rights Law and widespread  
6 efforts to educate New Yorkers about its protections.  
7 Over the course of the last year we have continued to  
8 deliver on Commissioner Malalis' commitment to make  
9 the Commission a more energetic, transparent and  
10 effective institution. This year saw the expansion  
11 of the Human Rights Law to establish protections for  
12 care givers in the work place. The Mayor also signed  
13 Executive Order 16 requiring that all agencies be  
14 trained about the right of all New Yorkers to access  
15 single-sex facilities that correspond to their gender  
16 identity and that information about these rights be  
17 posted publicly. This was followed by the  
18 Commission's highly successful Look Past Pink and  
19 Blue campaign, a public education effort affirming  
20 this right that garnered over 62 million impressions  
21 across various media platforms. The Commission also  
22 issued new legal enforcement guidance concerning the  
23 treatment of pregnant workers and became the first  
24 anti-discrimination agency in the nation to issue U  
25 and T Visas certifications. In early fall 2016, with

1  
2 Islamophobic rhetoric and incidents trending upward,  
3 the Commission released its I Am Muslim NYC campaign.  
4 And now, as biased-based incidents have become  
5 increasingly common and New Yorkers have become more  
6 concerned about the impact of new leadership at the  
7 federal level, the Commission is responding in kind  
8 ramping up to address and document reports of  
9 intimidating and harassment, focusing workshops and  
10 trainings on topics like xenophobia, convening and  
11 participating in community forums, and more. Our  
12 efforts have resulted in over 228 million impressions  
13 across print and social media platforms, and we are  
14 committed to building upon these efforts in the  
15 months and years to come. Local efforts to promote  
16 racial and gender equity will only increase in  
17 importance in the coming years. Intro 1253  
18 represents an important step forward for women,  
19 people of color and others in New York City whose  
20 lives are deeply affected each day by pay and equity.  
21 The ability to pay for housing, healthcare,  
22 educational opportunities, and the multitude of other  
23 costs associated with caring for oneself and one's  
24 loved ones is made that much larder when a history of  
25 lower pay limits what one is able to demand and earn.

1 While we as a nation identified the wage gap decades  
2 ago and have made some progress in narrowing gaps,  
3 disparities still persist. According to the Pew  
4 Research Center, among full and part-time workers  
5 nationally, African-Americans median hour earnings  
6 were just 75 percent of that of whites. Women as a  
7 whole earn just 83 percent of what men earned, and  
8 among women across all races and ethnicities, hour  
9 earnings trailed those of white men as well as men in  
10 their own racial and ethnic groups. Progress in  
11 closing wage gaps has been uneven across groups.  
12 Between 1980 and 2015, the gap in median hourly  
13 earning between white men and white-- I'm sorry,  
14 white women and white men closed by 22 cents,  
15 bringing relative earnings to 82 cents on the dollar.  
16 The gap between Asian women and white men narrowed by  
17 a similar amount with Asian women earning 87 cents on  
18 the dollar in 2015. In the same period, however, the  
19 gap between African-American women and white men  
20 narrowed by only nine cents bringing their relative  
21 earnings to just 65 cents on the dollar. Similarly,  
22 the gap between Latino women and white men narrowed  
23 by only five cents during the same 35-year period  
24 with relative earnings of only 58 cents on the dollar  
25

1 last year. In New York State similar trends hold.  
2 According to the National Women's Law Center, women  
3 as a whole make 88.7 cents for every dollar that a  
4 man makes. For every dollar a white man makes, an  
5 African-American woman makes just over 66 cents, a  
6 Latina makes 55.5 cents, and Asian woman makes just  
7 over 80 cents, and a Native American woman makes just  
8 under 61 cents. The New York City Human Rights Law  
9 has long prohibited discrimination in employment  
10 which includes differential treatment in pay,  
11 benefits and other terms and conditions of employment  
12 based on race, gender, national origin, disability,  
13 sexual orientation, gender identity and many other  
14 categories. This type of discrimination, however, is  
15 difficult to detect as employees are hesitant to  
16 share information about their salaries with  
17 colleagues and often don't realize they are being  
18 compensated at lower rates for comparable work.  
19 Recognizing this reality, local and state governments  
20 are taking further steps to encourage pay equity  
21 through creative policy initiatives. This summer,  
22 for example, the State of Massachusetts enacted  
23 legislation including a prohibition on inquiries  
24 regarding previous salary, and this fall with the  
25

1 support of Public Advocate James, the Mayor signed  
2 Executive Order 21 barring the City of New York from  
3 inquiring into an applicant's salary history except  
4 under narrow circumstances and prohibiting the City  
5 from relying on salary history in any case. At the  
6 signing, the Mayor also expressed support for Intro  
7 1253. In doing so, the administration has  
8 demonstrated its on-going commitment to gender and  
9 racial equity. The legislation the Committee is  
10 discussing today builds upon that commitment,  
11 expanding similar prohibitions to employers beyond  
12 the City itself. Intro 1253 as currently drafted  
13 would prohibit an employer from inquiring about an  
14 applicant's salary history including important and  
15 often overlooked fringe benefits. The employer may  
16 not rely on the salary history to determine the  
17 salary amount unless the individual in question  
18 volunteers that information. Importantly, however,  
19 nothing in the legislation would prohibit an employer  
20 from inquiring about or relying on an individual's  
21 salary requirements. Rather, in the absence of a  
22 salary history, these demands likely premised on an  
23 applicant's assessment of competitive market rates  
24 for similar positions or his or her own experiences  
25

1 in the market in combination with the employer's  
2 assessment of what the role merits and what it can  
3 afford to pay would form the basis for salary  
4 negotiations. Salary inquiry policies like the one  
5 contemplated by the Council simply removes salary  
6 histories which do not necessarily respond to scale  
7 and experience, but rather often reflect deep seated  
8 patterns of unequal treatment in the labor market  
9 from the equation. Such legislation has the  
10 potential to bolster the efforts of women, people of  
11 color and others who may be burdened with a history  
12 of low pay to more effectively negotiate for  
13 compensation that matches their skills and abilities.  
14 It will allow New Yorkers to market their skills  
15 without previous low compensation artificially  
16 limiting their prospects. While the Administration  
17 wholeheartedly supports the goals of the legislation,  
18 it looks forward to working with the counsel to  
19 further refine the Bill. For example, as currently  
20 drafted, a prospective employer could contact a  
21 previous employer to gather information about prior  
22 salary in order to inform an offer as long as the  
23 employer did not consult the applicant herself or  
24 publicly available records. This seems inconsistent  
25

1  
2 with the Council's policy goals and should be  
3 addressed. In addition, there may be other  
4 improvements that may be identified through future  
5 conversations with stakeholders. Again, we are eager  
6 to partner with the Council on this legislation and  
7 to further efforts to promote gender and racial  
8 equity in the City. Now more than ever, it is  
9 essential that we continue to work on these issues on  
10 behalf of New York City residents. Thank you.

11 CHAIRPERSON MEALY: I want to thank you.  
12 I'm going to let our Public Advocate go. No? No  
13 question. One thing I wanted to-- thank you for your  
14 testimony. In October 2015, Governor Cuomo signed a  
15 group of bills, and it say that the disparity between  
16 male and female employees increased the burden of  
17 their employer to justify these wage differences.  
18 The bill also prohibit employees from forbidding  
19 their employees to inquire about, discuss or disclose  
20 wage information except under very limited  
21 circumstances. Could you give me one circumstance  
22 that an employee may divulge their salary to an  
23 employer where they don't really want to but they may  
24 have to?

25



1  
2 BRITTNY SAUNDERS: I mean, that's an  
3 interesting question. I think it may-- Like, as the  
4 Public Advocate noted, there may be circumstances--

5 CHAIRPERSON MEALY: [interposing] Will  
6 they-- will their employer still be liable?

7 BRITTNY SAUNDERS: So, under 1253, an  
8 employer is not-- the employer won't be in violation  
9 of the bill if the person volunteers the information  
10 themselves and chooses to share that information  
11 because they think it's gonna help them in the  
12 negotiation.

