

# Using Legislation to Reduce the Gender-Based Wage Gap in Virginia

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Source: <https://www.tnt.com/the-effects-of-gender-disparity-ripple-through-an-organization/>

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**Honor Pledge:**

On my honor as a student, I have neither given nor received aid on this assignment.

*Madison Roberts*

“When we pay women less than men, we’re telling women their work isn’t as valuable. We’re all equally valuable. And we should be paid equally.”

- **Maria Shriver**

(Former First Lady of California, founder of The Women’s Alzheimer’s Movement)

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## Executive Summary

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This project addresses the gender-based wage gap in Virginia by exploring, analyzing, and recommending remedial legislation.

Virginian women are paid 79 percent of what Virginian men are paid, which is below the national average of 82 percent. In total, Virginian women earn 24.1 billion dollars less than Virginian men every year. The gap hurts women's lifestyle conditions, savings, and ability to save for their retirement. If the Virginian wage gap closed, a full-time working woman in Virginia would be able to afford "86 more weeks of food for her family, more than six additional months of mortgage and utilities payments, nearly one additional year of tuition and fees for a four-year public university, the full cost of tuition and fees for a two-year community college, 9.5 more months of rent, or nearly 14 months of child care each year" on average (Augusta Free Press, 2018).

The project provides additional background on the state of the wage gap in the United States and Virginia, a legislative history of pay equity laws on the federal and state levels, and an analysis of available evidence on relevant pay equity policies.

Four policy options are analyzed in this project: a salary history ban, pay transparency measures, a comparable work standard, and letting present trends continue. A salary history ban would bar employers from asking applicants for their previous salary during the interview process. This option would halt the perpetuation of discrimination in salary setting, and may result in employers no longer artificially depressing women's wages. A pay transparency initiative would allow employees to disclose their wages or others' wages freely. It would also require employers to disclose salary compensation on new job postings, and submit annual pay-data reports to the Virginia state government. A comparable work standard would prohibit employers from paying unequal wages for "comparable" work, instead of "equal" work as the federal Equal Pay Act stipulates. This would ensure that women would be paid equally to men for similar duties, within and across occupations. Companies would be monitored and randomly chosen for pay audits to prove compliance, according to an established "point worth system." Additionally, workers could bring forth lawsuits or other complaints if they felt their pay was not reflective of this policy. The fourth policy would enact no legislation.

These options are rated according to three criteria: effectiveness, feasibility, and cost.

Ultimately, this project recommends the first option: to enact a salary history ban (SHB) in Virginia. The feasibility of this option is slightly lower than simply letting present trends continue, as it would require efforts from the AAUW to obtain support from both constituents and politicians. I find, however, that studies from McNichols and Sinha suggest confidence in this policy's impact on the pay gap. Additionally, SHBs pose relatively fewer costs to employers, employees, and the AAUW – as labor market outcomes have not been affected by the implementation of SHBs in other states, and the likelihood of this legislation is high given Virginia's Democratic majority.

The final piece of this project is an implementation strategy, which provides potential techniques to use in attempting to get SHB legislation introduced, voted on, and passed in Virginia. This strategy includes forming a coalition with other interested parties to create informational resources for politicians, and executing a widespread media campaign to bring attention to the issue.

## Problem Statement

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**In Virginia, women are paid just 79 percent of what men are paid – below the national average of 82 percent (Vagins, 2018). Researchers suggest that up to 41.4 percent of this gender wage gap can be explained by discrimination (Blau & Kahn, 2007).**

The gap exacerbates discrepancies in lifestyle and employment conditions, and hinders advancements towards total gender equity in Virginia and beyond. Virginia currently has minimal legislation in place to promote pay equity. However, the Virginia House of Delegates and Senate both have a majority Democratic membership now, and the Governor is Democratic. This means that the chances of getting pay equity legislation passed and implemented are higher, as Republican representatives have historically been less likely to support pay equity measures on the federal and state level. In fact, in the six states (other than Virginia) that gained a Democratic majority in both legislative houses in the 2018 midterm elections, over 100 anti-discriminatory labor and employment laws were passed in 2019 (Hammock et al., 2020). The time is ripe for the American Association of University Women to advocate for pay equity measures, prevent gender-based discrimination, and advance this cause in Virginia.



## Descriptive Statistics, Causes, and Data Differentiation

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### Descriptive Statistics

The typical woman in America earns an annual salary of \$45,097, while the typical man makes \$55,291. This gap increases in severity with age. It is largest for women aged 55-64; women's lower earnings also result in lower payments in Social Security benefits and pension benefits (AAUW, 2019b). If the national wage gap were to close, \$512.6 billion would be added to the national income, and poverty in families with a working woman could potentially be reduced by half (AAUW, 2019b).

Virginian women are paid 24.1 billion dollars less annually. If the Virginian wage gap closed, a full-time working woman in Virginia would be able to afford "86 more weeks of food for her family, more than six additional months of mortgage and utilities payments, nearly one additional year of tuition and fees for a four-year public university, the full cost of tuition and fees for a two-year community college, 9.5 more months of rent, or nearly 14 months of child care each year" on average (Augusta Free Press, 2018).

### Causes

The cause of the wage gap is contentious; many scholars believe that it is due to multiple factors.

Part of the gap is unrelated to discrimination, and is instead due to factors such as occupation, parental status, and marital status. When these factors are controlled, the size of the wage gap itself is reduced (Yglesias, 2014). However, it is likely that discrimination still affects these control variables, as well as any discrepancy that remains after the reduction. Even when using control variables, researchers suggest that up to 41.4 percent of the gender wage gap can be explained by discrimination (Blau & Kahn, 2007) in salary setting and promotions.

Occupation and industry may account for up to 49 percent of the gap, possibly because of hierarchies within occupations. For example, half of Fortune 500 managers are female, but only 3.8 percent of women are Fortune 500 CEOs. This may reflect discrimination within the workplace, as women are less likely to be promoted and have higher exit rates (Blau & Kahn, 2017). However, this evidence is found within the executive labor market specifically, and thus its applicability to all career fields could be limited.

The gap may also be due to women's voluntary career choices - i.e. women simply choose jobs that pay lower overall, or choose to work less. Because many workplaces will not pay for childcare, and the US does not offer many maternity leave benefits or free daycare, mothers will often take lower-paying jobs that require fewer hours and consequently are more "family-friendly" (Miller, 2014b).

Mother's lower pay is exacerbated by the "motherhood penalty." Employers may think that working moms are "less dedicated, less competent, and less efficient employees," and thus pay them less (Labaton, 2014). Hedge-fund billionaire, investor, and trader Paul Tudor Jones crudely said in 2014 that for women, babies were a "focus killer," causing them to be worse traders (Slaughter, 2013). When analyzing the pay of working parents, men increase their pay with every additional child they have, while women experience a pay decrease with every additional child (Goldin & Katz, 2008). Mothers are currently paid 7 to 14 percent less than non-mothers in the same positions (National Public Radio, 2012). Similarly, if mothers had explicit data about their

wages, and could compare such data to wages of non-mothers, it could empower and allow them to bring complaints about the discrepancy.

Evidence also suggests that even women's career choices are skewed by bias. Many researchers have suggested that women experience information asymmetry when choosing college majors and jobs, (Negrey et al., 2001) and experience increased harassment and discrimination in male-dominated occupations (Hegewisch et al., 2011), deterring them from entering these fields. Despite these trends, women and men initially express the same desires for their careers, including salary, flexibility, and time off (Hartmann et al., 2016). In the absence of discrimination, this suggests they would enter the same fields at similar rates. This is supported by evidence showing there are currently few gender-based differences in human capital. In 2011, men had only 1.4 more years of full-time labor-market experience on average than women, compared to 7 more years in 1981 (Blau & Kahn, 2017).

