COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
WITNESS LIST
1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 21-415, Universal Paid Leave Act of 2015

on

Thursday, January 14, 2016
10:30 a.m., Council Chambers, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

WITNESS LIST

1.	Rashad Young	City Administrator
2.	Ruth Milkman	Distinguished Professor of Sociology, The City University of New York (CUNY)
3.	Vicki Shabo	Vice President, National Partnership for Women & Families
4.	Heather Boushey	Director, Washington Center for Equitable Growth
5.	Sarah Jane Glynn	Director of Women's Economic Policy, Center for American Progress
6.	Joseph Henchman	Vice President of Legal and State Projects, Tax Foundation
7.	Harry Holzer	Professor, Georgetown University
8.	Norton Francis	Senior Research Associate, Urban Institute
9.	Jodie Levin Epstein	Vice President, Center for Law and Social Policy
10.	Heidi Hartmann	President/CEO, Institute for Women's Policy Research

11.	Jeff Hayes	Study Director, Institute for Women's Policy Research
12.	James Diffley	Senior Director, IHS Economics
13.	Jeff DeWitt	Chief Financial Officer, Office of the Chief Financial Officer
14.	Ventris Gibson	Director, Department of Human Resources
15.	Deborah Carroll	Director, Department of Employment Services
16.	Courtney Snowden	Deputy Mayor for Greater Economic Opportunity

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CITY ADMINISTRATOR

Public Hearing on Bill 21-415, The Universal Paid Leave Act of 2015

Testimony of
Rashad M. Young
City Administrator

Before the
Committee of the Whole
Council of the District of Columbia
The Honorable Phil Mendelson, Chairperson

Council Chamber
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004
January 14, 2016
10:00 a.m.

Good morning, Chairman Mendelson and members of the Council. For the record, my name is Rashad Young, and I serve as the City Administrator of the District of Columbia. Joining me today are Ventris Gibson, the Director of the Department of Human Resources, and Deborah Carroll, the Director of the Department of Employment Services.

Each of us will be presenting testimony today on Bill 20-415, the Universal Paid Leave Act of 2015. Director Carroll will first provide testimony discussing several specific elements of Bill 20-415 and the potential impacts of the proposed legislation on employers and employees. Director Gibson will then provide testimony on the District's current leave programs, the history of the federal Family and Medical Leave Act, the history of the District's Family and Medical Leave Act, and the District government's own experience with the recently enacted paid leave act for District government employees. After Director Gibson's testimony, I will present additional information on the Administration's position on Bill 20-415.

With that introduction, I would like now to turn to Director Carroll for the presentation of her testimony.

[Presentation of testimony by Director Carroll and Director Gibson]

Good morning, Chairman Mendelson and members of the Council. Again, for the record, my name is Rashad Young, and I serve as the City Administrator of

the District of Columbia. I am pleased to testify before you today on Bill 20-415, the Universal Paid Leave Act of 2015.

As has been discussed in the prior testimony, under the proposed legislation each employer in the District of Columbia would be required to provide 16 weeks of paid family and medical leave to all of its employees. The proposed legislation would apply to all employers, no matter the size of the business, and would cover all employees, no matter how short a period of time they have worked for the employer.

The Administration supports the principle of a paid leave program for private employers in the District. However, given the concerns with the current bill, which I will describe in my testimony, we believe more work is needed before moving forward with paid leave legislation.

We believe the best route to achieving this goal is to establish a multi-sector working group, consisting of stakeholders to include both employees, and employers. The working group would perform a joint, in-depth analysis of the impacts of a paid leave program and develop legislative recommendations that benefits employees, does not unduly burden employers, imposes a limited financial impact on the District government, and creates a sustainable benefit. It also is important to note that Congress is also considering paid leave legislation and the discussion of paid leave is part of the current presidential campaign, which indicates that it will continue to be part of the ongoing legislative discussion at the federal level.

One of the key goals of the Bowser Administration is to create pathways to the middle class for all District residents. And during our first year in office, the Administration has taken a number of steps to create and protect quality jobs for District residents. For example, we have:

- Expanded the LEAP Academy to train underserved District residents for good-paying jobs with the District government;
- Expanded the summer youth employment program and launched the "Career Connections" program to connect vulnerable younger residents with on-the-job training;
- Launched a series of targeted hiring events, which have connected more than 300 people to jobs;
- Provided job services to more than 3,500 people who secured employment in 2015; and
- Created approximately 12,000 temporary jobs and more than 2,500 permanent jobs for District residents through new development projects.

Notably, the District's unemployment rate has declined from 7.7% to 6.6% since the beginning of the Bowser Administration.

Of course, the Administration not only wants to ensure that District residents have jobs, but we also want those jobs to pay well and provide good benefits. Paid leave could be just such a benefit. However, we believe several issues need to be addressed before moving forward with paid leave legislation. Ultimately, we need to ensure that a paid leave program is sustainable and does not discourage companies from creating jobs in the District.

Directors Carroll and Gibson have already discussed several of the Administration's specific concerns with the proposed legislation. At this time, I would like to highlight and expand on some of those concerns.

Scope of Bill 20-415

We have identified fewer than five states that currently have active paid family and medical leave programs, and those programs have been in effect for a relatively short period of time. Paid leave is clearly at its infancy in the United States. Because of this, it is particularly important that we learn from the programs in those other jurisdictions. However, the current proposal may create a family and medical leave program with a scope and burden that is not sustainable.

For example, this bill would provide 16 weeks of paid family and medical leave—which is four times the amount available under the Rhode Island law and two-and-a-half times the amount available under either the California or New Jersey law. And the bill before the Council would pay 100% of an employee's salary for most employees, while California's program pays 55% of an employee's salary, New Jersey pays 67% of an employee's salary, and the Rhode Island program pays about 60% of an employee's salary. Moreover, these existing paid leave programs are based on existing temporary disability insurance (TDI) programs in each state, with which employers in those states already have experience and established procedures. Under Bill 20-415, a completely new organizational and administrative structure would need to be created to implement the paid leave program.

Of course, the broad scope of the legislation means that employees in the District will also have expansive access to paid family and medical leave, and that benefit should not be discounted. However, as a whole, the benefits of the bill need to be more closely balanced against the potential negative impacts.

Financial Impact

The Administration is also concerned that the proposed paid leave program is not balanced financially. According to the Chief Financial Officer's analysis, which will be presented in more detail later in the hearing, less than $500 million would be collected annually from the paid leave tax. At the same time, the benefits that would be paid out under the paid leave program are likely to be well over that amount—some estimates suggesting costs between two to four times that amount creating an ongoing annual deficit.

