



LB 249 : SALARY HISTORY BAN

To Disrupt the Cycle of Pay Inequality

Job offers should reflect what the job is worth to the employer. Using salary history information in the hiring process builds future earning potential on past discriminatory pay practices and forces women and people of color to carry their lower pay status from old to new jobs. Removing salary history from hiring and compensation decisions will disrupt the cycle of pay discrimination and provide a no-cost solution.

LB 249 makes it an unlawful for an employer to:

- Inquire about a job applicant's salary history;
- Require an applicant to disclose their salary history;
- Retaliate against an applicant for not disclosing their salary history; and
- Use salary history to inform an offer of compensation for a new job.

Exceptions to LB 249:

- Does not apply to current employees who are applying for a position with the same employer.
- Does not prohibit an applicant from voluntarily sharing their salary history with a potential employer.
- Does not prohibit an employer from confirming the salary history voluntarily provided by the applicant.
- Does not apply in situations where federal, state or local law specifically authorizes the disclosure or verification of salary history.

Recent research has shown that, in areas with a salary history ban, job-changing workers earn 5–6% more on average than comparable job-changers in job markets not under a salary history ban.¹



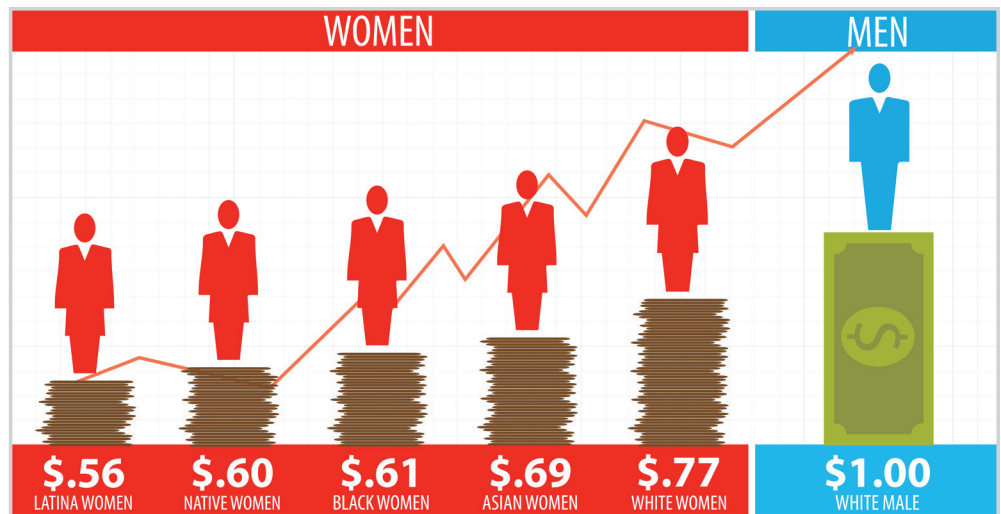
This increase in the pay of job-changers is even larger for women (8%) and African-Americans (13%).²

Fifteen other states and Puerto Rico have enacted statewide salary history bans that cover all employers.³

LB 249 aligns with the Women's Fund values of: **Equity, Bold Impact and Intersectionality.**
To learn more about our mission, vision and values visit www.OmahaWomensFund.org.



The gender and racial wage gap is real and substantial in Nebraska and even more pronounced for Black, Indigenous and women of color.⁴



Nebraska women are paid less than men despite being more highly educated. Women have a higher rate of attaining bachelor's degrees and graduate or professional degrees⁵ and are more educated than men in every age category, except 65 and older. Yet, median earnings are less in Nebraska for women than men, even among those with the same level of educational attainment, and the gap in earnings grow as education increases.

Although the gap between men's and women's wages has been shrinking over the past few decades, a persistent gap remains that is not easily explained by job-related worker characteristics (education or experience, for example). Most scholars attribute this unexplained difference in pay to discrimination based on race and gender.

By eliminating reliance on salary history to set a new employee's pay, compensation decisions can be made based upon job-related factors rather than long-standing gender and race-based wage disparities.

The wage gap is a concrete measure of how far our state and our country still has to go to ensure that women, and particularly women of color, can participate fully and equally in our economy. On average, women employed full-time in Nebraska lose a combined total of more than \$3 billion every year due to the wage gap.⁶ These lost wages mean marginalized workers and their families have less money to support themselves, save and invest for the future, and spend on goods and services. The persistent earnings inequality by gender and race/ethnicity impacts not just the current generation of workers, but also their children and future generations of Nebraskans. Women, their families, businesses and our statewide economy suffer as a result.

LB 249 will disrupt the cycle of pay inequality and will build economic stability for families and communities throughout our state.

¹ Bessen, James, Denk, Erich, and Meng, Chen, "Perpetuating Inequality: What Salary History Bans Reveal About Wages," Boston University School of Law, Public Law & Legal Theory Paper No. 20-19, June 2020, Accessed October 27, 2020, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3628729.

² Ibid.

³ The HR Dive source reports 19 states have "state-wide" bans but that includes SHBs that are limited to public agencies. The 15 counted for this analysis have SHBs which apply to "all employers." DC's ban only applies to government agencies and The SHB in NC, PA, and VA only applies to state agencies. Additionally, MI and WI have state laws which pre-empt local salary history bans. HR Dive, "Salary History Bans," Updated August 7, 2020, Accessed October 22, 2020, <https://www.hrdive.com/news/salary-history-ban-states-list/516662/>.

⁴ U.S. Census Bureau, American Community Survey 5-Year Estimates, "Worked Full-time, year-round in past 12 months," Population 16 years and over with earnings, Tables B20017, B20017H, B20017B, B20017C, B20017D, B20017I, 2018.

⁵ U.S. Census Bureau, American Community Survey, ACS 1-Year Estimates Subject Tables, 2019, Table S1501.

⁶ Calculated by the annualized difference in Nebraska men's and women's median weekly earnings, multiplied by the number of women workers. Source: U.S. Bureau of Labor Statistics, "Highlights of Women's Earnings in 2018," Table 3, November 2019, <https://www.bls.gov/opub/reports/womens-earnings/2018/home.htm>.