A lack of pay transparency may intensify pay disparities. In a 2020 PayScale survey of company directors, companies who reported the existence of pay transparency measures were associated with less severe pay disparities. However, for companies within male-dominated industries, the reported gaps still remained slightly higher (PayScale, 2020). If lower pay within these industries is due to gender stereotypes as opposed to "easier" or "less skilled" work, it may be useful to establish legal infrastructure to make employers pay equally for work that is of comparable difficulty.

In sectors where pay transparency is already mandatory, a smaller gap exists on average. The federal government reports a pay gap of 13 percent between men and women; the private for-profit sector experiences a gap of 29 percent (AAUW, 2019b).

Discrimination may be exacerbated based on race. Women of color face a worse ratio of earnings compared to white, non-Hispanic men. In Virginia, white-non-Hispanic women working full time, year-round are paid \$14,044 less than white, non-Hispanic men. Black Virginian women are paid \$26,728 less, and Native American Virginian women are paid \$23,928 less (National Partnership for Women & Families, 2020). This has led researchers to believe that race biases contribute to a widening of the gap (AAUW, 2019b).

## **Data Differentiation**

The intensity of the wage gap discrepancy varies based on its method of calculation. Each calculation indicates different aspects of discrimination in the workplace depending on what methodology is used.

### *Varied Pay Period Duration*

The wage gap is typically calculated as the ratio of male to female wages.

Annual wages are the broadest measure of pay inequality because they include bonuses, retirement pensions, investment income, and other annual add-ons. This metric also allows the longest comparison over time, as it has been used for the past 60 years. However, using an annual wage measurement can be limiting, as it does not control for professions with seasonal wages. For example, school teachers - a female-dominated profession - may not work or be paid over the summer, and thus would end up with a lower annual wage (Hartmann et al., 2014).

Using weekly wages is an alternative, but it does not include as many income categories as annual wage data. Because this data does not include annual bonus payments, it may not be showing the

whole picture, as many professions rely on those payments as a large part of remuneration (Hartmann et al., 2014).

The wage gap seemingly is reduced if calculated at hourly wages. However, not every wage earner, especially those in executive positions, is paid on an hourly basis. As such, the data excludes salaried workers. Hourly paid workers are more likely to be “women, younger, less educated, [and] disproportionately African-American” (Sinha, 2019). Thus, hourly wage data is skewed low overall, because it contains data from very few high-paying, non-minority, male workers. The gap may be reduced with this data because income discrepancies are pronounced in roles that are higher in seniority, or in highest-paying professions. (Miller, 2014a).

#### *Examining Full and Part-Time Workers*

Only full-time workers are typically included when calculating weekly and annual earnings ratios. If part-time workers are included in wage gap calculations, the gap vastly widens. Women are more likely than men to work reduced schedules, often to manage caregiving work and unpaid domestic tasks (Hartmann et al., 2016).

#### *Wage Aggregates*

The method of calculation can vary based on the aggregate of wages examined. The United Kingdom, for example, uses life-time earnings ratios when discussing the wage gap. One study found that employing this method with United States earnings data resulted in a wage gap of 49 percent - much more than what is currently articulated, because it showcases long-term losses (Rose & Hartmann, 2018).

# The Case for State Action

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## National Historical Overview

In 1963, President John F. Kennedy signed the Equal Pay Act into law; it remains in place today and is the most significant and widespread piece of pay equity legislation. It prohibits “sex-based wage discrimination between men and women ... who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions” (U.S. Equal Employment Opportunity Commission, n.d.). The law permits differences in compensation and opens the door for discrimination by giving employers wide discretion in interpreting “similar working conditions.”

During the 1970 U.S. District Court case *Shultz v. Wheaton Glass Co*, the Court made it more difficult for employers to claim differences and pay unequally. They found that “jobs need to be substantially equal but do not need to be identical to be protected under the Equal Pay Act” (Justia, 2019). In 2009, President Barack Obama signed the Lilly Ledbetter Fair Pay Act, which overturned restrictions on “filing complaints of employment discrimination concerning compensation” (U.S. Equal Employment Opportunity Commission, 2019).

## Federal Gridlock

Beyond these initiatives, there has been little to no progress on pay equity on the federal level. Generally, when legislation is introduced to eliminate the wage gap, business-focused groups shut it down, claiming harm to their interests. In March 2017, the US Chamber of Commerce convinced the Trump administration to no longer require large employers to report pay data. A senior vice president with the Chamber announced that the bill would be “an incredible amount of burden with no utility” (Gaudiano, 2017).

Another reason for gridlock is political. Some politicians believe pay equity legislation is a solution in want of a discrimination-related problem. However, while some of the wage gap is because of other factors, such as occupation choice, the pay gap remains high within high-paying professions. Harvard Labor economist Claudia Goldin found that “female financial specialists make 66 percent of what their male counterparts make, female doctors earn 71 percent, and female lawyers and judges make 82 percent - all when controlling for age, race, hours, and education” (Miller, 2014a).

## Virginia’s Involvement in the Wage Gap

Outside of a 1974 state bill advocating for “equal pay irrespective of sex,” (Virginia Law Library, 1974), Virginia has minimal pay equity legislation, especially compared to other states, and has one of the highest pay gaps in the nation (Vagins, 2018). Furthermore, evidence shows that primarily male-dominated industries have wider pay gaps (Milligan, 2019). In Virginia, top industries include aerospace development, mining, and the military - all male-dominated fields (Gentile, 2015).

Gov. Ralph Northam announced that on July 1, 2019, state agencies would stop asking for salary history on job applications (Albiges, 2019), to halt the perpetuation of discriminatory salary-setting. Other pieces of relevant pay equity legislation have been introduced in the most recent legislative session, but they have nearly all been “continued” to the next session or left in committee.

## State-by-State Analysis

New York, and California have some of the lowest pay gaps state-wide across the nation, while Louisiana has the highest. Virginia emerges in the middle of the pack and is ranked 23<sup>rd</sup> (American

Association of University Women, 2019). Each of these states has a varying amount of pay equity legislation in place; typically, states with more legislation have lower pay gaps.

### *California*

Since 2017, Californian employers have been prohibited from asking for applicants' salary history. If an applicant voluntarily gives their salary history, the employer may, only then, use that information to determine their new salary, but they are not allowed to use that information to factor into their decision of whether to make an employment offer to the applicant. They must also provide a pay scale to applicants if they request one (National Women's Law Center, 2018).

### *New York*

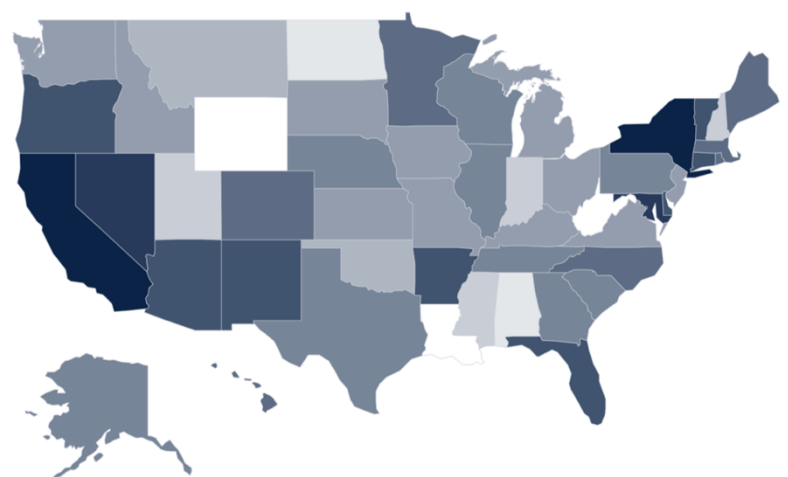
Governor Cuomo's 2019 Women's Justice Agenda included two initiatives to close the gender wage gap: employers are now prohibited from asking for applicants' salary history, from using that history to inform current salaries, and from "paying employees less ... if they perform 'substantially similar work' as their colleagues" (A Better Balance, 2019).