Similarly, the fiscal analysis prepared at the request of the Board of Trade by the IHS consulting group also found that Bill 20-415 would result in a significant funding gap, although IHS estimated that the gap would be smaller, at about $400 million annually. Under either analysis, however, the proposed paid leave program would not be financially sustainable without significant changes to its structure or significant subsidy by the District government. The tradeoffs that would be required to cover the potential funding deficits would be significant. The impacts on other critical safety net programs that we have made priorities and significant investments in, such as affordable housing and homeless reduction strategies, as well as public safety and education could be detrimental.

The other financial impacts that the paid leave program would impose on the District government must also be considered. Those costs will largely be incurred in two ways—first, there will be substantial startup costs, particularly in information technology, and second, there will be ongoing annual administrative costs.

The costs incurred by the District government to administer the unemployment insurance program, which the CFO has reviewed, can help provide a basis for estimating the costs that would be incurred by the District government in administering the paid leave program. The unemployment insurance program covers only about two-thirds of the number of employees who would be covered by the paid leave program and only about one-third of the benefit taxes; even so, the annual operating costs to administer the unemployment insurance program are approximately $18 million per year. Taking into account the larger size of the proposed paid leave program and its significant benefit level, it seems reasonable to estimate the cost of administering the paid leave program at about $25 million to $50 million annually.

Startup costs, consisting largely of information technology (IT) costs, represent the other significant administrative cost that would be imposed on the District government. Because the District's paid leave program would not be built on an existing program, the IT system would need to be built from the ground up and would need to accommodate high volumes of access to more than 30,000 employers while also providing access for all beneficiaries. For the purposes of estimating the likely startup costs, the District's health

benefits exchange provides one comparison point. The health benefits exchange startup costs are already about $150 million, and are likely to rise substantially. Therefore, even if the paid leave program cost only half that amount, the District could need to invest nearly $100 million in startup for the paid leave program. Again, to absorb these costs within our existing resources, the District would need to trade off those costs at the expense of other vital programs and services.

In the end, administrative costs will be part of any paid leave program that is implemented in the District. However, it is likely that the more complex and expansive the paid leave program is, the greater those costs will be. These costs must be weighed carefully with the benefits and other impacts of a paid leave program.

Impact of the Bill on Job Creation in the District

Another significant concern that the Administration has with the proposed legislation is its potential impact on job creation and growth in the District. As mentioned earlier in my testimony, one of the key goals of the Bowser Administration is to create pathways to the middle class for all District residents. To achieve this goal, which I believe the Council shares, we need to increase the number of jobs available in the District to District residents.

However, based on the testimony provided by the employer community at the prior hearing on this bill, an unintended consequence of this bill could be slower or negative job growth in the District. To some extent, it make senses to take this testimony with a grain of salt—the business community is often

inclined to oppose legislation that increases their costs and perceived administrative burdens. However, our own review of the potential impacts of the legislation lends support to the concerns raised by the business community.

Although at this point in time we cannot state with certainty what the impact of Bill 20-415 will be on job growth and retention in the District, these impacts should be carefully analyzed before any paid leave legislation moves forward. To be clear, the Administration supports jobs with comprehensive benefits, but we also must make sure that we are supporting an economic environment where private employers are creating jobs in the District to begin with and that our competitive position in the region for employer location and investment is not diminished

Administrative and Operational Issues

Bill 20-415 also raises a number of administrative and operational concerns. Director Carroll has described several of those issues, and other issues were described by witnesses at the prior hearing on the bill. In addition, Director Gibson has discussed several issues that exist with the implementation of the District government's paid leave program—which is a program that impacts only a single employer. The number of issues that could arise with the much more expansive private employer paid leave program—which will impact thousands of employers of varying sizes with varying benefit systems and a variety of administrative procedures—is vast. Given these factors and because of the number of issues that a bill of this scope can raise—many of them unintentionally—we need more analysis and collaborative, in-depth

discussion than what can reasonably be achieved through individual testimony.

Recommendation

The Administration recognizes that a private employer paid leave program would provide benefits to District residents. Those benefits are real and significant. We understand that at those crucial times, allowing employees to take paid leave for family and medical purposes will reduce their economic stress and other real-world burdens. In addition, some District employers have expressed support for the program, because the program will allow them to provide a valuable benefit to employees and may reduce turnover.

However, given the issues that have been discussed in our testimonies, the Administration believes that more work is needed before we move forward with a paid leave program for private employees. To reach that goal, a more detailed examination of how such a program would be structured and operate is needed, and a more in-depth review of its financial impact on District employers, the District government, and the District economy is needed. Moreover, the practical impacts of implementing such a program in the private employment marketplace needs to be discussed in detail with both the employer community and the employee community.

We therefore recommend the establishment of a working group that would include employees, employers, and other stakeholders. This working group would holistically review existing proposals related to wages and benefits. It would address the paid family and medical leave issues and would also

examine recently approved and pending wage and benefit legislation to determine how those bills interact with each other and with existing law. The working group would also provide options for a path forward—options that contribute to our economic vitality and also create more pathways to the middle class for District residents.

In conclusion, the Administration supports the principles of a paid leave benefit for private employees in the District, but it is important that the structure of such a program be sustainable and that we carefully balance the immediate benefits to employees with the overall costs of the program and mitigate the potential long-term negative impact on job growth and retention in the District.

That concludes my testimony. I am happy to answer any questions you may have.

Testimony re Washington D.C. Bill No. 21-415: The Universal Paid Leave Act of 2015

Dr. Ruth Milkman
Distinguished Professor of Sociology, City University of New York Graduate Center
Research Director, Murphy Institute, CUNY
President, American Sociological Association
January 14, 2016

My name is Ruth Milkman. I hold a Ph.D. in Sociology from the University of California, Berkeley. From 1988 to 2009 I was a Professor of Sociology at UCLA, and directed the Institute for Research on Labor and Employment there from 2001 to 2008. In late 2009 I moved to my current position at the CUNY Graduate Center, where I am currently Distinguished Professor of Sociology. In addition, I serve as the Research Director of CUNY's Murphy Institute, which specializes in labor issues. I am also the current president of the American Sociological Association.