13 CHAIRPERSON MEALY: But if their employer  
14 tell them in a certain indirect way, asks them for  
15 it, and we have to think about people want their job.  
16 So, if an employer indirectly kind of mandate for  
17 them to tell them--

18 BRITTNY SAUNDERS: [interposing] Yeah,

19 CHAIRPERSON MEALY: will the employer  
20 still be liable?

21 BRITTNY SAUNDERS: So under 1253, if the  
22 employer makes the inquiry, then that would be a  
23 violation of the law. So, if the employer says to  
24 the person either, you know, says directly, tell me,  
25 you know, how much you made in your last job, or I

1  
2 suppose if they were to do it in a little bit more of  
3 an indirect manner, but were still trying to prompt  
4 that information, that would seem to me that it would  
5 be a violation of 1253 as currently structured.

6 CHAIRPERSON MEALY: So the employee would  
7 have to make that claim though, put in that report.

8 BRITTNY SAUNDERS: Right, the employee  
9 would have to make that, make that known.

10 CHAIRPERSON MEALY: And I-- could you  
11 tell me if this Administration support this bill  
12 wholeheartedly?

13 BRITTNY SAUNDERS: So I think the-- I  
14 think the Mayor has been supportive. I think he  
15 indicated that support when he signed Executive Order  
16 21 earlier this year.

17 CHAIRPERSON MEALY: And he made reference  
18 that he is in support of this bill, as well.

19 BRITTNY SAUNDERS: The bill, I believe,  
20 yeah. I believe that's--

21 CHAIRPERSON MEALY: [interposing] You  
22 believe?

23 BRITTNY SAUNDERS: Yeah.

24 CHAIRPERSON MEALY: Okay. What types of  
25 remedies can or will CCHR order for a violation of

1  
2 this provision? Do you believe the potential  
3 penalties are sufficient or detour [sic] employers?

4 BRITTNY SAUNDERS: Yeah, I do think. I  
5 think there's a lot that--

6 CHAIRPERSON MEALY: [interposing] We don't  
7 have a set minimum of how much the first summons will  
8 be?

9 BRITTNY SAUNDERS: I don't believe  
10 there's a set minimum.

11 CHAIRPERSON MEALY: On the first  
12 violation, we don't have anything on that as of yet?

13 BRITTNY SAUNDERS: I don't think there's  
14 anything in the legislation. I don't think there's  
15 anything at the Commission that would say a set  
16 minimum, but it would be based on kind of the facts  
17 and evaluation of the facts and the circumstances.  
18 But I think, you know, in the way of, you know,  
19 compensatory damages or fines, those are some of the  
20 tools that we could bring to bear on the law  
21 enforcement end. I think it's also, you know, as I  
22 noted in my testimony, the Commission has had a lot  
23 of success trying to educate the public about changes  
24 to the Human Rights Law and trying to make sure that  
25 individuals understand their rights and employers

1  
2 understand their obligations. So I think we could  
3 certainly try to also do some of that so that on the  
4 front end people have a better understanding of what  
5 it will take to comply and also have a better  
6 understanding that they are protected once this is  
7 passed.

8 CHAIRPERSON MEALY: Yes, and I do want to  
9 thank our Commissioner. We have come [sic] a long  
10 way since she put in great legislation. She's doing  
11 an excellent job. To bring up that, if this bill is  
12 enact, how are you informing the employers and  
13 employees of this legislation? How are you  
14 advertising? How would employees know? Will you put  
15 up the signs, or would you put it on your page, your  
16 website? How can-- how are letting these people  
17 know?

18 BRITTNY SAUNDERS: So we've of made  
19 very, like, aggressive and energetic use of our  
20 social media tools so, you know, Facebook, Twitter,  
21 all those sorts of things to get the word out. We--  
22 our website I think is very, pretty broadly  
23 informative about the work that we do. I think  
24 there's also room perhaps for consideration of a  
25

1  
2 broader public education campaign beyond that. I  
3 think another thing--

4 CHAIRPERSON MEALY: [interposing] How is  
5 it broader? What kind of broader campaign that y'all  
6 are gonna do, because this is an important bill and a  
7 lot of women will not really know unless maybe you at  
8 the water cooler and someone is talking and then they  
9 just happen to say, "Did you know this law's in  
10 place?"

11 BRITTNY SAUNDERS: Um-huh.

12 CHAIRPERSON MEALY: But what kind of  
13 other real strong advertisement that you-- we going  
14 to let women know that this is now in place, you can  
15 utilize these Bills to serve you?

16 BRITTNY SAUNDERS: Yeah.

17 CHAIRPERSON MEALY: So could you--

18 BRITTNY SAUNDERS: [interposing] Sure, I  
19 mean obviously all this is kind of contingent on  
20 resources, because as with everything else it's a  
21 resource question. So, I couldn't say today that,  
22 you know, there'll certainly be a large scale  
23 campaign, but I think it's something we can  
24 definitely think about. I think another thing--

1  
2 CHAIRPERSON MEALY: [interposing] What's  
3 the difference from the last campaign from the  
4 Commissioner with the Achieve Pay Equity Bill?  
5 Wasn't it big campaign for that? I remember we had--  
6 myself and the Commissioner was at the train station  
7 giving out things, flyers.

8 BRITTNY SAUNDERS: And those are things  
9 that we could certainly do here and that we do  
10 regularly with respect to the legislation that we're  
11 implementing or with the Executive Orders that we've  
12 been responsible for implementing. We also do a  
13 whole host of training and workshops that we develop  
14 based on changes to the law and educating folks about  
15 those changes, trying to really get into the  
16 communities and make sure that folks are aware, and  
17 as I mentioned, we also-- we take seriously our  
18 obligation to educate employers themselves, right?  
19 And so that's another tool that we could use.

20 CHAIRPERSON MEALY: Well, how would you  
21 do that, the employers themselves?

22 BRITTNY SAUNDERS: So we do trainings  
23 for like--

24 CHAIRPERSON MEALY: [interposing] Have a  
25 staff meeting with--

1  
2 BRITTNY SAUNDERS: For example, like, in  
3 other areas we've been training for the Management  
4 Bar, so for attorneys who represent employers or for  
5 employers themselves to make sure that they  
6 understand. Organizations that represent employers  
7 to help them understand what the obligations are  
8 under the law.

9 CHAIRPERSON MEALY: So how do you address  
10 the community? You said you--

11 BRITTNY SAUNDERS: Sure. So, the  
12 Commission as it's structured, there is the Law  
13 Enforcement Bureau that accepts complaints and  
14 investigates those complaints, and then there's also  
15 the Community Relations Bureau, and so we have staff  
16 who are trained human rights specialists who are  
17 experts on our law, including recent changes to the  
18 law, who partner with community organizations to do  
19 trainings about or workshops about the law and its  
20 protections or its or its obligations, and that's one  
21 of the tools that we have at hand.

22 CHAIRPERSON MEALY: So the community  
23 events, do you go out to the Community Boards?

24 BRITTNY SAUNDERS: Uh-hm. Yeah, we do.

25 CHAIRPERSON MEALY: Really?

1  
2 BRITTNY SAUNDERS: And I should say that  
3 we would love to work with the Council and with the  
4 Public Advocate's office on outreach as well.

5 CHAIRPERSON MEALY: I would love to see a  
6 whole lot more outreach. This is so important, and  
7 if women do not know how can they really stand up?  
8 So, the outreach is the--

9 BRITTNY SAUNDERS: [interposing] I  
10 absolutely agree.

11 CHAIRPERSON MEALY: Exactly, the main  
12 part of this, and I would love one day to do a Town  
13 Hall, women's issues.

14 BRITTNY SAUNDERS: Yeah.

15 CHAIRPERSON MEALY: So I know the Public  
16 Advocate and the Speaker of this body would love to  
17 do that. Pay equity and pay achievement equity is  
18 top priority for all women.