### *Virginia*

The Virginia Equal Pay Act prohibits employers from discriminating against employees on the basis of sex. Employer defenses of unequal pay must be limited to evidence of "a seniority or merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex" (BLR, 2017). However, employers can defend unequal pay if the pay differential is based on employee meritocracy or quality of work.

### *Louisiana*

Louisiana currently has no state-specific equal pay legislation (Office of The Governor, 2019).



**Figure 1: Ratio of Male to Female Earnings by State, 2018**

Source:  
<https://www.aauw.org/resources/article/gender-pay-gap-by-state/>

70 80 90%

2018 median annual earnings ratio for full-time, year-round workers, by state and gender. State pay gaps are displayed rounded to the nearest whole percentage but are ranked by unrounded percentage.

AAUW

# Evidence about Various Policies to Address the Gender Wage Gap

This project will focus on public policy options to address the causes of the wage gap. While the Virginia Chapter of the AAUW has offered successful non-legislative programming in the past, statewide legislation has the potential to impact the greatest number of women in Virginia, as opposed to targeted regional work (i.e. salary negotiation training).

## Salary History Ban Laws

### *Effectiveness*

Banning salary history requests may eliminate discrimination by creating a “new” unbiased salary for the applicant or employee. If an employee had a salary that was affected by discrimination, that artificial deflation will be removed when it is not used as a baseline for a subsequent salary. Without laws prohibiting this ask, an employer may say to an employee, “you have been paid less in the past, so I can pay you less now” (Cineas, 2017a).

Multiple studies have suggested that salary history ban (SHB) legislation leads to a significant reduction in gender-based wage discrepancies. This was found in a study of California’s January 2018 SHB legislation (McNichols, 2019) and a study of United States SHB laws more broadly (Sinha, 2019).

In California, researchers found that systemic gender discrimination was located more severely within male-dominated industries (McNichols, 2019), such as carpentry, construction, and truck-driving (Carpenter, 2019). California’s SHB law had a greater impact on those industries, resulting in a nearly 6 percentage point reduction in the wage gap within them – a 30 percent improvement overall. Across all industries in the state, the reduction was nearly 3 percentage points (McNichols, 2019).<sup>1</sup> Virginia hosts a plethora of male-dominated industries, including mining and the military (Gentile, 2015). Therefore, these findings elucidate the potential impact of SHB laws in Virginia.

Using a difference-in-differences technique, which compares the differences in the effect of an SHB on a treated group to a control group (with no SHB), other researchers found that SHB laws across the United States reduced the wage gap by 4.2 percentage points in hourly wages, and 4.5 percentage points in weekly earnings. Nearly half of the reduction in weekly earnings gap came from a “decrease in the earnings of mostly middle-aged men,” and the increase in female earnings came from “both young and middle-aged women with at least some college education.” The

“Employers should be hiring and paying potential employees for the experience and qualifications they have.”

- Senator Loretta Weinberg (D-NJ)

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<sup>1</sup> In this study, the author created statewide average weekly earnings ratios across gender, age, and industry of employment. The author determines correlation between the SHB law and any decrease in the wage gap through determining a pre-treatment and post-treatment “mean squared prediction error” statewide. The error is calculated by comparing the author’s predicted synthetic mean (suggesting causation) to the actual mean. A smaller error between these means suggests greater association between the treatment and outcome.

reduction was mostly due to wage changes in the private sector (Sinha, 2019).<sup>2</sup> Because the private sector is a significant part of the Virginian workforce, these findings are promising for my analysis.

Researchers at the University of Texas School of Law developed an economic model supporting SHBs' effectiveness. However, they also asserted that SHBs may harm workers with higher pay due to their high performance at certain companies. If these workers switch jobs, they may see a decrease in salary because the new employer would not know their promoted baseline. The exact size of this potentially affected population is unknown. (Meli & Spindler, 2019).

If women are asked for their salary history but do not disclose it, evidence suggests they will experience a 1.8 percent decrease in their resultant wages, compared to women who do disclose their salary after being asked. If men are asked for their salary history but do not disclose it, evidence suggests that they will experience a 1.2 percent increase in their resultant wages, compared to a man who does disclose (PayScale, 2019). A 2018 survey found that 84 percent of employers rely on salary history responses "a great deal" or a "moderate amount" when assessing applicants' current salary expectations (Watkins, 2018). In removing this reliance, there is significant potential for productive change.

One drawback of SHB laws is that it may make workers more reliant on negotiations to determine their salary. Because women are socially penalized for initiating negotiations, while men are not, SHB laws may hurt women in the interview process (Frank, 2017). Furthermore, while women are less likely to negotiate salary, they ask for lower salaries during negotiations (Amanatullah & Morris, 2010).

Some scholars compare SHB laws to ban-the-box laws, which bar employers from asking for job candidates' conviction or arrest record (Avery, n.d.). The goal of passing these laws was to increase minority representation. However, they led employers to hire more non-minority candidates, and fewer minority candidates (Doleac, 2016), defeating the original purpose. Many employers assumed people of color would have criminal records because of their race and hired them at lower rates (Cineas, 2017b). Employers' biased assumptions about women could also affect the impact of SHB laws. Most employers know about the wage gap and may standardize a woman's salary to be less because of it in the absence of other explicit quantitative anchors (Frank, 2017). Furthermore, many SHB laws allow women to voluntarily disclose their salary history, and in these cases higher-paying women may be incentivized to reveal their salaries. This would penalize lower-paid women, who would still be reliant on employer assumptions (Cineas, 2017b).

Credit check bans, which prohibit pre-employment credit checks, offer more optimistic insight on SHB laws. Evidence shows that these bans correlate to relative employment gains in mid to high-wage jobs. This could be because they cause employers to more heavily use other characteristics (education, interview skills, etc.) to evaluate employees, and these characteristics tend to be more in demand for certain positions (Ballance et al., 2020). Other evidence suggests that banning credit checks increases the likelihood of employment for financially distressed applicants by 25 percent

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<sup>2</sup> This study compared earnings in states with SHB laws against earnings in states with no SHB laws. Data was used from the CPS from January 2010 to March 2019. The sample was restricted to "civilian non-institutionalized population[s] between the ages of 22-64," as these individuals have the greatest chance of completing college and staying in the work force until retirement. Earnings were only observed for those individuals employed at the time of the survey. The authors analyzed the staggered roll-out of salary history bans in different states over time.



(Friedberg et al., 2017). Less optimistic, however, was the finding that black applicants were not benefitted by the ban, and continued to have fewer call-backs and employment offers than white applicants (Ballance et al., 2020). These findings, combined with data on ban-the-box laws, suggest a systemic and racially charged form of discrimination. While this intersects, and certainly exacerbates, the gender-based pay gap, this project's investigation attempts to isolate gender-based effects, as gender is the specific purview of the AAUW. Future studies should concentrate on the intersectionality of race and gender in workplace discrimination.

### *Feasibility*

Businesses have heavily pushed back on SHB legislation. One objection is that SHBs create “significant uncertainty and risk” (Lehotsky et al., 2018). When the city of Philadelphia actively worked to pass an SHB ordinance, the Chamber of Commerce for Greater Philadelphia sued in federal court, claiming the law was a violation of free speech. They claimed it was unclear whether publicly available salary information could still be used to make a salary offer, and vague on HR staff's liability for “us[ing] wage history information without investigating whether it was obtained ‘knowingly and willingly’” (*You Can't Ask This*, 2020). The President of the Greater Philadelphia Chamber of Commerce wrote that SHB laws failed to address the “underlying issue” of pay equity and could “cause disruption in legitimate gender and race-neutral employer hiring, promotion, and compensation practices” (Wonderling, 2017). He also commented on the laws' resultant administrative hassle and burden, saying SHB laws led to “wasted time for both employers and employees” (Wonderling, 2017).

While legal action by employers against the government has not yet been successful on this issue, it is likely that business interests, such as the Chamber of Commerce, would lobby hard to push back on it to avoid risk, and advocate for employer exceptions to this rule. This has previously been the case in Virginia with other pay equity measures, and in other states efforts', such as Massachusetts (Staley, 2016).