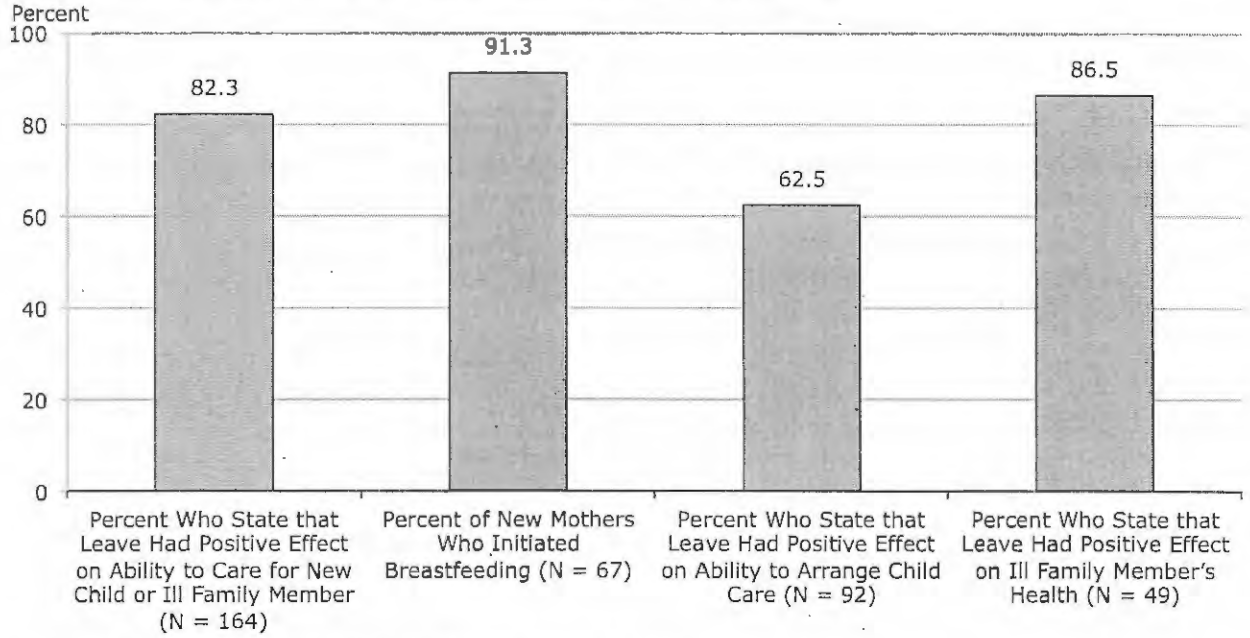
During the years I was at UCLA, California became the first state in the nation to pass a paid family leave (PFL) program. The legislation was signed in September 2002 and the program began operating on July 1, 2004. Along with my co-author Dr. Eileen Appelbaum, who has submitted her own written testimony for today's hearing, I have been studying the program ever since that time. Our 2013 book, *Unfinished Business,* published by Cornell University Press, has much more detail about the research than I have time to share with you today. I will leave one copy with you for reference. We conducted surveys of employers as well as workers, first before the PFL program went into effect, and again five years after it began operating. We also conducted fieldwork and interviewed both employers and workers in depth about the state's pioneering program.

I have done extensive research on labor and employment issues initially became interested in California's PFL program because of its potential to address labor market inequalities. In the absence of this program, professionals and managers employed in California – as in the nation as a whole – were far more likely to have access to paid leave than low-wage workers. The state's PFL program, which covers the entire private sector, promised to level the playing field, and that was exactly why I wanted to study it. Indeed the program has done much to improve this situation in California, although in my view the proposed bill that you are considering has the potential to do even more, as I'll explain shortly.

The California PFL program, like those that followed in New Jersey and Rhode Island, builds on the state's pre-existing temporary disability program, which has existed since the 1940s and was expanded to cover pregnancy in the 1970s. The 2002 PFL law added wage replacement for up to six weeks of family leave — either to care for a seriously ill family member or to bond with a new child. Those who take up PFL receive up to 55% of their normal pay (with a maximum benefit of about $1000/week, and indexed to inflation). This is an *insurance* program, that is, those covered pay modest premiums (1% of the first $100,000 in earnings funds *both* PFL and the pre-existing temporary disability program), and then can draw on the benefit if they experience a covered life event. The cost is low because in any given year relatively few employees take time off to care for a new child or a seriously ill family member. Although the funding mechanism is different in California than in the bill you are considering, in both cases the cost is very low.

As Figure 1 (which draws on the book I mentioned) shows, our data show that the California program has had many positive effects for those who have used it. PFL not only makes it easier for workers to care for a new child or a seriously ill family member, but also promotes breastfeeding, makes it easier to arrange for child care, and positively affects the health of family members receiving care.

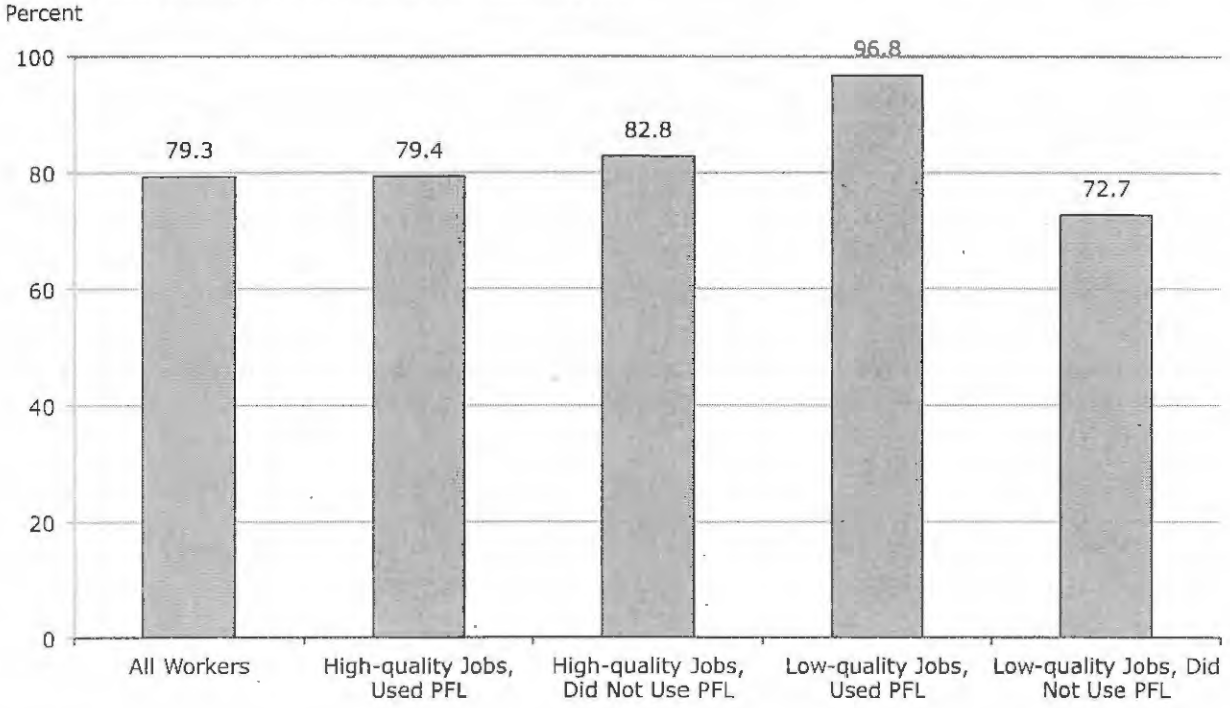
Figure 1. Effects of PFL Use on Employee Outcomes, California, 2009–10.