19 BRITTNY SAUNDERS: I think that's  
20 something we'd love to partner with you on.

21 CHAIRPERSON MEALY: I'm looking forward.  
22 Do I got--

23 PUBLIC ADVOCATE JAMES: So the issue of  
24 resources, it really begs a question, and clearly  
25 Council Member, as the human rights-- as we move



1 forward in the calendar year anticipating the budget  
2 season, I'm confident that this Chair and this  
3 Committee will support a budget request from the  
4 Human Rights Commission so that you can have  
5 additional resources for all of those outreach  
6 services and meetings and Town Halls that you are  
7 recommending, and clearly I know that I will join you  
8 in support of their budget request.  
9

10 CHAIRPERSON MEALY: As I could said, last  
11 year the Speaker made it mandate that we put in, I  
12 believe it was \$2.5 million or \$5.5 million just for  
13 civil rights. So, this is the highest we had in  
14 years almost. So, I want to thank our Commissioner  
15 for that also. And I'm looking forward for the  
16 outreach that the community needs in regards to this  
17 legislation, and when are-- can you describe how the  
18 provisions of this bill would be enforced?

19 BRITTNY SAUNDERS: Um-hm. So--

20 CHAIRPERSON MEALY: [interposing] If  
21 first the employer, do you give them a warning? I  
22 tell my staff before you write someone up, you give  
23 them a warning, then you talk-- would have someone  
24 present, that you have a witness, and the third time  
25 you could put it in writing or talk to your boss.

1  
2 So, how would this-- what guidelines would it go  
3 through?

4 BRITTNY SAUNDERS: So--

5 CHAIRPERSON MEALY: [interposing] First  
6 step?

7 BRITTNY SAUNDERS: So, as we discussed  
8 before, one way that this come to the Commission  
9 would be for someone who experienced a violation to  
10 raise it for the Commission to report it to the Law  
11 Enforcement Bureau. One of our attorneys would then  
12 investigate and make a recommendation based on their  
13 analysis of the law and the facts. That would then  
14 go to OATH, who would then-- which would then issue a  
15 recommendation about the penalties that should be  
16 imposed or whatever it might be, and then that would  
17 come back to the Commission, the Commissioner, for  
18 final review.

19 CHAIRPERSON MEALY: Okay, and could you  
20 tell me, is this legislation-- if someone heard an  
21 employer kind of ask someone for their salary, do the  
22 employee that they asked the salary has to report it,  
23 or could someone overhearing it report it?

24 BRITTNY SAUNDERS: No, no, no, someone  
25 else who has heard about it could certainly report it

1  
2 and say that I saw this incident happen and it raised  
3 a concern for me that this law is not being enforced  
4 in this setting or not being complied with in this  
5 setting.

6 CHAIRPERSON MEALY: Okay then, alright.  
7 And ya'll do agree with this legislation?

8 BRITTNY SAUNDERS: Yes.

9 CHAIRPERSON MEALY: Oh, could you tell  
10 me, with in October the Governor Cuomo with his  
11 bills, have y'all had any incidents on that that  
12 y'all had to give any summonses to, or?

13 BRITTNY SAUNDERS: No, I don't think  
14 anyone's-- I mean I could certainly go back and check  
15 but,

16 CHAIRPERSON MEALY: [interposing] One year  
17 not one employer have violated a law?

18 BRITTNY SAUNDERS: So those may be  
19 within the jurisdiction of the State Division.

20 CHAIRPERSON MEALY: State law?

21 BRITTNY SAUNDERS: So, it may be that  
22 that's where folks are reporting those things. I can  
23 certainly go back and double check.

24 CHAIRPERSON MEALY: So, where about the  
25 Civil Human Rights Commission, have y'all had any

1  
2 incident reports on any pay equity or discrimination  
3 of pay within this 2015-2016?

4 BRITTNY SAUNDERS: So, I can go back and  
5 check with our kind of data specialist on that.

6 CHAIRPERSON MEALY: Okay then. Thank  
7 you. Any--

8 BRITTNY SAUNDERS: Yeah, no, no, no, I  
9 should it be clear that we do have jurisdiction as I  
10 mentioned in my-- over--

11 CHAIRPERSON MEALY: [interposing] I know  
12 you have that.

13 BRITTNY SAUNDERS: Yeah, but we can go  
14 back and check and see what specific complaints we  
15 may have had in the last year or so.

16 CHAIRPERSON MEALY: I'm just wondering.  
17 You couldn't even tell me one or two or what  
18 percentage? This is very important for all women to  
19 know and you are human rights. We have to have some  
20 kind of data.

21 [off mic]

22 CHAIRPERSON MEALY: You've got to come to  
23 the table and introduce yourself.

24 ZOE CHENICE: My name is Zoe Chenice  
25 [sp?]. I'm a Policy Associate at the Commission on

1  
2 Human Rights. We regularly get employment based  
3 claims and they may be based on--

4 CHAIRPERSON MEALY: [interposing] How many  
5 of them you get a year or six months?

6 ZOE CHENICE: I don't have a-- we can  
7 check those numbers.

8 BRITTNY SAUNDERS: We have reports and  
9 stuff that will include that.

10 CHAIRPERSON MEALY: I would have loved to  
11 have those reports here today.

12 ZOE CHENICE: Yeah, I mean--

13 CHAIRPERSON MEALY: It seems information  
14 that we need to hear.

15 ZOE CHENICE: What I just wanted to add  
16 was that gender based employee claims are a regular  
17 claim that we get, and I don't know that we would be  
18 able to differentiate that coming from the State  
19 based law and just instances of discrimination--

20 CHAIRPERSON MEALY: [interposing] Well,  
21 not even the State, just the City, since we did give  
22 a new budget last year for the Human Rights  
23 Commission. I know you have more employers now. How  
24 are you doing with your space, because at one point  
25 you needed more space to handle more incidents? So,

1  
2 I thought by now we would have a better grasp on how  
3 many cases that come in through Human Rights.

4 BRITTNY SAUNDERS: That's certainly some  
5 information that we can get you. So we'll follow-up.

6 CHAIRPERSON MEALY: Please, I would love  
7 to. Alright, without no other questions, I just want  
8 to thank you so much.

9 BRITTNY SAUNDERS: Thank you.

10 CHAIRPERSON MEALY: And we will have the  
11 next panel. Tell the Commissioner she's doing a  
12 awesome job. Sarah Brattman [sic], Brafman, A Better  
13 Balance, right? Is it? Jacqueline M. Ebanks,  
14 Women's City Club of New York. Thank you. And Kate  
15 Nielson, American Association of University of Women,  
16 I hope. Okay, thank you. Just introduce yourself,  
17 and anyone can go.

18 SARAH BRAFMAN: Good morning. My name is  
19 Sarah Brafman, and I'm a legal fellow at A Better  
20 Balance, the Work and Family Legal Center. ABB is a  
21 New York City based legal advocacy organization  
22 dedicated to helping families balance the conflicting  
23 demands of work and family. Our mission is to  
24 promote equality and expand choices for men and women  
25 at all income levels so that they may care for

1  
2 themselves and their families without risking their  
3 economic security. First, I want to start by  
4 thanking Public Advocate, Letitia James, for  
5 introducing Bill number 1253 and the Committee for  
6 Civil Rights for holding today's hearing. This bill  
7 will go a long way in closing the wage gap that  
8 persists for women and people of color in New York  
9 City. In New York City, women in the workforce  
10 collectively lose near 5.8 billion dollars each year  
11 due to unequal pay. This gap affects men, women and  
12 children. If the wage gap of nearly 7,000 dollars  
13 per year were eliminated in New York State, women  
14 could use those funds to pay for approximately six  
15 months of rent or three months of mortgage payments  
16 or a year's supply of groceries for their families.  
17 Eliminating the wage gap is not just good for  
18 families, but also helps drive the economy. Today,  
19 women in New York State only make 87 cents for every  
20 dollar earned by a man in the State, and women of  
21 color in New York City are even harder hit by the  
22 gender wage gap. For instance, Hispanic women only  
23 make 46 cents for every dollar a white man in New  
24 York City earns. Black women earn 55 cents for every  
25 dollar and Asian women 63 cents for every dollar a