### *Compliance*

According to Terry O'Neill, the executive director of the National Employment Lawyers Association, enforcement of an SHB law “is absolutely going to be an issue.” Cheryl Pinarchick, an employment attorney, commented in 2019 that not all employers in SHB states had completed full take-up: “employers ... [have been] slower... to educate everyone in the hiring chain. There's still a lot of folks in hiring positions who just don't know [about these practices].” Lower take-up could be even more prevalent at smaller firms with small HR teams (McGregor, 2019), especially if they do not have many resources or are not keeping constantly attuned to political developments (Milligan, 2018). A lack of enforcement mechanisms and deterrence system means that employers could continue to ask for salary history without consequence.

### *Costs*

The main cost of SHB laws is the administrative burden to employers, who would have to spend time and resources overhauling their hiring practices to comply with the SHB law. Barada Associates, a firm that assists with employment law, published a list of action items for companies to adhere to SHB laws, which includes “review[ing] existing recruiting onboarding policies... review[ng] all existing job applications ...[and] ensur[ing] recruiters are not asking... candidates to disclose salary history” (Barada Associates, 2019). Especially costly is the re-training of HR employees to create salary ranges that ensure variation according to “merit, education, and



experience” (Barada Associates, 2019). These costs are compounded by the simple increase in pay that employers would also have to offer women in response to an absence of discrimination.

Fortunately, however, researchers have found that nationally, these efforts do not affect certain labor market outcomes, including “labor force participation, unemployment rate[s], private versus public sector employment, and turnover rates” (Sinha, 2019). In California, researchers’ findings were consistent with this claim – no male or female workers systemically entered or exited the labor market as a result of the SHB (McNichols, 2019).

Another employer cost is penalties for violations of the SHB law. Penalties can vary by geographic location. For example, New York City imposes penalties of up to \$250,000, while Delaware’s maximum is \$10,000 (Milligan, 2018). However, enforcement of these penalties can be tenuous, as stated above.

### *Current Status in Virginia*

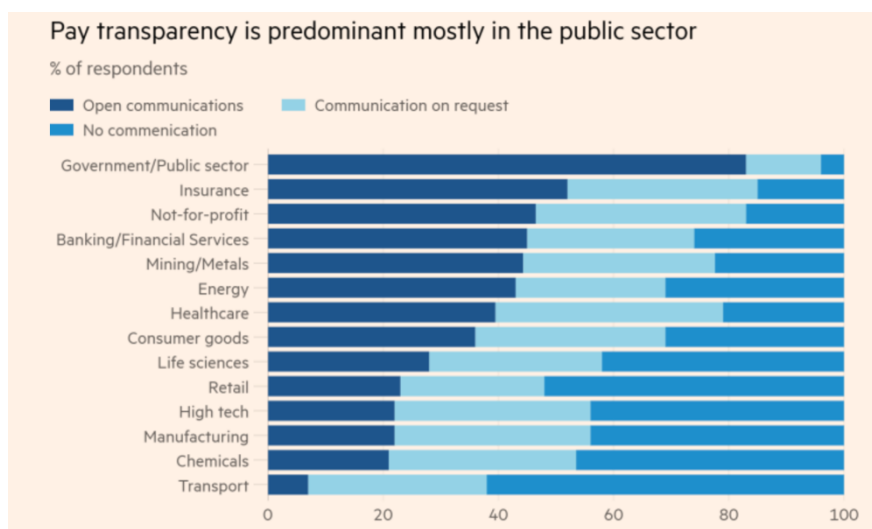
Currently, state agencies in Virginia do not ask for salary history on job applications, per the June 2019 announcement by Governor Ralph Northam (Albiges, 2019).

In the 2019-2020 Virginia legislative session, House Bill 416 attempted to enact an SHB. This bill was continued to 2021 (Virginia LIS, 2020a). Virginia House Bill 326 was also proposed in this session, and would have barred employer retaliation against employees for not providing salary history if asked. The bill was referred to the Committee on Labor and Commerce (Virginia LIS, 2020a).

## **Pay Transparency**

### *Effectiveness:*

While 70 percent of government agencies make general wage and salary information public, only 17 percent of private companies have public wage and salary information (Hayes, 2017). In the federal government, the wage gap is smaller than the national average – about 87 percent in most recent data compared to 82 percent nationally (Archuleta, 2012). Private sectors could follow their lead and publish wage data online. (FederalPay.org, n.d.). If employers reveal their salary data, they may be deterred from actively discriminating for fear of their behavior being disclosed, and their firm being punished or penalized.



**Figure 2: 2019-2020 Survey of Employees on Pay Transparency Practices, By Sector**

Source:  
<https://www.ft.com/content/7bff2680-4999-11ea-ae2-9ddbdc86190d>

Multiple studies have found that pay transparency reduces the wage gap. In Canada, researchers analyzed the gender pay gap within Canadian public university faculty via “a set of public sector pay transparency laws that require[d] the disclosure of annual salaries above a specified threshold amount (ranging between \$50,000 and \$125,000).” The implementation of the laws correlated with a decrease in the pay gap at these universities. In 2017, the pay gap decreased to under 4 percentage points (Baker et al., 2020). In the intervening years after the passage of the pay transparency laws, the gap continued to fall by roughly 30 percent, and female faculty salaries also increased (Baker et al., 2019).<sup>3</sup> The main limitation of this study, however, is that it only observed one segment of the public sector.

In Denmark, private firms with more than 35 employees have been required to publicly disclose salary information by gender since 2006. A regression analysis by Bennedsen, Simintzi, Tsoutsoura, and Wolfenson used this data to compare employees who were affected by the legislation to those who are not, in firms that were around the 35-employee benchmark.<sup>4</sup> Male employee wages in treated firms grew 1.7 percentage points more slowly than those in control firms, and female wages in treated firms increased by 0.3 percentage points more than those in control firms. The difference in the growth rate of male wages to female wages in treated firms was -2.08 percentage points. Overall, the disclosure correlated with a 13 percent difference in the pay gap between treated and untreated firms (Bennedsen et al., 2019).

These conclusions are reinforced by other evidence on the impact of pay transparency on certain industries. For example, research has suggested that pay transparency could reduce and potentially eliminate gender pay disparities within the Veterans Health Administration (Maxwell et al., 2019).

### *Feasibility*

Businesses are opposed to pay transparency measures; they attempt to protect salary as a trade secret because it is “commercially valuable proprietary information” (Estlund, 2014). If companies release salary information, an interested party could draw evidence of discrimination or corruption and sue (Potter, 2020). In less extreme cases, advocacy groups may lobby for change if they see pay inequality across a firm. For example, in the early 2000s, Harvard paid its endowment portfolio managers very highly. When their pay was released alongside the much lower pay of other employees, many members of the community protested and publicly showcased their opposition, which became a burden for Harvard to respond to (Zenger, 2016).

Additionally, not providing salary information is a more flexible option for employers, especially when providing benefits. Some employee rewards could be for less quantifiable behaviors, such as “organizational citizenship behaviors,” and thus would be hard to attach a number to (Potter, 2020). Similarly, employers may be wary of the raw pay increases associated with this alternative.

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<sup>3</sup> This study analyzed data from Statistics Canada, which contains “salaries, demographic characteristics, and job-related variables of full-time academic employees at Canadian universities since 1970.” The authors analyzed variation in university departments within Canadian provinces. The authors employed a regression analysis according to their empirical model, which attempts to tack the casual effect of transparency on salaries.

<sup>4</sup> The authors controlled for “a variety of time-varying firm and individual characteristics, year fixed effects, interacted individual and firm fixed effects, and interacted firm and year fixed effects.” The results found were deemed to be robust across firms, no matter their size, as covariates were balanced across firms.

While many European countries have pay transparency measures in place, the United States has seen extremely limited success in passing extensive pay equity legislation. Most legislation involves barring employer retaliation against employee discussion of wages, not wide disclosure of salary data (Bernabei & Sinisi, 2018).