Note: For median months of breastfeeding, the Mann-Whitney-Wilcoxon test was used.

Source: Authors' 2009-10 Employee Survey.

Figure 2. Percentage of Workers Who Were "Very Satisfied" or "Somewhat Satisfied" with Length of Family Leave, by Job Quality and Use of PFL, California, 2009.

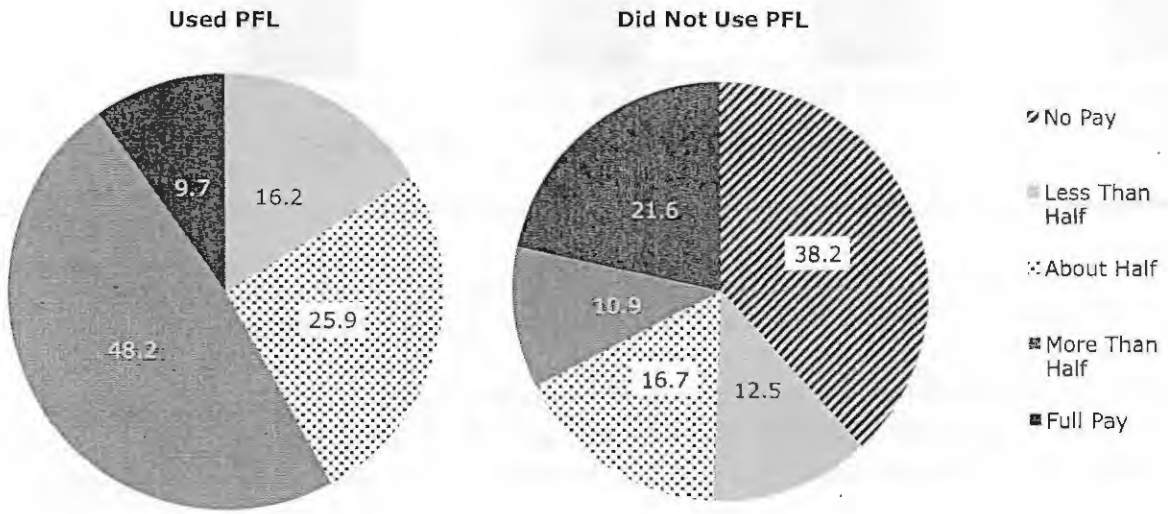


N=164

Source: Authors' 2009-10 Employee Survey.

As I mentioned earlier, in the absence of a universal program like California's, managerial and professional workers typically have access to employer provided benefits that are the functional equivalent of paid family leave (even if they are called something else). That explains the findings shown in Figure 2. We divided our worker sample into workers with "high-quality jobs" (those that paid $20/hour or more with employer-paid health insurance) and "low-quality jobs" that failed to meet this standard. As the figure shows, satisfaction with the length of leave was much higher for those in low-quality jobs who used PFL relative to those who did not use the program. (Many eligible workers in our survey did not take advantage of PFL - because they did not know it existed, because the wage replacement level was insufficient, because their jobs were not protected, and/or for other reasons.) Similarly, Figure 3 shows that workers in low-quality jobs who used PFL had much higher wage replacement rates during family leaves than those who did not.

Figure 3. Wage Replacement During Family Leave for Workers in Low-Quality Jobs, by PFL Use, California, 2009–10.



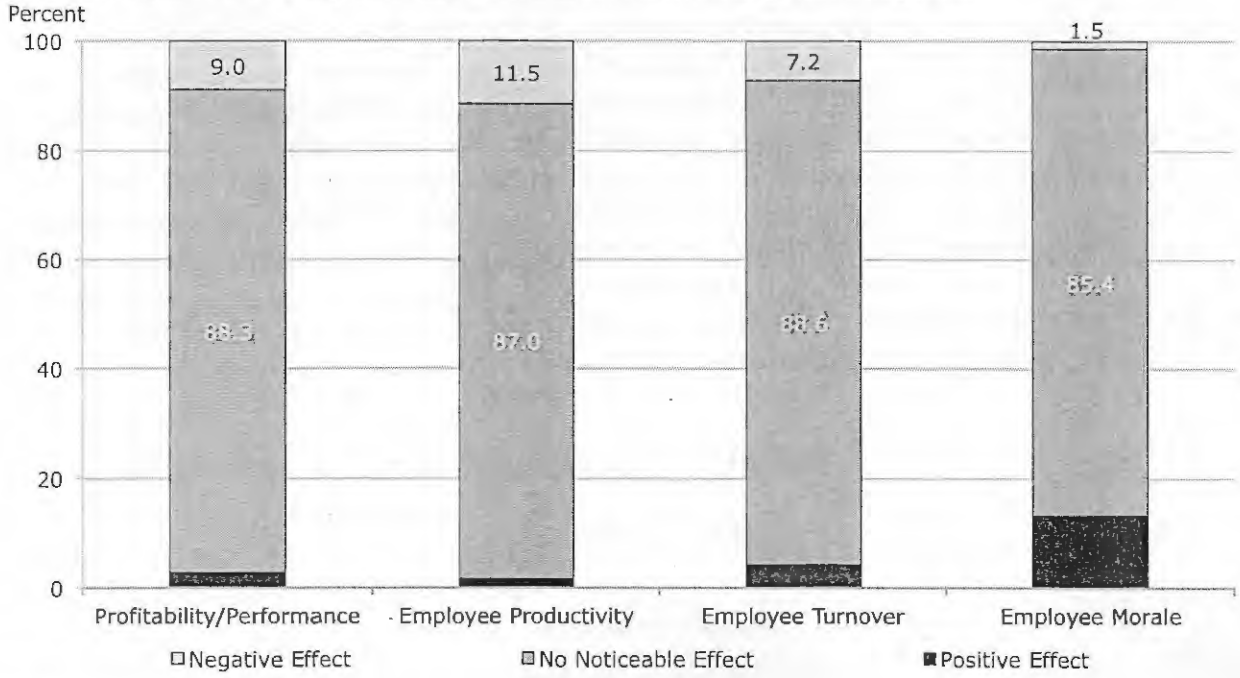
N=204

Source: Authors' 2009-10 Employee Survey.

The crucial point here is that this kind of PFL program is a counterweight to the inequality between low-wage workers and their more fortunate counterparts — inequality which, as everyone knows, has grown rapidly in recent years.