1 white man earns. Black and Hispanic men are also at  
2 a disadvantage if they are asked about salary history  
3 since like women, they too earn less than white men.  
4 Black men earn 73 cents for every dollar a white man  
5 earns and Hispanic men, 69 cents for every dollar a  
6 white man earns. Experts warn that unless a  
7 concerted effort is made to close the gender wage  
8 gap, it could take another 43 years until the year  
9 2059 to achieve pay equity. Women begin earning less  
10 at the very outset of their careers. The problem is  
11 that companies often determine an employee's salary  
12 based on their previous salary. Thus, if women earn  
13 less from the outset and an employer asks an  
14 applicant's salary history to determine base pay,  
15 women's lower earning rates follow them throughout  
16 their careers. Basing an offer of pay on an  
17 applicant's previous salary especially disadvantages  
18 those women that have left the job market to take on  
19 family responsibilities, compounding the pay  
20 penalties women already face for taking time off.  
21 The best way to curb this intrusive and uncomfortable  
22 practice which perpetuates inequality is to pass  
23 legislation prohibiting an employer from asking about  
24 salary history. This bill which will prohibit  
25



1  
2 employers from asking applicants about previous  
3 compensation and benefits or searching records to  
4 find an applicant's previous salary would be the  
5 third of its kind, following a similar law recently  
6 passed in Massachusetts and a bill passed by the  
7 Philadelphia City Council last week. It would also  
8 go hand-in-hand with the Executive Order Mayor Bill  
9 de Blasio signed into law in November of this year  
10 prohibiting the city government from asking job  
11 applicants about their previous earnings. This law,  
12 combined with the Mayor's Executive Order, would  
13 ensure that almost all New York City workers, both  
14 private and public, may not be asked about their  
15 salary history. To further the goal of passing a  
16 nation-leading bill, we suggest adding stronger  
17 language about when and how prospective employees can  
18 voluntarily choose to share wage information. The  
19 Massachusetts law, Philadelphia bill and the New York  
20 City Executive Order may provide models of how to do  
21 this. New York City can and should be a leader in  
22 closing the pay gap and creating work environments  
23 where all people can equally flourish in the  
24 workplace. This Bill is an important step toward  
25

1  
2 achieving that end, and we urge the Council to pass  
3 it into law. Thank you.

4 CHAIRPERSON MEALY: Thank you.

5 JACQUELINE EBANKS: Good morning. Thank  
6 you Chairwoman Mealy and Public Advocate James and  
7 the members of the Committee on Civil Rights for this  
8 opportunity. I am Jacqueline Ebanks, the Executive  
9 Director of the Women's City Club of New York. WCC  
10 is a non-profit, non-partisan, multi-issue activist  
11 organization. We are dedicated to dismantling  
12 economic, racial and gender inequalities through  
13 education, issue analysis, advocacy, and civic  
14 participation. Thank you so much for this  
15 opportunity to testify on the proposal to prohibit  
16 employers from inquiring about prospective employees  
17 salary histories throughout the employment process.  
18 WCC has been on the fore line-- frontlines of  
19 advocating for civil rights and in particular, income  
20 and equality since we were founded more than a  
21 century ago. We remain staunchly committed to  
22 reducing income in equality and ensuring equal  
23 opportunity across all five boroughs in the City in  
24 an effort to improve the quality of life for all New  
25 Yorkers. Despite major strides for women's equality

1  
2 throughout the 20<sup>th</sup> century, there remain deep and  
3 troubling gender equality gaps in our City and in our  
4 nation. For example, according to the Institute for  
5 Women's Policy Research, women on average continue to  
6 earn considerably less than men. In 2015, the  
7 Institute recorded that full-time female workers  
8 nationwide made only 80 cents for every dollar earned  
9 by men, a gender wage gap of 20 percent. This,  
10 despite the fact that women represent nearly half of  
11 our nation's workforce, they are the equal if the  
12 main breadwinner in four out of ten families, and  
13 they receive more undergraduate and graduate degrees  
14 than men. In 2015, the Institute predicted that if  
15 change continues at the same slow pace as it has for  
16 the last half a century, it will take another 44  
17 years, until 2059, for women to finally achieve pay  
18 parity, time which we simply just don't have. Here  
19 in New York City that pay disparity is slightly  
20 narrow at just over 90 percent, but it still remains  
21 a persistent indicator of wage discrimination. A  
22 CUNY Institute for State and Local Governance Report  
23 recently found that the median income for men  
24 employed full-time in New York City was 42,000  
25 dollars, whereas women in full-time positions earned

1 a median income of 38,000, just over. It is clearly  
2 highly unacceptable that we live in a City and in a  
3 time when a full-time working woman only makes 91  
4 cents for every dollar a man earns, and as has been  
5 stated, the wage gap is further exacerbated across  
6 color lines by the disparities that have been quoted  
7 according to race. I just want to add that according  
8 to recent research by Cornell University, the  
9 situation is exacerbated by the fact that when women  
10 enter fields in greater numbers the pay declines for  
11 the same jobs that were previously held by men. This  
12 leads to the premise that women's work is not as  
13 valued as men's work and this income disparity  
14 plagues women throughout their lives. Lower lifetime  
15 career earnings for women translates to substantially  
16 lower retirement income than men. Consequently,  
17 women face higher poverty rates throughout their  
18 adult lives including into retirement. The measure  
19 under consideration today is a crucial step towards  
20 eliminating this persistent wage inequity. Using a  
21 person's salary history to calculate salary offers  
22 negatively impacts women as it perpetuates existing  
23 wage and inequities. It further discriminates against  
24 women who may have left the workforce to respond to  
25

1  
2 family caregiving responsibilities such as taking  
3 time off to raise children and/or to care for elderly  
4 family members. Prohibiting employers from using  
5 salary history as a measure to determine their salary  
6 offers would allow for hiring and promoting decisions  
7 to be based on experience and on equity. This isn't  
8 just about doing what the law requires. It is about  
9 doing the right thing. It is about basing salary  
10 decisions equally on a person's qualifications,  
11 experience and record of achievement as well as  
12 business priorities. They work hand in hand. I  
13 cannot stress enough that the continuing existence of  
14 wage inequality in New York City is a detriment to  
15 all New Yorkers, not just women, but their families  
16 and their communities. By supporting this measure  
17 you are sending a clear signal to this and future  
18 generations of women and people of color that they  
19 should not be disillusioned, that their hard work and  
20 commitment to be productive, successful New Yorkers  
21 are truly valued. Women's City Club of New York has  
22 always been determined not only to level the playing  
23 field for women but to remedying generations of  
24 economic, racial and gender disparities so that all  
25 New Yorkers have an opportunity to succeed in their

1  
2 careers, in their schools and in their lives. We are  
3 therefore extremely supportive of this proposal to  
4 amend the administrative code, and we thank you again  
5 for this opportunity to testify. We hope that this  
6 legislation will be voted favorably out of Committee.  
7 Thank you very much.