### *Compliance*

There is limited evidence on the level of compliance for employers on pay transparency measures. However, it is easy to figure out if employers are not publishing or reporting their wage data – it simply would not be available.

There is evidence to suggest that employers do not have the resources to implement pay transparency policies. In a survey by Human Resource Executive, 60 percent of surveyed organizations say “managers are not trained to effectively deliver pay communications” (Starner, 2020).

### *Cost*

One possible cost of this policy is that it may cause employees to leave their jobs at higher rates. A Norwegian study found that when employees had access to friends, neighbors, and coworkers’ incomes, their well-being and income became more strongly correlated. Low earners were “less happy and less satisfied,” while high earners were more satisfied (Perez-Truglia, 2019). In a 2012 study done by University of California Berkeley researchers, below-median earners who visited a website with public record salaries reported feeling less satisfied with their jobs and more likely to look for other opportunities (Card et al., 2012).

Other studies have reported that pay transparency policies result in lower wages overall for workers. Cullen and Pakzad-Hudson found that when a contractor was required to disclose salary in job descriptions, workers’ earned hourly wages decreased by 7.8 percent, and total pay decreased by 9.6 percent lower. This led to employer profits to increase by 27 percent (Cullen & Pakzad-Hudson, 2019).<sup>5</sup>

This policy may also cause social penalties and lessened morale. Todd Zenger from the University of Utah’s David Eccles School of Business has said that “broadcasting everyone’s individual pay triggers a process of social comparison” (Cooney, 2018). This may impact productivity. In a study of Indian manufacturing workers, workers reduced output by 52 percent when learning that their co-workers were paid more. They were also 13.5 percentage points less likely to attend work. Decreases in productivity were minimized when the gap between the highest and lowest-paid workers was small (Breza et al., 2018). The generalizability of these effects to Virginia are limited because of geographical and industry differences. However, combined with the previously mentioned studies, it is clear that pay transparency measures have at least some negative impact on workers.

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<sup>5</sup> The authors used 2009 to 2014 administrative data from TaskRabbit for Business, “an online platform where businesses source employees for in-person contact work.” TaskRabbit for Business functioned like a temp agency, and was active in 19 metropolitan areas. The employers were varied, and ranged from older Fortune 500 firms to household employers.

### *Current Status in Virginia*

In the 2019-2020 session, House Bill 622 was passed by the House and Senate. The bill prohibits employers from retaliating against workers for discussing their wages (Virginia LIS, 2020b)

### **Comparable Work Standards**

Currently, wage discrimination is largely governed on the federal level by The Equal Pay Act of 1963 (EPA). The EPA's "equal" stipulation is very limited, and the legislation's allowed justification for pay differences perpetuates gender discrimination in its broadness. By solely following federal legislation, an employer could excuse unequal pay for a variety of unjust reasons. In response, states have passed a "comparable" work standard to replace the "equal" work standard, which narrows the scope of employer defenses for unequal pay. Comparable worth language can also have an impact on wage differences across occupations. The language allows employers to compare across similar occupations that are gender-segregated and thus varied in wages (Gunderson, 1989). For example, in Minnesota, when state jobs were rated "according to required level of education, training, stress, customer contact, and responsibility," registered nurses and vocational education teachers were each rated equally. However, the nursing industry was dominated by women, while the vocational education teachers were mostly men - and were paid 30 percent more than the nurses (Andre & Velasquez, 1990).

The change in language to enact this standard somewhat varies, but has the same impact. In California, Illinois, and New Jersey, employees must pay equally for "substantially similar work," in Massachusetts, the same applies for "comparable work," in Oregon and Maryland, the same applies for "work of a comparable character," and in Washington, the legal language prohibits unequal pay for "similarly employed" workers (Patrick, 2019).

### *Effectiveness*

The effect of this policy's potential impact on the wage gap can be seen very clearly in the *Ventura v. Bill Me Later* Maryland arbitration case. In this case, a Chief Technology Officer argued that she unfairly earned less than male executive members, despite her good performance and value to the company. The arbitrator ruled against her under the EPA because her role was not "equal" to that of male executives. However, he ruled in favor of her argument under Maryland law, which stipulated that equal wages must be given for work of a "comparable" standard (Glovsky, 2018).

In certain provinces in Canada, relationships are drawn between job evaluation "point scores" and pay, which translates to a regression line. If a job has more "points" requiring greater expertise or difficult labor, it will correspond to more "points." Usually, there is a gap between the pay lines when separated by gender. In this case, each female salary is adjusted to the male salary for the "point comparable position," which would mean a rise in wages for women, especially in male-dominated occupations (Gunderson, 1989).

Massachusetts has enacted a comparable work standard, but attorneys have commented after its passage that there hasn't been a "marked uptick in pay-discrimination claims yet" (Janove, 2019). While this could be reflective of compliance by corporations, it may also be reflective of a lack of resources or willingness from the victim. Lawsuits require resources, and those affected may not have the ability to bring them. This may be an incentive for a greater number of class-action suits or union complaints as opposed to individual cases (Gunderson, 1989), but they are yet to be seen. Furthermore, evidence suggests that comparable worth standards will "cover only certain groups of

workers,” leaving out women who “work for small private employers,” who do not enforce the law or are not monitored (Smith, 1988).

### *Political Feasibility*

In the 1980s, comparable work standards were proposed, litigated, and dismissed on the national level (Gardner & Daniel, 1998). Linda Chavez, the appointed staff director of the US Commission on Civil Rights by President Reagan, deemed comparable worth standards “the civil rights issue of the 1980s” (Goodman, 1984). Despite its discussion in both Congress and the Courts, it never came to fruition because of business pushback. In 1984 Congressional hearings, opponents said that comparable worth standards would be the “‘entering wedge to social engineering’ by [the federal government], which [would] eventually determine everyone’s wages and make US industry uncompetitive with the rest of the world” (Freeman, 2008). Fears of excessive government regulation continue today.

Another potential drawback is that this policy imposes the same hassle and requirement on all employers – whether they are guilty of discrimination or not (Gunderson, 1989).

### *Compliance*

The only data on compliance issues related to this policy pertain to enforcement. When financial penalties are used as a deterrence mechanism, there may be some unfairness in how businesses are monitored. Enforcement agencies could only concentrate on wealthy, large firms for a higher reward and more publicity, even if smaller firms are more egregious violators. (Gunderson, 1989).

Overall, evidence is limited on this policy. Most discussions on it took place in the late 20<sup>th</sup> century, and any evidence that is still available is dated and could be influenced by time-related factors.

### *Cost*

A drawback of this policy may be economic harm due to disruption on supply and demand. For example, it may be harder to recruit math and science teachers than gym teachers in public school systems. To incentivize STEM teachers to come interview or apply, a higher salary could be offered to them. However, comparable work standards would mandate that all teachers are paid equally across the board, interfering with job advertising and offer incentives. (Weidenbaum, 1984).

A study of Iowa’s comparable work standard found that as a result of the language change, minority pay decreased by 1 percent across the state. However, the low level of minorities in Iowa suggests that there are problems with the generalizability of this claim to other states (Orazem & Mattila, 1990).

### *Current Status*

Legislation to propose a comparable work standard has not been introduced in Virginia.

## Evaluative Criteria

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The following evaluative criteria will be used to assess the tradeoffs between the proposed alternatives:

1. **Effectiveness**
2. **Feasibility of Implementation**
3. **Cost**

### 1. Effectiveness

The primary criterion used is the effectiveness of the policy option – that is, the extent to which the policy would reduce the gap in pay between male and female-identifying workers in Virginia. Because the AAUW is primarily focused on improving women’s outcomes, this criterion will be weighed the most heavily.

#### *Changes in Pay Ratio*

An ideal alternative will reduce the gap between male and female earnings from how it currently exists in the Commonwealth of Virginia. Alternatives that reduce the gap greater amounts will be rated more highly. Alternatives that reduce the gap to lesser extents will not be rated as highly.