Now I want to turn to another vital topic, which is the impact of PFL on business. Prior to the California law's passage, the state's Chamber of Commerce and other business lobbyists vociferously opposed PFL. They argued that it would be a "job killer" and that small businesses in particular would be greatly burdened. They were especially concerned about how the work of employees on leave would be covered. They also argued that large numbers of workers would abuse the program. With this in mind, we surveyed a representative sample of businesses in the state five years after the PFL program went into effect. As Figure 4 shows, by their own account, PFL had no effect or a positive effect on the vast majority of businesses in regard to profitability/performance, productivity, employee turnover, and employee morale. Our research also found that many employers were unaware of the costs of turnover, so in that regard the data may understate the positive effects of PFL in this area.

Figure 4. Effects of PFL Compliance on Establishment Performance, California, 2010.



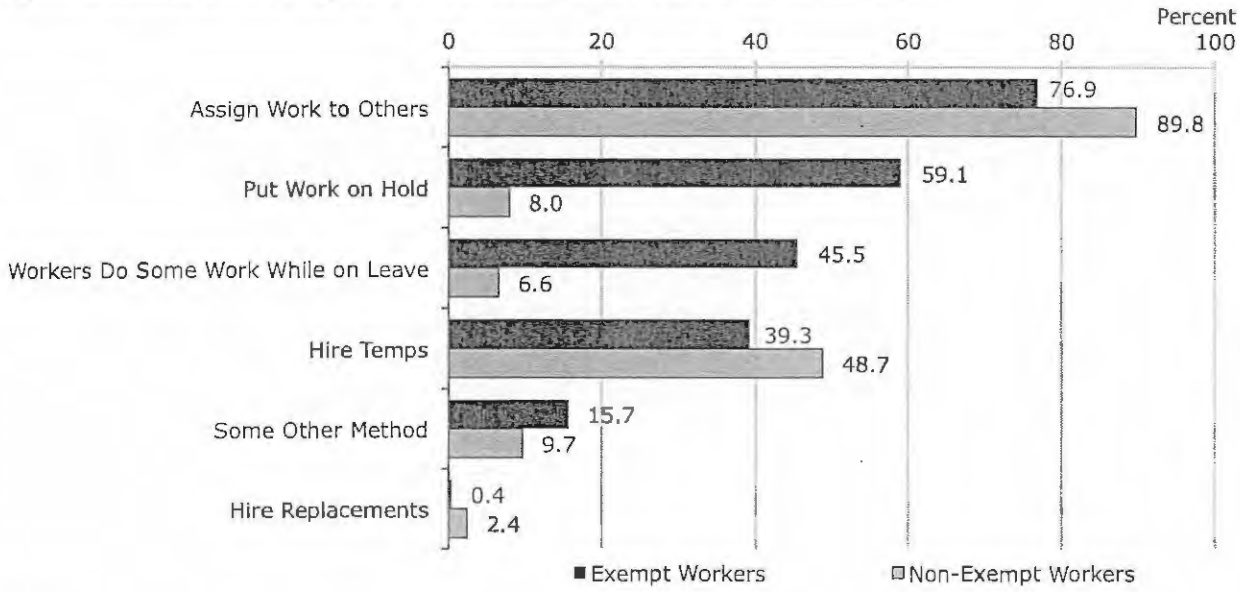
N=176

Source: Authors' 2010 Employer Survey.

It's not shown in this Figure, but 91 percent of respondents reported that they had not experienced *any* cases of PFL abuse, and among the 9 percent that did report abuse, it was typically a single instance.

The vast majority – 87 percent – of the firms we surveyed reported no cost increases associated with the California PFL program. One reason for this is shown in Figure 5: The vast majority of businesses are able to cover the work of absent employees at no cost, because co-workers are assigned the work.

Figure 5. Method of Covering the Work of Family Leave-Takers, California, 2010.



N=138

Note: Totals may add to more than 100% because employers could report more than one method.

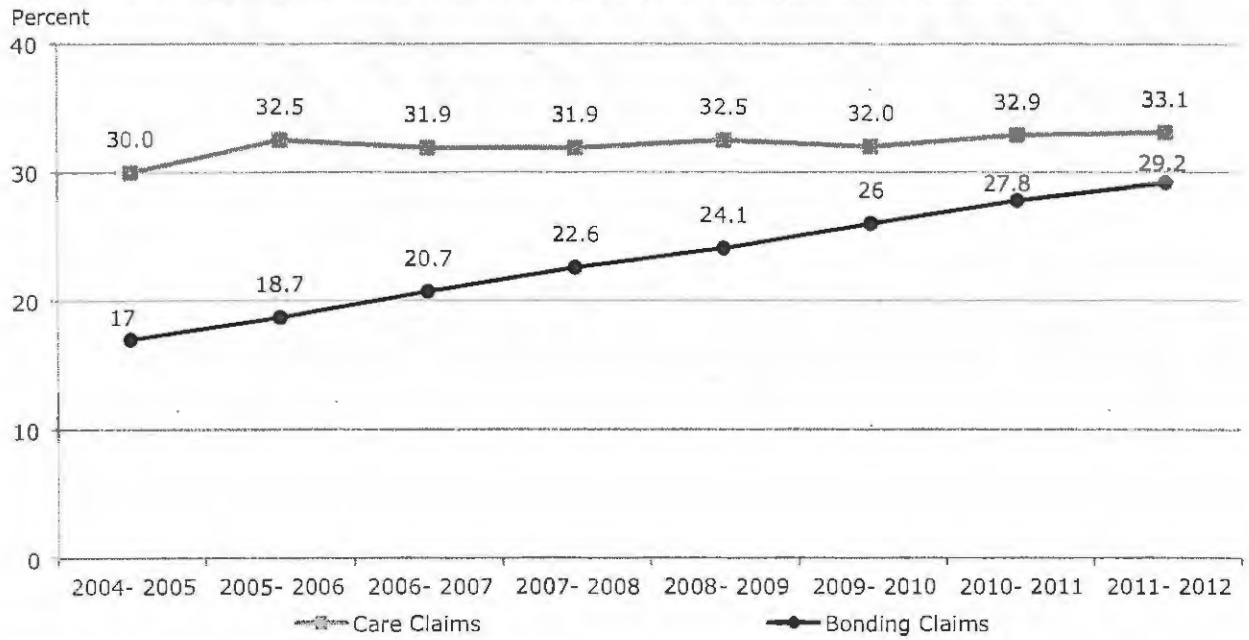
Source: Authors' 2010 Employer Survey.