8 CHAIRPERSON MEALY: Thank you.

9 KATE NIELSON: Hello members of the  
10 Council. Thank you for the opportunity to testify  
11 today. My name is Kate Nielson, and I'm a state  
12 policy analyst with the American Association of  
13 University Women. AAUW strongly supports 1253 and  
14 believes it signifies an important step towards  
15 closing the gender pay gap in the City. AAUW's  
16 support for the proposed bill is prompted by the  
17 convincing evidence that sex discrimination in the  
18 workplace continues to be a problem. Nationally the  
19 pay gap stands at 80 percent and is only slightly  
20 better in New York with women taking home about 89  
21 percent of men's wages on average. Reliable research  
22 demonstrates how much the pay gap impacts women,  
23 families, businesses, and the nation's economy.  
24 Further, it's important to remember that the pay gap  
25 does not affect all women equally. Women of color,

1  
2 older women and moms experience a larger pay gap.  
3 Critics like to charge that the pay differences  
4 between men and women are simply a matter of personal  
5 choice as if such choices themselves are not  
6 constrained by bias, lack of opportunity or outright  
7 discrimination. AAUW's analysis accounting for a  
8 litany of these factors finds that there's a seven  
9 percent unexplained difference in the earnings of men  
10 and women one year after graduation. Some detractors  
11 dismiss even this gap claiming that seven percent  
12 isn't that big of a deal. I would challenge them to  
13 relinquish seven percent of their paycheck for no  
14 good reason and to forego the compounding raises,  
15 bonuses and the retirement benefits that are based  
16 on those reduced salaries. Suddenly, seven percent  
17 doesn't seem so inconsequential. Further women are  
18 less payable to pay off their student loans promptly  
19 leaving them paying more money and for a longer time  
20 than their male counterparts. This is again  
21 especially true for women of color. Eliminating the  
22 reliance on salary history and setting future wages  
23 would go a long way towards closing this pay gap.  
24 Since we know pay discrimination starts early in  
25 women's careers, relying on prior salary only

1 compounds the problem. If a worker faced a pay gap  
2 and thus lost wages at one job, basing her next job  
3 salary on the one prior only continues that trend.  
4 Additionally, reliance on salary history harms  
5 individuals who've taken time away from the work  
6 force, and prior pay has very little to do with a  
7 worker's ability to perform in a new position. It is  
8 also important to note that traditionally it has been  
9 socially accepted for men to negotiate salaries and  
10 raises but negotiation is tricky for women, because  
11 some behaviors that work for men may backfire on  
12 women. AAUW's Work Smart Salary Negotiation  
13 Workshops have long taught participants to avoid  
14 sharing their salary history until after a salary is  
15 made. I'm sorry, after an offer is made.  
16 Inadvertently, salary history questions can introduce  
17 bias and discrimination into the recruitment process  
18 of a company trying to avoid it. Many employers are  
19 now seeing the value of basing wages on factors other  
20 than prior pay. When hiring managers are forced to  
21 look at what the market is paying for position as  
22 well as the necessary skills and experience for a  
23 job, the process is more likely to yield high quality  
24 candidates. The proposed bill is an important tool  
25



1 in combatting the bias and discrimination problems  
2 women and people of color face. It's also in keeping  
3 with the trend among states to offer increased  
4 protections to their workers. In 2015, seven states  
5 passed equal pay bills, and in 2016 six states  
6 approved such legislation. These bills advanced in  
7 red, blue and purple states. Currently two states,  
8 California and Massachusetts, have passed legislation  
9 banning employers from relying on prior salary to set  
10 future wages, and last week the Philadelphia City  
11 Council also voted to do so. Before I close I'd like  
12 to offer the Council a recommendation to make the  
13 proposed bill even stronger which Public Advocate  
14 James mentioned earlier in her comments. I would  
15 suggest adding a provision requiring all job postings  
16 to include a salary range. This would equalize  
17 salaries of new hires and establish pay scales based  
18 on the job, not the individual filling the position.  
19 The original Massachusetts draft of their salary  
20 history bill included this, but it was left out in  
21 the amendment process, and the Council in Washington,  
22 D.C. is currently considering adding this provision  
23 to their bill. AAUW thanks the Council for the  
24 opportunity to testify. We strongly support the  
25

1 proposed bill and urge its expeditious passage.

2 Thank you.

3 CHAIRPERSON MEALY: Expeditious passage

4 [laughter]. Thank you. We've been joined by my  
5 colleagues Mathieu Eugene and Salamanca of the Bronx.

6 Would you like to have any questions? And Danny

7 Dromm is here. Thank you, my [sic] Dromm. I have a

8 few questions, then I'll let my colleagues ask. At

9 one point one thing is clear when two of you, one

10 said-- I'd rather quote it. Mathieu got me confused.

11 It said, "One year-- and it be if we don't do

12 anything now, in 43 years we will have a problem."

13 And the one from Ms. Ebanks said in 44 years we will

14 have a problem. So, that's one thing we definitely

15 and I believe probably in your testimony, it probably

16 said about the same thing. Could y'all explain that?

17 What do we have to do as this body and as women?

18 Have to do more to make sure that we change that 42.

19 It should not be nowhere near 40.

20 JACQUELINE EBANKS: Well, it's a pace of

21 change that's really the issue. The Institute for--

22 let me be sure I get the name correct. The Institute

23 for Women's Policy Research based out of D.C. doing a

24 tremendous work across the nation on studies of  
25

1  
2 women's economic security. In 2015, they did the  
3 report, and that was when from 2015 it would have  
4 taken 44 years so you are also right from 2016 is  
5 will take 43 years. The whole idea is that we've  
6 been moving at so slow a pace and that clearly the  
7 loss that we accumulate over time, that's a  
8 cumulative effect of generations that are, if you  
9 will, condemned to poverty and condemned to sort of  
10 not making it in a society that is experiencing  
11 increasingly more expensive, especially New York  
12 City, which is probably one-- which is the most  
13 expensive market in the country. So, the idea is  
14 that we have to really pursue this more aggressively,  
15 that the time is now, and I think that speaks to the  
16 urgency of it, and so critical that in this City we  
17 become leaders. I mean, you know, if you're telling  
18 me we're following Massachusetts and Philadelphia,  
19 then we've lost leadership. So, I really--

20 UNIDENTIFIED: [inaudible]

21 JACQUELINE EBANKS: We should be first.

22 CHAIRPERSON MEALY: A trend.

23 JACQUELINE EBANKS: That's just kind of,  
24 you know, we should be first. I think we have some  
25 of the smartest and brightest minds in this City, and

1  
2 we certainly bring to the labor force talented women  
3 that can make this qualitative difference for our  
4 economy and quantitative difference as well.

5 CHAIRPERSON MEALY: How can we bring that  
6 force? When they do come, they don't get paid the  
7 money that they are due. That's the problem.

8 JACQUELINE EBANKS: Well, this is why  
9 this bill is so critical. This is why this bill is  
10 so critical as one of many, and I think that's the  
11 other thing about this. This is a really complex  
12 issue. You talked in your previous-- with the  
13 Commission on Human Rights, you talked about the  
14 Governor signing a bill into law on pay equity, you  
15 talked about the Mayor doing something here. It is  
16 so complex. So it's not just this Bill. I think we  
17 also have to be ever vigilant about unintended  
18 consequences. We really don't know the ripple  
19 effects from passing this Bill. You know, we need to  
20 be prepared for success but we need to be prepared  
21 for backlash and I think that's one of the things us  
22 as advocates, we have to offer as well that we're  
23 gonna be monitoring this as you move forward. The  
24 perceived gaps around enforcements, the vulnerability  
25 there is one thing, and I think we've all indicated

1  
2 that we need to be much more mindful of. It's not  
3 just passing a law. It's ensuring that people are  
4 informed about it, that they are aware of it, that  
5 they are support, because as you described this, are  
6 we creating an environment of he said/she said, you  
7 know, employer said/employee said. How do we  
8 mitigate against those things? So, I think this is a  
9 critical step. It is absolutely essential to  
10 breaking this barrier, but it's a beginning as well.

11 BRITTNY SAUNDERS: What I would just add  
12 is that I do think and I agree with my colleague that  
13 this is part of a network of legislation and laws  
14 that have to be robustly enforced by the City but  
15 also by advocates such as ourselves. You know, New  
16 York passed paid family leave this year that will go  
17 into effect in 2018. The caregiving discrimination  
18 provision was added to the New York City Human Rights  
19 Law. That's something that our organization works  
20 with as well, pregnancy accommodation, because we  
21 talk about caregiving responsibilities and that being  
22 at the root of why there is a gap in the, in salary  
23 and all of that goes hand in hand so it really is  
24 about the matrix of laws that has to come to pass  
25 this law being a crucial part of that.

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CHAIRPERSON MEALY: Thank you.

SARAH BRAFMAN: Echo what my colleagues said and add an addition to the great points which colleague mentioned in terms of women's work being undervalued is we need to look at occupational segregation as well, and if men or women are directed into different jobs and those are therefore paid less. It's important to have protections both at the back end to stop discrimination but at the front end to incentivize good actors in the first place and work with businesses to make sure that they are being good actors.