The results of similar legislation or proposed programming will be analyzed based on how they can reduce the wage gap. To conduct this analysis, results from lab experiments, in addition to case studies, will be used. For example, the results of a certain legislation in another state can be used to project outcomes for that legislation in Virginia.

### 2. Feasibility of Implementation

While the Virginia Chapter of the AAUW has advocated for many initiatives to improve female outcomes, only some have been successful, given lobbying, political obstacles, and social pressures. To that end, it will be important to account for all factors hindering and helping the implementation and passage of any policy option, and consider how those factors might influence a recommendation.

#### *Political Feasibility*

Perhaps most obviously, any policy option will need to be politically feasible for it to have support and pass into law in the Virginia state legislature. While pay equity legislation has been proposed in the past within Virginia, various business groups, as well as politicians sympathetic to business interests, have shut it down. Legislation may also fail if politicians or constituents themselves don’t make it a priority. However, the baseline likelihood of passing pay equity is enhanced in the current session, as the Virginia state government is Democratic. Historically, pay equity legislation has passed at higher rates in Democratic states. Republican politicians are less likely to prioritize this legislation because of their general reluctance to regulate commerce and impose bureaucratic measures on small businesses, who may not be able to comply as easily because of fewer resources. In contrast, in the six states (other than Virginia) that gained a Democratic majority in both

legislative houses as a result of the 2018 midterm elections, over 100 anti-discriminatory labor and employment laws were passed in 2019 (Hammock et al., 2020).

An alternative with high political feasibility is one that has a high chance of successfully passing in the Virginia legislature. This will be measured by analyzing the success and/or failures of similar legislation in other states. For example, Virginia has strong lobbying forces with business interests. If legislation in other states failed because of a business-oriented lobbying group, that force will be something to consider when assessing the potential success of legislation in Virginia.

### *Compliance*

The second part of feasibility to consider is compliance. If a policy is written into law, but there are no enforcement mechanisms, incentives, or other ways to ensure it will be enacted and carried out, it will have limited impact. To measure this criterion, I will look to compliance rates of legislation in other states, survey results, and interviews with relevant parties. If there are compliance problems and/or a low take-up rate, then the alternative will be rated low on this criterion. If there are limited problems and/or a high take-up rate, the alternative will be rated more highly.

### **3. Cost**

The cost criterion incorporates multiple metrics. Costs will include any resource usage from AAUW - whether that be creating lobbying materials, using AAUW staff to lobby, or other activities. These costs will be influenced by an estimate of how long it would take the group to develop lobbying materials and see the policy to fruition.

Costs could also be to employers - whether they must pay more in salaries or use resources to implement the new legislation in their workplace. Costs may also be to potential employees, who could see wage depression, reduced hiring, or other impacts on employment as a result of the legislation.

Costs will be measured by looking at how these metrics were impacted in experimental lab settings as well as case studies from legislation in other states.



## Policy Alternatives and Evaluation:

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In this project, I will consider three policy alternatives:

1. **Salary History Ban Laws,**
2. **Pay Transparency,** and
3. **a Comparable Work Standard.**

### **Policy Alternative 1: Salary History Ban Laws**

This policy would involve proposing and passing a bill barring all employers from requesting pay history from employees and applicants. The policy would also prohibit employers from retaliating against applicants for refusing to disclose their previous salary. If an applicant voluntarily discloses their salary history, employers may not use that salary history to determine whether or not to give an employment offer, to determine salary, or to determine benefits. A very similar iteration of this law was implemented in New York in 2017 (HR Dive, 2020).

After the bill is passed, it would not be enacted for the subsequent six months to allow employers to adjust and update their policies. This stipulation was seen in a very similar bill from Delaware (Legislature of Delaware, n.d.).

### **Evaluation:**

#### *Effectiveness*

Studies by McNichols and Sinha show a positive impact of SHB laws on reducing the wage gap. McNichol's estimation in California was a gap reduction of 3 percentage points, and a reduction of 6 percent in male-dominated industries. In surveying treated states, Sinha estimates a reduction of about 4 percentage points on average. Based on this information, I will assume that Virginia would likely see a wage gap reduction of around 5 percentage points with an SHB, due to the existence of many male-dominated industries in the state. This is reinforced by Sinha's projection that the majority of this transformation is in private industries, which are currently not subject to an SHB in Virginia despite being a significant part of the workforce.

Two concerns have been raised regarding this policy. The first is that female job applicants could be harmed due to employer assumptions of lower salaries in the absence of explicit information. However, prohibited "retaliation" could include imposing a salary penalty in the absence of information. The EPA also prohibits employers from paying less simply because of their gender.

The second concern is that lower-paid women are harmed, because higher-paid women could still voluntarily disclose their salaries and thus get a boost in offered pay. However, the proposed policy bars employers from using voluntarily disclosed information to adjust salaries, thus preventing this harm.

Overall, the impressive projected reduction in the pay gap, in addition to limited drawbacks, result in this policy rated as *high* for effectiveness.



### *Feasibility - Political Feasibility*

In Philadelphia, free speech concerns were raised specifically about their proposed SHB law, but these concerns were ultimately dismissed. There is a potential for similar litigation to occur in Virginia, as business interests are prevalent and have power. Businesses may also raise the concern of imposing extensive regulation on small businesses, who have a limited capacity to properly implement the ban.

While there is a risk of a lawsuit or other pushback in implementing this policy, I cannot estimate this risk with much confidence, as SHBs have only been implemented in the past few years, and there is limited data on tangible, severe opposition. As such, SHB laws will be rated as *medium* on political feasibility.

### *Feasibility - Compliance*

There are equity concerns with compliance, as smaller firms may not have the resources or interest to implement this policy. This is a major concern for Virginia, as 97.7 percent of Virginia businesses are classified as “small businesses” by the federal government, and small business employees make up 46.9 percent of Virginia employees – about 1.5 million people (U.S. Small Business Administration Office of Advocacy, 2016).

Because a significant number of Virginia businesses and employees would be affected by this compliance issue, this will be rated as *low* on compliance.

When combining these two outcomes, this policy will be rated *medium-low* on feasibility of implementation.

### *Costs*

There may be heavy costs of labor and resources to employers in implementing this practice within their hiring teams and HR divisions. Employers will also have to pay higher wages to women whose salary will ostensibly be higher and no longer affected by discrimination. However, there is currently no evidence to pinpoint the exact increase in wage costs to employers beyond assumptions from the reduction in the pay gap. However, if men’s pay declines or overall hiring declines, this increase will be lessened.

When enforced and found guilty, violating employers may face fines of up to \$250,000, however, issues of equitable enforcement have been raised in the previous section.

There are minimal costs to employees, as labor market outcomes, such as unemployment rates, are unaffected, as Sinha and McNichols suggest.

Business group pushback is mitigated by the Democratic majority in the Virginia legislature, so while there may be protests from business groups, ultimately the likelihood of a smooth political passage is higher than it has ever been. This results in a manageable effort from the AAUW in advocating for this policy.

Because there are medium to high costs for employers, minimal costs to employees, and minimal costs to the AAUW, this policy will be rated *medium* on costs.

## Policy Alternative 2: Pay Transparency

There would be three major parts to this bill. First, employers would allow employees to disclose their wages, discuss co-workers' wages, or inquire after another employee's wages. This is currently in place in California (U.S. Department of Labor, 2020). The second part of the bill pertains to job postings: employers would be required to disclose a range of salary compensation, along with a general description of benefits, in each new job posting. This has been in place in Colorado since 2019 (Mitchell & Pechaitis, 2019). Finally, private employers would be required to submit annual pay-data reports to the state government.

A variation of this was proposed in the California Senate in 2018 (Bernabei & Sinisi, 2018).

After the passage of this legislation, companies would be given up to a year to comply and adjust their practices. After one year from the legislation's passage, enforcement would begin.