A couple of technical notes regarding Figure 5 before I move on. First, the totals add to more than 100% because employers could report more than one method of covering the work. Secondly, the terms "exempt" and "nonexempt" in the key to the figure refer not to PFL but rather to whether or not workers are covered by the Fair Labor Standards Act. In general managerial-level employees are "exempt" from coverage; e.g., they do not receive extra pay if they work over 40 hours per week.

Related to this issue of how work is covered is something else that we discovered in our fieldwork, namely that virtually all employers had – prior to the PFL program's implementation – already established systematic methods for covering the work of those out on leave or otherwise unexpectedly absent for prolonged periods of time. All organizations *must* have such arrangements to function effectively. Workers may quit unexpectedly, they can become seriously ill for a long period, they can take an extended vacation, or even die on the job. Our book describes many examples of the varied (and often ingenious) approaches employers in California have taken to address this organizational requirement. Some rely on cross-training and voluntary overtime among co-workers to cover the duties of absent workers; some have pools of part-time workers who can be called on to fill in when full-time staff are absent. Others divide the work up among co-workers so no one person is overtaxed. Others use contractors or consultants who are familiar with the business and can fill in on short notice.

I also want to mention another important aspect of California's PFL experience, namely the growing use of the program by fathers, shown in Figure 6. In addition to being a social leveler in regard to class inequalities as I noted earlier, these data suggest that PFL contributes to reducing gender inequality, which depends on fathers as well as mothers providing care for new babies or ill family members.

Figure 6. Percentage of PFL Claims Filed by Men, by Type of Claim, California, 2004-2012.



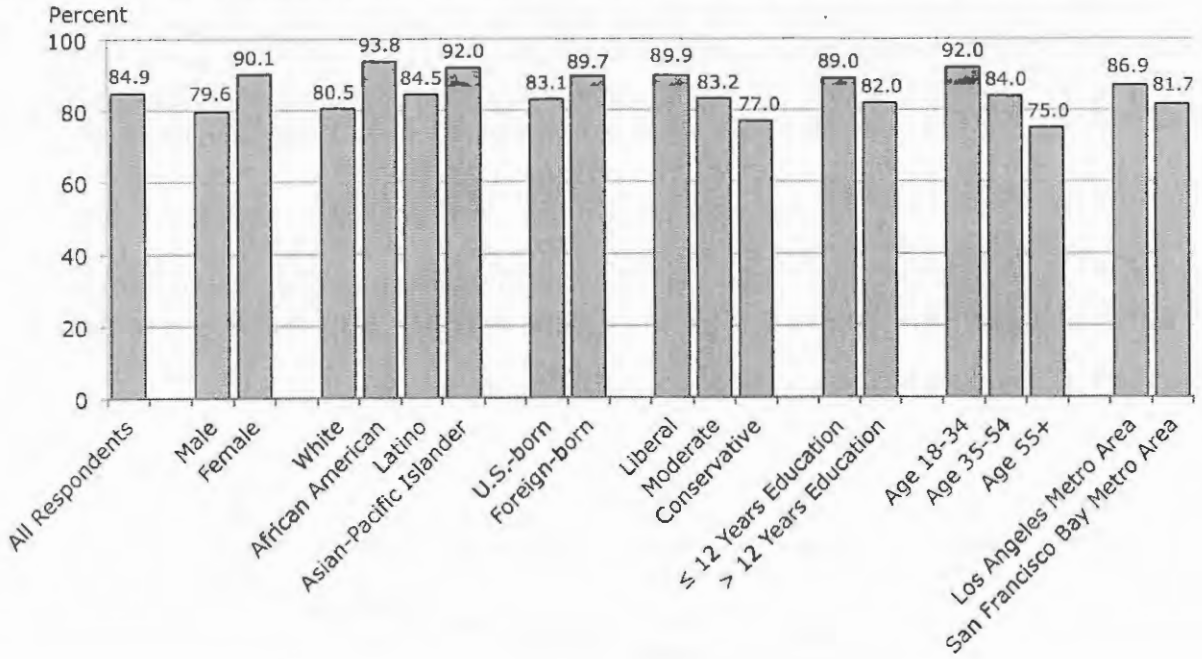
Source: State of California, Employment Development Department.

Paid leave is extremely popular with workers and the general public. Figure 7 shows the extensive support that existed for the program among Californians in 2003, just before it went into effect. In our fieldwork as well, many of the employers we interviewed commented on how much their employees appreciated the fact that they had access to paid leave through the state program. They reported that many workers indicated they felt lucky to live in California because of the state's pioneering law.

The California PFL program is not perfect, however. The fact that the wage replacement rate is only 55 percent, and that job protection is not provided for all workers, sets limits on its effectiveness. These limits are especially important for low-wage workers. The proposed D.C. program is superior to California's in both respects. All these programs are good for business, and indeed they are especially valuable for small businesses, who often cannot afford to provide paid leave directly to their workers, but benefit greatly at minimal cost from participation.

Thank you for your attention.

Figure 7. Support for Paid Leave among California Adults, by Selected Characteristics, Fall 2003.



N=1050

Source: Golden Bear Omnibus Survey, University of California Berkeley Survey Research Center. The figure shows the proportion of respondents in each subgroup who responded "favor" to the question: "Do you favor or oppose the idea of a law that guarantees that eligible workers receive a certain portion of their pay when they take family or medical leave?" For more details on the survey methodology see Milkman and Appelbaum 2004.

national partnership
for women & families
Because actions speak louder than words.

Victoria Shabo
National Partnership for Women & Families

Testimony before the District of Columbia City Council
Regarding the Universal Paid Leave Act of 2015, B21-415

January 14, 2016

Mr. Chairman and members of the Council, it is an honor to testify before you today on the Universal Paid Leave Act. By creating a paid family and medical leave program for all, this proposal would provide hundreds of thousands of working people and their families with greater financial stability in some of the happiest and scariest of times. It would make the District a more desirable place to live or work; it would strengthen our local economy; and it would show the kind of respect for working families, children and seniors that reflects true family values.

My name is Vicki Shabo, and I am vice president at the National Partnership for Women & Families, where I lead the organization's workplace issues portfolio. The National Partnership is a nonprofit, nonpartisan advocacy organization based here in Washington, D.C. This year, we will celebrate our 45th anniversary. Over the past four and a half decades, we have fought for every major national policy advance that has helped women and families. And we continue to work every day to create a society that is free, fair and just, where nobody has to experience discrimination, all workplaces are family friendly, and every family has access to quality, affordable health care and real economic security.

The National Partnership has expertise in both federal and state policy development, including here in the District. We were deeply involved in efforts to win laws that put the District at the forefront of the movement to adopt policies that help working families, just as the Universal Paid Leave Act would do. We engaged in policy and education work that led to the passage of the District's unpaid family and medical leave law in 1990, the Accrued Sick and Safe Leave Act in 2008 and that law's expansion in 2013, and paid family leave for District employees in 2014. We are well-prepared and eager to provide our technical expertise and perspective to help the Council evaluate and adopt a strong and fair paid family and medical leave program this year.