CHAIRPERSON MEALY: That's true. That is phenomenal what you said. You'll have an ad, but then if a woman come, they say, "Well, I have an administrative secretary position open." and would automatically lead the women to another job, but then if a man come, they'll get that claim specialist job. So that is the front and the back. Thank you for bringing that up.

BRITTNY SAUNDERS: I just want to add one point to that. What I discussed in my testimony, it's in the written testimony as well is that women began earning less at the outset and also that it is

1  
2 it spans education levels as well. So, even college  
3 educated women, and I believe it was in Public  
4 Advocate James' report that was recently released is  
5 that even women with college degrees earn 16 percent  
6 less than men who come out of college and women who  
7 have post-graduate degrees earn 20 percent less in  
8 New York than men with post-graduate degrees, and so  
9 we're talking about people with the same educational  
10 level coming out and from the outset earning  
11 significantly less.

12 CHAIRPERSON MEALY: It is so phenomenal.  
13 It could be a Caucasian white man come out of jail  
14 and an African-American young lady just have her GED  
15 or high school diploma, he can get higher pay than  
16 she can. So it's all across the board. We have to  
17 do so much, and like Ms. Ebanks, we have to start  
18 advocating all over this nation. Women, if we have  
19 to stand up and say enough is enough, this is the  
20 time, because if not, we don't know how the economic  
21 change is gonna come the next eight years, and if we  
22 don't do anything now our children's children will  
23 not have a--

24 JACQUELINE EBANKS: [Interpose] And, you  
25 know, let me

1  
2 CHAIRPERSON MEALY: [interposing] afford  
3 [sic] the things that we have right now.

4 JACQUELINE EBANKS: I hope that we can  
5 see this as a feature of being a Sanctuary City as  
6 well, that, you know, we really need to pay our  
7 employees what they're worth, what the job is worth  
8 in order to keep this City safe, and the goal of a  
9 Sanctuary City should not only be in hard times.

10 CHAIRPERSON MEALY: Thank you so much.  
11 Any of my colleagues? Anyone? Thank you so much.

12 [Crosstalk]

13 CHAIRPERSON MEALY: Thank you. Our next  
14 panel, Kristy Wallace, Evaluate Network, Beverly  
15 Neufeld, PowHer New York. PowHer New York, I like  
16 that. Margaret McWire [sic], McIntyre, okay, it is  
17 Neat New York?

18 UNIDENTIFIED: NELA New York.

19 CHAIRPERSON MEALY: NELA New York?  
20 Alright, thank you. Just introduce yourselves and  
21 anyone can start.

22 KRISTY WALLACE: Hello, thank you for the  
23 opportunity to be here and thank you. I'm Christy  
24 Wallace. I'm the President of Ellevate Network. We  
25 are a global professional women's network committed



1  
2 to closing the gender achievement gap in business  
3 through education and community. When we look at the  
4 landscape of business today, we know that women  
5 comprise 47 percent of the workforce, yet only 20  
6 percent of Fortune 500 Board seats, 14 percent of the  
7 top five leadership position of S&P 500 companies and  
8 four percent of CEO's at S&P 500 companies. So  
9 there's a huge achievement gap in the US today, and  
10 equal pay is a big part of that. Equal pay for equal  
11 work is a huge aspect of helping women get ahead in  
12 their careers. Women contribute 85 percent of  
13 consumer spending, so putting that money to the  
14 female workforce and driving that back into the  
15 economy. We know that 89 percent of the Ellevest  
16 community, that's 50,000 professional women in the  
17 US, say that gender discrimination still exists at  
18 their companies, and this bill is an opportunity to  
19 change that and to have an impact on the women in the  
20 workforce today. Thank you.

21 CHAIRPERSON MEALY: Thank you.

22 BEVERLY NEUFELD: Thank you for the  
23 opportunity. Is it on now? Oh, terrific, thank you.  
24 Thank you so much for the opportunity to testify  
25 today before the Civil Rights Committee. Uh, on

1  
2 behalf of PowHer New York, I am Beverly Neufeld. I'm  
3 the Founder and President of PowHer. Just so you  
4 know, PowHer is a statewide network of individuals  
5 but also 100 organizations across New York State  
6 collaborating to accelerate economic equality for New  
7 York women. We inspire change and catalyze  
8 collective action through education, advocacy,  
9 convening, social media, etcetera. Our signature  
10 initiative is the equal pay campaign of New York.  
11 We've been leading this for 10 years, and we are  
12 making progress which is the good news, but the fight  
13 for equal pay is long in New York, and about 30 years  
14 ago, New York passed-- did an evaluation of all New  
15 York State employees and did a one-time comparable  
16 worth analysis and adjustment. Since then, since  
17 2002, there's been a bill called the New York State  
18 Fair Pay Act, and they've been trying to pass that  
19 since 2002. That's on the State level, that's right,  
20 but the good news is that in 2015 we did pass a very  
21 strong equal pay bill and it does protect workers to  
22 talk about their salaries. It closes loopholes in  
23 the law and some other very important pieces. So we  
24 do celebrate progress, but it's just not enough and  
25 that's why we are here today. It's totally

1  
2 imperative that we address the underlying causes of  
3 wage and equity, and I really don't want to go over  
4 all the points that my colleagues have made so very  
5 well, so I'd like to make a few other comments here.  
6 Lower salaries may be the result of outright  
7 discrimination, working in female dominated  
8 professions as we've talked about, the devaluing of  
9 women's work, reducing in hours, because women have  
10 had to take time off, but all of them, bottom line,  
11 penalize the applicant when employers set  
12 compensation based on prior salaries rather than the  
13 job requirements and merit. Now, the business  
14 community is aware of this issue and they are aware  
15 of the perils of this issue and even litigation  
16 because of it. In 2013, SHERM, which is the Society  
17 for Human Resource Management, the world's largest HR  
18 professional society reported the following. Let me  
19 quote, "HR professionals should be especially attuned  
20 to information concerning the impact that a new  
21 hire's previous pay has on his or her starting pay.  
22 One Federal Court of Appeals has stated that paying a  
23 male new hire more than a female new hire in the same  
24 job solely based on prior salary would be the  
25 violation of the Equal Pay Act, because such practice

1 would contravene Congress's intent and perpetuate  
2 traditional unequal salaries. So even SHERM, which  
3 is the largest organization that advises companies,  
4 is saying that this is a process that is really going  
5 down the wrong road and things need to change. This  
6 also I want to share and it's not in my testimony,  
7 but there's a real effort around the country today  
8 for businesses to take on equal pay. Matter of fact,  
9 the White House just announced a couple, very  
10 recently, that 100 major companies around the U.S.  
11 have signed the Equal Pay Pledge, the White House  
12 Equal Pay Pledge. So all of these are things-- we  
13 have to realize that business is trying hard to close  
14 the wage gap, and if we're going to do that, we need  
15 to look at the causes. One of the causes is just  
16 this: It's taking advantage of the fact that women  
17 have been paid traditionally less and then, you know,  
18 applying salaries upon that. We've already noted  
19 that in other situations we see that women are paid  
20 less just because it's women's work, and by that I'm  
21 saying it's not just because of the jobs that women  
22 have, but as soon as women-- men start to enter the  
23 profession as one of my colleagues mentioned, that  
24 the salary range goes down. Well, that says that we  
25

1  
2 are still looking at who is sitting in the seat and  
3 who we are going to pay for the job, and we are still  
4 seeing, you know, certain-- it's not as bad as it  
5 was, but there's still a problem with the way we see  
6 women in the workforce. Negotiation does not help.  
7 That's very unfortunate, but it is true. Women are  
8 seen as aggressive. We don't want them as our  
9 colleagues when they negotiate. So they're seeing,  
10 been seen as assertive. We've learned over time not  
11 to ask certain questions in the salary process. We  
12 don't ask now, "Are you married? Are you gonna have  
13 children? What's your living arrangements?" We don't  
14 ask those questions because we know that it goes down  
15 the road toward discriminatory whether we are aware  
16 of it or not, and so this is the new step in the  
17 direction of making the hiring process fairer, and I  
18 think some of the problems that businesses might see  
19 would be solved, you know, with just simply putting  
20 down what are the requirements for a job, what is the  
21 job band and what do you need to do the job well so  
22 that we can match the applicant with the job. So, if  
23 we're going to get serious about closing the wage gap  
24 which everybody talks about doing, here is our  
25 opportunity. Similar legislation is moving forward.