### Evaluation:

#### *Effectiveness*

There is limited evidence to demonstrate the causal impact of the discussion of wages on the wage gap. The vast majority of private sector companies discourage or prohibit discussion of wages, whereas public sector divisions typically actively disclose pay. Private sector companies have much starker gaps in pay between men and women. This suggests a correlation between wage discussion and pay equity, but a casual one cannot be definitively established.

Multiple studies have been done on how wage disclosure impacts pay equity, but each of these studies has focused on one sector of the market or a single industry. While those results are promising (showing a reduction of the wage gap of 13 to 30 percent), their application to a whole state within the United States is limited. It cannot be assumed that success would be found in Virginia with these policies. More research needs to be done on wide segments of the market or broader data sets to correlate this small-scale success with success in Virginia.

Because applicability and robustness are questionable when analyzing the success of pay transparency practices for the state of Virginia, effectiveness will be rated as *medium-low*.

#### *Feasibility - Political Feasibility*

Very few states have had success passing any sort of pay transparency measure. Notably, requiring disclosure of wages to the government has been rejected on the federal level by the current presidential administration, despite only applying to certain sized businesses. Similarly, closely related legislation in California ultimately died and did not pass in the 2018 session (California Legislative Information, 2018). This lowers confidence in getting such a bill passed in Virginia, especially because California is known as a highly Democratic-leaning state, more so than Virginia.

These ideological concerns come alongside strong opposition to the risk of public scrutiny that employers strongly want to avoid.

Because this policy has seen very limited success across the nation, and there are strong anti-business interests tied to it, political feasibility will be rated as *low* for this policy.

### *Feasibility - Compliance*

Because few pay transparency measures have been implemented on a large-scale, it is also difficult to evaluate what compliance would be in Virginia. This issue is compounded by the fact that a majority of organizations do not have the resources to implement such a policy, as evidenced by a 2020 survey by Human Resource Executive. However, posting salaries (or not posting salaries) is easy to monitor, if posted publicly.

A lack of evidence on compliance and a reported lack of necessary resources for company implementation results in a compliance rating of *low* for this policy.

Because both political feasibility and compliance are rated as *low* for this policy, the overall feasibility will be rated as *low*.

### *Costs*

International and domestic studies have shown that workers with access to pay data for their firms experience lower satisfaction and a greater likelihood to change jobs. Workers may also experience a decrease in wages.

Employers may experience lower productivity and worsened workplace morale amongst employees once pay transparency measures are put in place.

Because of the low rate of success in passing pay transparency measures elsewhere, the AAUW would likely need to invest many resources to have even a small chance of success with this policy.

Because of the high costs to employees, employers, and the AAUW, this policy will be rated *low* in costs.

### **Policy Alternative 3: Comparable Work Standard**

This policy involves passing a bill to prohibit employers from paying unequal wages for “comparable” work, instead of “equal” work that the federal Equal Pay Act stipulates. This would ensure that women would be paid equally to men for similar duties, within and across occupations. Companies would be monitored and randomly chosen for pay audits to prove compliance, according to an established “point worth system.” Additionally, workers could bring forth lawsuits or other complaints if they felt their pay was not reflective of this policy.

As in the Maryland Equal Pay for Equal Work Act, Virginia law should give employers about 5 months upon bill passage to implement this practice (Burak, 2016).

#### **Evaluation:**

##### *Effectiveness*

There is limited evidence on the effectiveness of this policy. While legal cases have successfully ruled in favor of women contesting unequal pay for comparable work, there is no direct data on whether or not firms are actually employing this standard. Similarly, a lack of many pay discrimination cases related to this policy may reflect compliance, but could also reflect a lack of resources or willingness on behalf of the victim. While there is promising evidence that this policy is effective, there is limited robustness and confidence with this conclusion, translating to a rating of *medium-low* on this criterion.

##### *Feasibility - Political Feasibility*

Because of legal and political challenges, advocates were not able to appeal the federal “equal work” stipulation when relevant discussions took place in the 1980s. As a result of that momentum, 24 states now have “comparable” or “substantially similar” worth policies (AAUW, 2019a).

Businesses are opposed to this policy, as it requires employers to implement and create a completely new and complicated pay system, regardless if they are practicing pay discrimination or not. Establishing “points” or “worth” to different jobs is inherently subjective, and the potential for confusion is high when enforcing this policy, as two “comparable” jobs might not be “comparable” to another assessor, even under a common points system.

Because of the difficulty in passage and difficulty in implementation, political feasibility will be rated as *low* for this policy.

##### *Feasibility - Compliance*

Because data on related lawsuits does not accurately show take-up rates, there is limited evidence on compliance for this policy. In monitoring, there may be incentives to “crack down” on bigger and wealthier companies. However, other companies could be violating the policy and would get left behind without penalty.

Because data is extremely limited on compliance, it is difficult to say that creating this policy would necessarily result in it being implemented. As such, compliance will be rated as *low* for this policy.

Because both compliance and political feasibility were rated *low*, overall feasibility will be rated as *low* for this policy.

### *Costs*

The biggest cost of this policy is to the employer. A comparable worth standard is difficult and costly to enact and severely limits how employers can incentivize applicants in times of job shortages, as they must pay all comparable work equally. This standard also can impact employees, who will no longer see boosts in salary with the ebbs and flows of the free market.

It is also likely that the AAUW would need to expend a lot of effort to have this policy get on the agenda of legislators, due to its limited success and lack of recent momentum.

Because of high costs of employers, employees, and the AAUW, costs will be rated as *low*.

## Policy Alternative 4: Status Quo - Let Present Trends Continue

This policy alternative involves doing nothing further from what currently stands to address the wage gap.

### Evaluation:

#### *Effectiveness*

If present trends continue, the wage gap would probably remain unchanged in Virginia. As shown in Figure 3, the Virginian gap has remained virtually unchanged since the 90s, as pay equity legislation has remained stagnant. Thus, effectiveness will be rated as *low*.

#### *Feasibility - Political Feasibility*

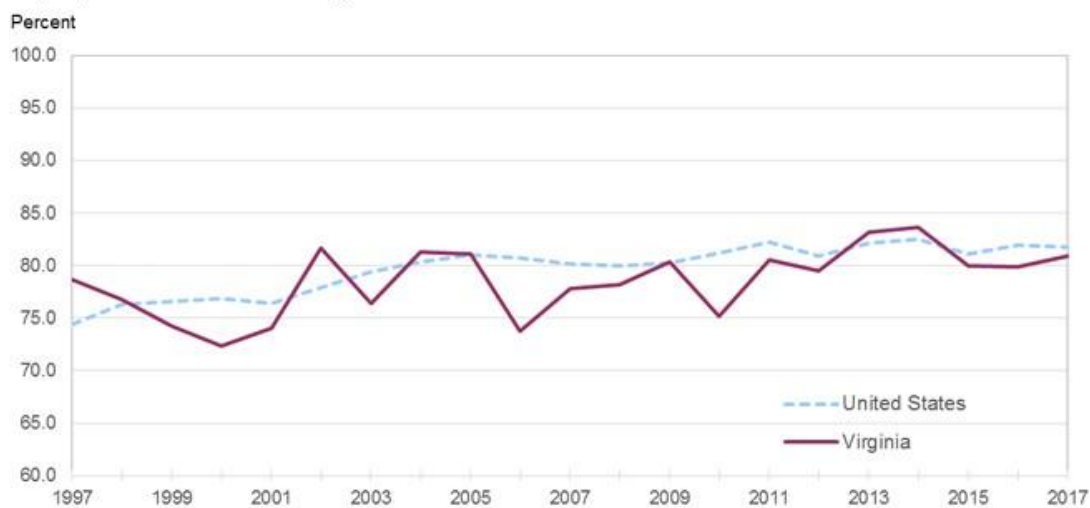
If no legislation is passed, then no political action will need to be taken. As such, political feasibility will be rated as *high*.