As a D.C. employer with more than 40 full-time employees, the National Partnership supports the Universal Paid Leave Act. We have long provided generous paid time off for our employees when they have serious family or medical needs because we know it is the right thing to do, and it benefits us through employee loyalty and productivity. When the Universal Paid Leave Act becomes law, we will determine how to coordinate our existing policies with the new law in what we calculate will be a win-win for us and for our employees.

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email: info@nationalpartnership.org ~ web: www.nationalpartnership.org

On a personal note, my family and I live in Ward 3. My second grader attends Janney Elementary. I joined the National Partnership in 2010 after working for a leading District law firm. The firm generously afforded me 16 weeks of fully paid maternity leave when I gave birth to my son in 2008. That paid time away from the firm enabled me to bond with my new baby in those very early weeks and months, and I can honestly say that the dividends remain with us today.

It was that experience that led me to my current work at the National Partnership. As anyone who has experienced or seen early parenthood firsthand can attest, those first few months are difficult, even under the best of circumstances. I knew my job was waiting for me. I knew my income was stable. And still, those early months were stressful.

Imagining what too many others are forced to experience – no expectation of paid or perhaps even unpaid leave; fear of financial hardship or devastation; panic at even the thought of leaving a days- or weeks-old baby in unsafe or unstable, low-skilled care; anxiety when a child's ear infection or fever could lead to joblessness or even homelessness – that realization, is what led me to leave my law firm a year and a half after I returned from maternity leave. I did it to become an advocate at the National Partnership, and it has truly been an honor to develop an expertise in paid leave programs that I hope will inform the Council today and throughout its consideration of the Universal Paid Leave Act.

At the National Partnership, we followed the last hearing on this proposal very closely. Today, I'd like to correct some misstatements and misinformation provided during that session and in the press. In doing so, I will make comparisons to paid leave programs in other states. I'll share some information about these states' experiences and lessons that the Council should keep in mind as it considers this proposal. And I'll close with some key points about the importance of designing a policy that promotes the universality, affordability and efficiency that hundreds of thousands of District workers, residents and their families need – and that, according to public opinion polling from the *Washington Post* and the D.C. Paid Family Leave Coalition, 80 percent of people and voters in the District say they want.

I. Workers' Access to Paid Leave and the Need for Public Policy

There is a growing understanding that the need for paid family and medical leave is nearly ubiquitous, but for too long we have left individuals and families to search for solutions on their own, rather than adopting solutions that work for the nation. The moment to change that is now. The urgent needs of families, strong public demand, compelling employer testimonials, positive data from states and cities that have adopted family friendly policies, and clear interest from those in the private and public sectors all signal that it's time for progress. At this moment, lawmakers, employers and all of us must do all that we can to transform America into a nation that truly reflects the family values we profess, rather than what it has been – a nation that pays lip service to family values but takes little action. The District is well-positioned to be part of the change the nation needs.

A. Access and the Failure of the Private Sector

First, I'd like to make the record crystal clear on some basic information about workers' access to paid family and medical leave. Nationwide, just 12 percent of private sector workers have access to paid family leave through their employers and 40 percent have access to employer-provided temporary disability insurance.[1] Access among private sector workers in the District's Census region (the South Atlantic) reflects these national rates – 14 percent of private sector workers in the region have access to paid family leave and 38 percent have access to employer-provided temporary disability insurance.[2]

Lower-wage workers are hit the hardest and face particular challenges when serious family and medical needs arise. Most private sector workers in the bottom-wage quartile (those who are paid $11.64 per hour or less[3]) lack access to any type of longer-term paid time away from work. Just five percent have paid family leave and 17 percent have access to short-term disability insurance through their employers.[4] Without intervention, this problem will only get worse because the jobs that are being created disproportionately provide low wages and few benefits. Notably, the majority of these jobs tend to be held by women.[5] Women also still do a disproportionate share of unpaid and often time-intensive caregiving work, even as their wages have become central to their families' ability to stay financially afloat.[6]

When workers can't access paid leave, their health, short- and longer-term economic security, and pathways to better economic opportunities can be compromised.[7] In contrast, when workers do have paid leave, new pathways and opportunities are possible. Mothers who take paid leave are more likely than mothers who do not to be working nine to 12 months after a child's birth.[8] They are also more likely to receive higher wages over time. In the year after the birth of a child, mothers who take paid leave are 54 percent more likely to report wage increases than mothers who do not and they are 39 percent less likely to receive public assistance or food stamps, taking into account other socioeconomic and workplace factors that might explain these differences. When fathers take paid leave, they too are significantly less likely than fathers who do not take paid leave to receive public assistance or food stamps.[9] And new research from overseas reveals that fathers taking leave can positively impact *women's* wages: For every additional month of leave a new father takes, women's wages rise by nearly seven percent.[10] Better wages and economic

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1 U.S. Bureau of Labor Statistics. (2015, September). *Employee Benefits in the United States National Compensation Survey: Employee Benefits in the United States, March 2015* (Tables 32 & 16). Retrieved 11 January 2016, from http://www.bls.gov/ncs/ebs/benefits/2015/ebbl0057.pdf

2 Ibid.

3 U.S. Bureau of Labor Statistics. (2015) *Employee Benefits Survey: Technical Note.* Retrieved 11 January 2016, from http://www.bls.gov/ncs/ebs/benefits/2015/tech_note.htm

4 See note 1.

5 U.S. Bureau of Labor Statistics. (2015, December 8). *Table 1.4: Occupations with the most job growth, 2014 and projected 2024.* Retrieved 13 January 2016, from http://www.bls.gov/emp/ep_table_104.htm; U.S. Bureau of Labor Statistics. (2015, February 12). *Current Population Survey – Household Data – Annual Averages – Table 11. Employed Persons by Detailed Occupation, Sex, Race, and Hispanic or Latino Ethnicity.* Retrieved 12 January 2016, from http://www.bls.gov/cps/cpsaat11.htm; U.S. Bureau of Labor Statistics. (2015, December 8). *National Employment Matrix SOC Occupation equivalents from the Current Population Survey (CPS).* Retrieved 13 January 2016, from http://www.bls.gov/emp/ep_crosswalks.htm