1  
2 Also, what has not been mentioned is that on a  
3 Federal level the esteemed Representative Eleanor  
4 Holmes Norton in September also introduced this into,  
5 to Congress as a bill, as well. And if we're going  
6 to really get serious about closing the wage gap,  
7 then the New York City Council has an opportunity to  
8 remove the veil on one of those seemingly innocuous  
9 practices that has noxious effects which rob  
10 hardworking women of fair wages and families of a  
11 fair chance. Thank you so very much for letting me  
12 share the position of PowHer New York.

13 CHAIRPERSON MEALY: Thank you.

14 MARGARET MCINTYRE: Good morning. My  
15 name is Margaret McIntyre. I'm Chair of the  
16 Legislative Committee of NELA New York. NELA New  
17 York is the New York State affiliate of the National  
18 Employment Lawyers Association and Bar Association  
19 that represents primarily employees in all kinds of  
20 actions. I thank everyone here today for giving us  
21 this opportunity to speak. Our NELA New York's-- I'm  
22 sorry. NELA New York strongly supports Intro 1253.  
23 Our nearly 400 attorney members have been on the  
24 frontline of fighting in court to vindicate the civil  
25 rights of New Yorkers. We know that pay

1 discrimination is widespread, particularly pay  
2 discrimination based on gender and on race, and we  
3 also know from our practices that that 50+ years of  
4 litigation over pay discrimination has not eliminated  
5 it. New and creative approaches are called for and  
6 this bill is one such approach. By requiring an  
7 employer to consider an applicant's prior salary  
8 history only after an offer of employment is made,  
9 this bill will prevent an employer from making  
10 assumptions about how much the applicant should be  
11 paid before even assessing that employee's  
12 qualifications and experience. In other words,  
13 before the employee's worth has been assessed on the  
14 merits. An unfairly, as people have said, an  
15 unfairly low salary in one job often follows a woman  
16 or any person really to the next job on the basis of  
17 prior salary history alone and it's in this way that  
18 the gender wage gap and the race wage gap continue.  
19 This bill will help change that. Yet this bill does  
20 not prevent employers from taking prior salary  
21 history into account along with other factors once  
22 the employer has made the determination that the  
23 employee is not only qualified for the job but is the  
24 employee that the employer wants to hire. This  
25

1  
2 modest change to the procedure of setting pay will  
3 make it much more likely that prior salary history  
4 will only be one factor among many that an employer  
5 uses to set a new employee's pay. This bill, though,  
6 has the potential to protect all employees, all New  
7 Yorkers. For example, it will protect an older or a  
8 more experienced employee who has lost a higher  
9 paying job and is willing to take a pay cut to become  
10 employed again. Too often people are rejected  
11 without consideration if their prior pay was more  
12 than what the employer had hoped to offer. A change  
13 in the timing of when an employer takes prior salary  
14 history into account will give each candidate a  
15 chance to demonstrate his or her qualifications  
16 without preconceived notions about what the candidate  
17 would accept or what the candidate is worth. In  
18 short, when employers consider higher salary history  
19 only after assessing an applicant on the merits, it  
20 will become more likely that employees will be paid  
21 fairly. NELA New York urges a quick passage of Intro  
22 1253. Thank you.

23 CHAIRPERSON MEALY: Thank you. Any  
24 questions? And we have to definitely think about the  
25



1  
2 age discrimination. That's a major factor. Thank  
3 you. We have two more.

4 UNIDENTIFIED SPEAKER: Can I have some  
5 water. I'm so sorry.

6 CHAIRPERSON MEALY: Please drink the  
7 water. We only have two more panels, one.

8 PUBLIC ADVOCATE JAMES: I want to thank  
9 Council Member Eugene who has signed on. He has also  
10 signed on to the legislation which now brings our  
11 number to 33 members of the City Council. Thank you.

12 CHAIRPERSON MEALY: We have Madeline,  
13 Madene Stern, Melanie Stern, Spring Bank, okay.  
14 Shannon McPhee-- what's this? Chashama Organization  
15 and Sarah Zolt from Chashama Organization. This is  
16 our last panel. You in the middle. [Laughter]  
17 Hello. Press the button please and start over.  
18 Thank you.

19 MELANIE STERN: Okay, good morning and  
20 thank you so much for this opportunity. I am going  
21 to talk just for a few moments about the importance  
22 of this legislation with regard to the business  
23 committee and talk from a business perspective. My  
24 name is Melanie Stern. I'm the Community  
25 Reinvestment Officer and Director of Consumer Lending

1 for Spring Bank which is based in the South Bronx.  
2 We have just coming into our tenth year. When we  
3 opened in the South Bronx 10 years ago, we were the  
4 first bank to locate in the Bronx in 25 years. Now  
5 we're the first bank to locate in the Bronx in 35  
6 years. We are an award winning community bank based  
7 in the South Bronx. We are a U.S. Treasury certified  
8 Community Development Financial Institution and a B-  
9 Corp [sic], and I mention both of those because  
10 getting those accreditations is recognition that our  
11 mission and our lending are focused on serving  
12 underserved businesses and consumers with transparent  
13 and affordable products and services. We are small,  
14 mighty and growing, 160 million dollar financial  
15 institution and currently have 37 employees at our  
16 branches in the Bronx and East Harlem. For Spring  
17 Bank being a responsible community institution also  
18 means being a responsible and responsive employer.  
19 We generally hire from the communities in which we  
20 are based. That's why this year we voluntarily  
21 raised the minimum wage for our employees to 15  
22 dollars an hour before the States' enactment, and why  
23 we have-- as a result of this, learning about this  
24 legislation, are adopting a hiring policy in line  
25

1  
2 with Intro 1253. We will no longer be asking  
3 candidates for their salary history.

4 CHAIRPERSON MEALY: Whoo! [applause]

5 MELANIE STERN: As a small bank, we are  
6 very dependent on great customer service to compete  
7 with the large banks, and we know that employees who  
8 are satisfied with their work environment, which  
9 includes pay status, will be better employees. We  
10 look for the best employees we can find without  
11 regard to gender, and as employees ourselves, we all  
12 know that being treated fairly affects your work  
13 outlook and your productivity. This new policy of  
14 not asking for salary history fits squarely within  
15 our double bottom line mission. It's good for our  
16 bottom line and it's good for the community. Spring  
17 Bank strongly supports this legislation and hopes  
18 that businesses throughout New York City will do  
19 likewise. We really appreciate and understand the  
20 value to employees and businesses, and we are very  
21 proud to be able to support this legislation. Thank  
22 you for the opportunity.

23 CHAIRPERSON MEALY: Whoo. Thank you.

24 SHANNON MCPHEE: Hello.

25 CHAIRPERSON MEALY: Hello.

1  
2 SHANNON MCPHEE: Thank you so much to the  
3 Council for the opportunity to testify today in  
4 support of this introduction. My name is Shannon  
5 McPhee and I'm the Development Manager at Chashama  
6 which is a non-profit arts organization. We work  
7 with artists regardless of their race, gender,  
8 education level to find them spaces to live, work and  
9 present their work in New York City. I think we  
10 heard some amazing panels today, and while I am not  
11 going to say anything new on the statistics, what I  
12 can speak to is my own personal experience within the  
13 New York arts and culture sector and how this  
14 introduction relates to it. For the past 10 years,  
15 I've worked in arts, non-profits, specifically small  
16 ones and the gender wage gap is very prevalent there.  
17 I think it's important to remember small arts  
18 organizations and small non-profits aren't immune to  
19 these things, and something that one of the panelists  
20 brought up earlier was this idea of occupational  
21 segregation, and small non-profits are seen as  
22 charities which is very much seen as "women's work."  
23 So, you are automatically entering a field where the  
24 work is not valued, and the gender wage gap, and it's  
25 the same for minorities is still very prevalent which

1  
2 makes it very hard to fight for equality of others  
3 when you yourself are being treated unequally in the  
4 work place. So, I thank everyone today that's  
5 supported this legislation. I'm very excited about  
6 it. We personally don't deal with any policy, but  
7 Sarah and I came to support this on behalf of those  
8 who we see in these worlds working so hard that also  
9 face these challenges. So, thank you so much for  
10 your time. We really appreciate this. Thank you so  
11 much.

