Testimony in Opposition to SB 123-2 Amendment
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Thank you for the opportunity to provide testimony in opposition to the SB 123 Dash Two Amendment.

As you know, AAUW of OR was one of the primary advocates that worked hard to pass the Pay Equity Act of 2017. As many of you also know, the negotiations that led up to the bill's passage were not always easy, but were one largely characterized with a spirit of non-partisanship and a practical, get-down-to-work-and-solve-the-problem mentality. We were profoundly appreciative of Senators Taylor and Knopp's leadership in solving the intransigent problem of pay inequity in this manner.

We are unfortunately concerned at the reversal of course that certain of the changes contemplated in the Dash 2 Amendment represents.

In the spirit of our past collaboration, we concur with or have no objection to some of the changes. We include for example language that holding compensation levels constant does not constitute a reduction in compensation, or that there may be a need to comply with prevailing wage statutes.

A critical feature of the Equal Pay Act was the equal pay analysis. Its fundamental purpose was to remedy pay inequities before the parties had to resort to litigation. The thrust of the equal pay analysis was just that -- to encourage employers to review their pay practices and, if pay disparities were uncovered, to cure them. If employers undertook this analysis, they were entitled to a safe harbor from punitive and compensatory damages. The Dash 2 Amendment eliminates this provision and instead moves curing wage disparities down the road and into the courtroom by relegating it to a judge's award of damages. This change upends the purpose of the equal pay analysis and erects a considerable barrier for employees attempting to remedy pay inequities.

It is not easy for employees to question their pay, much less file a lawsuit. The amount of the wage differential may deter employees from questioning disparities, which also may be too small for an attorney to undertake a case. As a result, employers have no incentive to actually do anything to remedy their inequitable pay practices.

The Dash 2 Amendment also removes light duty and unscheduled work changes from the Equal pay Act. There is no doubt that light duty and unscheduled work time results in pay differentials when compared to regular work time, but exempting them from the Equal Pay Act of 2017 means an employer can pay a female worker a different wage than a male worker for the same

light duty or unscheduled job. If "light duty" is the job, then all employees who performed "work of a comparable character" are entitled to the same compensation. The same for unscheduled work changes.

We are faced with another significant rollback of the Equal Pay Act with the elimination of "regular" from the Equal Pay Act's definition of the kind of travel that is allowed as a bona fide exception to equal pay. The Act provided that travel needed to be both "necessary and regular." By eliminating "regular" employers can use one trip to justify paying one employee or class of employees, to the exclusion of others, at a higher rate for the length of those employees' employment. This employer-pick-and-choose practice is exactly what the Equal Pay Act sought to redress. To the extent that employers in rural Oregon are experiencing worker shortages, they can offer increased pay for comparable work under the "work location" exception.

We were pleased to see that employment agencies were going to be explicitly included in the Pay Equity Act of 2017. Unfortunately, this provision has been apparently been jettisoned. We support it.

The Pay Equity Act of 2017 represented a milestone for Oregon and stands as a model for the rest of the country. It was a great achievement. We now find ourselves with proposed changes that all tilt in one direction – away from pay equity. Now is not the time to whittle Oregon's Pay Equity Act's protections away.