#### *Feasibility - Compliance*

Because there is no new legislation, there is nothing to comply with. As such, compliance will be rated as *high*. Because both political feasibility and compliance are rated as *high*, overall feasibility will be rated as *high* for this policy.

#### *Costs*

Employees, especially female employees, would continue to be deeply affected by the wage gap. Employers would suffer because of protests, other scrutiny, and negative publicity. Because of these high costs to employees and employers, costs will be rated as *low* for this policy.



**Figure 3: Women's Full-Time Earnings as a Percentage of Male Earnings Nationally and in Virginia**

Source: <https://www.wvtf.org/post/virginia-falling-behind-wage-gender-gap#stream/0>

## Outcomes Matrix:

The following is a visual summary of the previous analysis of each option.

	<b>Criteria #1: Effectiveness</b>	<b>Criteria 2: Feasibility</b>	<b>Criteria #3: Costs</b>
<b>Policy Alternative #1: <i>Salary History Ban</i></b>	<b>High:</b> Estimated 5 percentage point reduction in pay gap, limited concerns of harm to certain workers	<b>Medium - low:</b> Medium political feasibility due to undetermined risk of lawsuit, low compliance because of equity concerns re: enforcement	<b>Medium:</b> Medium to high costs placed on employers, minimal costs on employees, average lobbying costs for AAUW
<b>Policy Alternative #2: <i>Pay Transparency</i></b>	<b>Medium-low:</b> Concerns over applicability and robustness of prior successes when considering impact of policy on entire state of Virginia	<b>Low:</b> Few successfully passed pay transparency measures. Strong business opposition.	<b>Low:</b> High costs for employers, employees, and the AAUW b/c of decreased wages, social penalties, and heavy political barriers
<b>Policy Alternative #3: <i>Comparable Work Standard</i></b>	<b>Medium-low:</b> Limited evidence of success, concerns of robustness and of confounding variables impacting data (namely, victim's access to remedy)	<b>Low:</b> Limited successes in passage elsewhere, implementation issues	<b>Low:</b> Limited flexibility for employers, potential lower wages for employees, high lobbying costs to AAUW
<b>Policy Alternative #4: <i>Status Quo - Let Present Trends Continue</i></b>	<b>Low:</b> Wage gap would remain unchanged, if not worsen	<b>High:</b> With no additional measures, legislators neither need to advocate or vote on a bill. Companies do not need to comply with additional measures.	<b>Low:</b> High costs to employees, especially women, costs to employers because of bad publicity

## Recommendation and Trade-Offs:

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In terms of effectiveness, the status quo option is unsurprisingly the least effective at reducing the wage gap. While Option 1 and Option 2 both had optimistic evidence about their impact on the pay gap, generalizability of these conclusions was limited either because of the scope of the existing evidence or confounding variables. Enacting a salary history ban offers the highest confidence in making a tangible difference.

When examining feasibility, the status quo option was certainly the most feasible. However, Option 1: Salary History Ban was rated the second-highest on this criterion out of all the options, and does not require as large of a trade-off between feasibility and effectiveness. That is, its high effectiveness makes up for relatively more feasibility difficulties, compared to the status quo. Both options 2 and 3 have low feasibility in addition to relatively low effectiveness, so I cannot recommend them as strongly, if at all.

Finally, when looking at costs, Option 1 is rated the highest out of all of the options. Options 2, 3, and 4 impose high costs on employers, who would have to pay more due to higher salaries and implementation training. They would also impose high costs on employees, due to worsened morale or supply and demand disruptions. Additionally, they require considerable effort by the AAUW. While Option 1 imposes somewhat high costs on employers, this is balanced by few costs to employees, and manageable costs to the AAUW.

Overall, Option 1 is the best because of its relatively high performance on the criteria of effectiveness and costs. While Option 4 is rated more highly than Option 1 in terms of feasibility, its low score in the other two criteria does not make it a practical recommendation.

**This project recommends Option 1, enacting a Salary History Ban law.**



## Implementation:

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There are two stages to implementing a Salary History Ban in Virginia: 1) getting the legislation passed in the Virginia General Assembly, and 2) ensuring that firms can and will comply with the legislation. For the AAUW Virginia Chapter, which focuses more on political lobbying, I will focus on the first stage.

### **Stakeholders Involved**

Relevant stakeholders include any member of the General Assembly supporting or opposing the bill (whether in its introduction, drafting, or vote), interest/lobbying groups acting to hinder or promote the passage of the bill, workers, and constituents. The AAUW must mobilize politicians to make sure they introduce legislation, mobilize constituents and workers to garner awareness and support of SHB laws, and counter opposing interest group actions. They can effectively do so by forming a coalition with other like-minded groups.

### **Perspectives of Stakeholders**

Typically, more Democratic politicians support SHB laws than Republican politicians, who are often skeptical of SHB laws' effectiveness and their burden on businesses. More Democratic states have passed SHB laws than Republican states, and more Democrats were recently in favor of a federal SHB law – the Paycheck Fairness Act – that failed in Congress (Nagele-Piazza, 2019). Because both houses of the General Assembly are presently majority Democratic, ideology should not pose any major issues. However, politicians in swing districts may need to consider the impact of their vote on moderate voters.

Business interests can strongly hinder the successful passage of this bill. Because some businesses believe that a salary history ban law would cause risk for their company, in addition to administrative and cost burdens, they will likely express concern. This concern could take many forms – from lobbying to newspaper op-eds to directly contacting representatives (Fang, 2017).

Many constituents in the Commonwealth want solutions to pay inequity, but do not know about solutions or legislative remedy. According to a survey by SurveyMonkey, 73 percent of Americans agree that companies should do more to reduce the pay gap, but only 52 percent of women think that the gap will close during their lifetime (Gebhardt, 2019)

### **How to Minimize Resistance**

The main source of resistance will be opposing business interests. The Chamber of Commerce could continue to put up a large fight against SHB legislation. One option to placate these organizations is to work with a representative from the Chamber of Commerce, or another large business-focused entity, to write key parts of the legislation that incorporate their preferences, which could then be passed on to representatives. The AAUW could also work to provide employers with an easy-to-read FAQ document about how to implement an SHB law, as has been done in other states (Schmidt & Malley, 2020), for ease and limited administrative hassle.

The AAUW will need to work hard on passing SHB laws while both houses are majority Democratic, as Republicans will likely neither prioritize nor strongly support this bill. Because the AAUW is a non-partisan organization, they cannot actively campaign for any candidate, so strategic timing is very important for implementation.

## **Steps for Client**

The AAUW should begin an information and media campaign for voters across Virginia, in conjunction with a coalition of interested groups and organizations. This campaign could be done via websites, news releases, newspaper opinion pieces, letters to the editor, or speaking engagements to interested groups. Another idea is to feature women who have suffered from wage discrimination in an advertising campaign. By featuring their hard work and experience, constituents will be more sympathetic to pay equity (Anderson et al., 2014).

Once an SHB bill has been drafted, the AAUW, in conjunction with its coalition, can contact every single legislator with information on the merits of this bill, similar to their efforts on the Equal Rights Amendment (AAUW, 2020). Legislators that are more likely to support the bill (i.e. those with Democratic membership or demonstrated support for similar bills in the past) should be targeted more heavily until we get a firm confirmation of support for the vote. The AAUW could create materials such as posters, brochures, and other literature to be distributed to explain the efficacy of the bill and why voting matters on it.

## **Worst Case Scenario/Risks**

The worst-case scenario is that one or both houses in the Virginia General Assembly, or the Governor, becomes Republican. This will limit the likelihood that the SHB law is passed or even introduced. Virginia has had Republican bodies of government in the past. However, given the rise of Trump, many Virginians, especially those in Northern Virginia, have taken to voting down-ballot Democratic to voice their protests (Associated Press, 2019), so this change in party makeup may not come for a while. This is reinforced by the growing urbanization of Northern Virginia, which is rapidly bringing in more Democratic voters (Tavernise et al., 2019).

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