12 CHAIRPERSON MEALY: Wow, thank you.

13 SARA ZOLT-GILBURNE: As Shannon mentioned,  
14 we don't work directly with this policy, but we are  
15 obviously all affected by it, and it has been a great  
16 honor to be in this room today and hear about all the  
17 amazing work that each of you have been doing. So  
18 thank you so much. My name is Sarah Zolt-Gilburne.  
19 I work with Shannon at Chashama, and I actually have  
20 very recently come into the non-profit sector from a  
21 decade of working in the service industry. I've been  
22 working the service industry for a decade as a  
23 physically disabled woman and a high school drop out  
24 until I was, 23 and I experienced at each of the  
25 hiring processes intense amounts of interrogation and

1 questioning of my ability to work in those sectors.  
2 When I transitioned into office work, the experience  
3 of trying to package myself and sell myself as a  
4 qualified candidate for this work was immensely  
5 difficult and one that I think of greatly when I  
6 think about this introduction in the sense that right  
7 now in this job market-- sorry-- it is not a linear  
8 path from point A to point B, and in that traveling  
9 people take all kinds of opportunities to learn more,  
10 to gather more skill sets, to make themselves a more  
11 qualified applicant to do the things they want to do,  
12 and their salary does not always correlate with those  
13 steps that they take, and when you go to apply for a  
14 job, ultimately, to use a very common phrase, the  
15 proof is in the pudding, and if the person can do the  
16 job it shouldn't matter what else they've made. It  
17 shouldn't matter what their title was if they have  
18 the qualifications in the sense that they have the  
19 skills and they have the passion and they have the  
20 ability to show up and get the job done. That's what  
21 matters, and I want to thank you all for considering  
22 this legislation which allows in a time where our  
23 leaders and the President-elect are questioning the  
24 value of every citizen. A piece of legislature that  
25

1  
2 I understand will not change things overnight, but  
3 sends a clear message that we are willing to value  
4 every citizen and that that value is not salary-  
5 based, that we are willing to let their work be  
6 valued based on what they can do and not what they  
7 have done in the past and how others have valued it.  
8 So thank you so much to the Committee for this  
9 opportunity, and thank you all for fighting in the  
10 ways that you have.

11 [Applause]

12 CHAIRPERSON MEALY: Wow, yes.

13 [Applause]

14 CHAIRPERSON MEALY: This has been a  
15 phenomenal panel. Wow, and I want to thank Spring  
16 Bank. You heard it here first from the Bronx, and I  
17 could imagine how many entrepreneur women go and get  
18 loans there, I hope, and if more banks followed your  
19 lead, I mean this society would be a better place.  
20 New York would really be the place where it's setting  
21 the tone for all over. We shouldn't be behind  
22 everyone else. We are New York City. We supposed to  
23 be making the roads. So, I thank you so much. The  
24 Bronx/Brooklyn have to do a whole lot. We've got to  
25 start talking to our little bank. I thank you and

1  
2 putting in on the City record that you have changed,  
3 and I hope everyone who's looking at this hearing  
4 today know if any employer asks you, "Are you about  
5 to have a child?" or "Will you have children?" or  
6 "Are you married?" that is against the law. So  
7 please, if anyone asks you at a interview, write them  
8 up quickly. So I thank you all for being here today.  
9 Would you have closing remarks also? Our Public Adv--  
10 wait a second. Don't run yet. [Inaudible]

11 PUBLIC ADVOCATE JAMES: I want to join  
12 with the Chair, and I want to thank Ms. Stern, thank  
13 you for serving as a responsible community  
14 institution and for your fair lending practices.  
15 Thank you for all that you do and thank you for  
16 testifying here today. I do know that a number of  
17 businesses, you know, had contacted my office and  
18 decided that they opposed this legislation, but  
19 decided not to come and testify, and we're gonna  
20 negotiate with them. Again, I do not want this  
21 legislation to be a burden on businesses, and so I  
22 thank you Ms. Stern for taking the lead on this. And  
23 to Ms. Gilburne and Ms. McPhee, first to Ms. McPhee.  
24 Thank you for testifying. I love the creative  
25 community. As someone who was a City Council Member



1 who represented Downtown Brooklyn, there's a number  
2 of arts and cultural organizations in downtown  
3 Brooklyn and some people say that I have a flair for  
4 the arts.

5 [Laughter]

6 PUBLIC ADVOCATE JAMES: Anyway, and that  
7 may be true, particularly if I'm passionate about  
8 something or if you get in my way.

9 [Laughter]

10 LATISHA JAMES: And Ms. McPhee, I just  
11 absolutely adore you.

12 SARAH ZOLT-GILBURNE: Her or me? I don't  
13 know.

14 PUBLIC ADVOCATE JAMES: I don't know. It  
15 was Ms. McPhee.

16 SARAH ZOLT-GILBURNE: Oh, Zolt-Gilburne

17 PUBLIC ADVOCATE JAMES: Am I pronouncing  
18 your name correctly? Zofa--

19 SARAH ZOLT-GILBURNE: [interposing] Zolt-  
20 Gilburne.

21 PUBLIC ADVOCATE JAMES: I want to be sure  
22 that I get your name correctly. You know, as part of  
23 negotiating and getting a fair wage we have to make  
24 sure that people know our names and that they say it  
25

1  
2 right. So say it again for me so I can make sure  
3 that I pronounce it correctly.

4 SARAH ZOLT-GILBURNE: Zolt-Gilburne.

5 PUBLIC ADVOCATE JAMES: Ms. Giburn [sic],  
6 did I say it right? Close?

7 SARAH ZOLT-GILBURNE: Zolt--

8 PUBLIC ADVOCATE JAMES: Zolt--

9 SARAH ZOLT-GILBURNE: Gilburne.

10 PUBLIC ADVOCATE JAMES: Gilburne, Ms.  
11 Giburn, I absolutely adore you. I really do. You  
12 have made a profound statement, not only in support  
13 of this legislation, but on behalf of our country and  
14 what we are facing given this past election. I just  
15 want to say that you inspire countless number of  
16 women who often times are counted out and women who  
17 believe that their values are often ignored and  
18 people don't take into consideration. You stand up  
19 on behalf of those without a voice and those that are  
20 invisible, and therefore I stand with you. You are  
21 my true champion today. Thank you so much. Don't  
22 cry. You have make-up on. Don't do that.

23 [Laughter]

24 PUBLIC ADVOCATE JAMES: That's right.  
25 You are a strong women, and therefore I salute you

1  
2 today. God bless you and thank you, and all of you  
3 have a Happy Holiday. This will go a long way,  
4 again, in addressing income and equality, the  
5 feminization of women, and women, we are strong and  
6 we are tall and we're gonna walk out of this door  
7 today with our backs straight and our heads held up  
8 high, and men who feel the same, may you do the same  
9 as well. Thank you. Happy Holidays everyone.

10 CHAIRPERSON MEALY: Thank you, and just  
11 in closing I just want to say by sponsoring this I  
12 want to take it from Women's City Club of New York.  
13 By sponsoring this measure, you are sending a clear  
14 signal to this and future generations of women and  
15 people of color that they should not be  
16 disillusioned, that their hard work and commitment to  
17 the productivity, successful New Yorkers are truly  
18 valued. So thank you ladies, and enjoy your holiday,  
19 and this meeting is now adjourned.

20 [applause]

21 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date December 22, 2016