6 Eisler, R., & Otis, K. (2014). *Unpaid and Undervalued Care Work Keeps Women on the Brink.* In O. Morgan, & K. Skelton (Eds.), The Shriver Report: A Woman's Nation Pushes Back from the Brink. New York, NY: Palgrave Macmillan Trade; Bianchi, S. M. (2011). Changing Families, Changing Workplaces. *The Future of Children*, 21(2), 15-36; National Alliance for Caregiving. (2015, June). *Caregiving in the U.S.* National Alliance for Caregiving and AARP Publication. Retrieved 12 January 2016, from http://www.caregiving.org/wp-content/uploads/2015/05/2015_CaregivingintheUS_Final-Report-June-4_WEB.pdf

7 National Partnership for Women & Families. (2015, March). *The Case for a National Family and Medical Leave Insurance Program.* Retrieved 11 January 2016, from http://www.nationalpartnership.org/research-library/work-family/paid-leave/the-case-for-the-family-act.pdf

8 Houser, L. & Vartanian, T. (2012, January). *Pay Matters: The Positive Economic Impact of Paid Family Leave for Families, Businesses and the Public.* Center for Women and Work at Rutgers, the State University of New Jersey Publication. Retrieved 11 January 2016, from http://www.nationalpartnership.org/site/DocServer/Pay_Matters_Positive_Economic_Impacts_of_Paid_Family_L.pdf?docID=9681

9 Ibid.

10 Johannson, E-A. (2010). *The effect of own and spousal parental leave on earnings* (Working Paper 2010:4). Uppsala, Sweden: Institute of Labour Market Policy Evaluation. Retrieved 11 January 2016, from https://www.econstor.eu/dspace/bitstream/10419/45782/1/623752174.pdf

conditions for parents can build brighter futures for children that will have enduring and compounding benefits over their lifetimes.

Family caregivers and workers with serious health conditions, too, are more likely to be able to stay and contribute in the workplace if they have supportive workplaces with access to policies such as paid leave.[11] And helping older workers stay employed has real implications for their retirement security: It is estimated that a woman who is 50 years of age or older who leaves the workforce to care for a parent will lose more than $324,000 in wages and retirement.[12] For men, the figure is nearly as substantial – close to $284,000 in lost wages and retirement.[13] It is also worth that personal and family illnesses are key triggers for personal bankruptcies.[14] Paid leave could ameliorate that as well.

I know you heard several of these statistics from witnesses at the last hearing and you will likely hear them more times today, but they are points worth repeating because they lay bare the fallacy of another argument that you have heard repeatedly from opponents of the Universal Paid Leave Act: that leave policies are matters better left to employers and employees to negotiate. That status quo approach is not working for most people, and certainly not for the most vulnerable. It has significant costs to workers and their loved ones, to the community, and to businesses themselves. Put simply, as a country and as the nation's capital, our inaction leaves money on the table and fails to do right by workers, children and seniors.

Yet there is well-established precedent – here in D.C., in other states and nationwide – for updating public policies as society and workplaces change. Looking back to the adoption of child labor laws, occupational health and safety laws, Social Security, unemployment insurance, the Family and Medical Leave Act, the Americans with Disabilities Act and countless other examples, we have figured out how to adapt our public policies to reflect the realities of people's lives and our macroeconomic circumstances before, and we can – and should – do so again.

B. Business Experiences In Other States

Three other states have paid family leave laws in place and five have temporary disability insurance programs or requirements. The sky has not fallen.

Eighty-nine percent or more of California employers surveyed several years after California adopted the nation's first paid family leave law reported positive effects on profitability, performance and morale, or they reported no effects – meaning that the negative effects some employers feared never materialized.[15] Researcher Ruth Milkman, who is here today, and her colleague Eileen Appelbaum, interviewed California employers of all sizes and found that virtually all were able to continue with the work that needed to be done in ways

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11 Ryan, E. (2014, June 30). Family Caregivers at Work. *AARP Blog*. Retrieved 11 January 2016, from http://blog.aarp.org/2014/06/30/family-caregivers-at-work/

12 Metlife Mature Market Institute. (2011, June). *The MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents* (p. 15. Retrieved 12 January 2016, from https://www.metlife.com/assets/cao/mmi/publications/studies/2011/Caregiving-Costs-to-Working-Caregivers.pdf

13 Ibid.

14 Himmelstein, D. U., Thorne, D., Warren, E. & Woolhandler, S. (2009, August). Medical Bankruptcy in the United States, 2007. Results of a National Study (Table 2). *The American Journal of Medicine, 122*(8), 741-746. Retrieved 11 January 2016, from http://www.amjmed.com/article/S0002-9343(09)00404-5/fulltext#sec2.1

15 Milkman, R. & Appelbaum, E. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy* (pp. 67-68). Ithaca, NY: Cornell University Press.

that were tailored to the needs of their particular business. Notably, the California Society for Human Resource Management issued a report in 2010 – six years after California's paid family leave law took effect entitled *California's Paid Leave Law Less Onerous Than Expected*, and concluded that the law had not had a major impact on employers.[16] *Bloomberg News* recently reported on the effect of California's program on businesses and noted that "California's employment growth outpaced the U.S. average by 2 percentage points" over the last decade.[17]

Similarly, in New Jersey, a consultant for the New Jersey Business and Industry Association – an organization that opposed the state's paid family leave insurance program, which was adopted in 2008 and took effect in 2009 – surveyed businesses about the law's impact. They found that, regardless of business size, New Jersey businesses have had little trouble adjusting to the program.[18] A majority of medium and large businesses reported no increased administrative costs as a result of the program. And nearly two-thirds of small businesses (65 percent) – which might have been particularly concerned about how to handle an employee's absence and fearful about stretching other employees too thin or relying too heavily on employees to work more hours – reported no increased overtime pay costs.[19] In addition, New Jersey employers interviewed recently as part of a separate study about that state's program noted that paid leave helped reduce stress and improve morale among workers who took leave and their co-workers.[20]

Studies on business effects in Rhode Island, which adopted a paid leave law in 2013, are now underway, and preliminary results are consistent with experiences in other states.

II. The Universal Paid Leave Act is Within the Scope of Other States' Laws in Duration, Cost and Payment Scheme

The Universal Paid Leave Act is crafted to meet the needs of those who live or work in the District. It is a progressive proposal, but it is not, as has been reported, outside the scope of what is offered elsewhere in terms of duration, contributions or payment scheme.

A. Duration of Leave In Other TDI and PFL States

Five states have temporary disability insurance laws: California, Rhode Island, Hawaii, New Jersey and New York. These laws guarantee wage replacement when workers must be away from their jobs for non-workplace-related illnesses and injuries, such as cancer, broken bones or other serious ailments, as well as for the physical effects of pregnancy and childbirth. Each of these five states provides significantly more time than the 16 weeks of leave for a personal medical need included in D.C.'s proposal: California allows up to 52

16 Redmond, J. & Fkiaras, E. (2010, January). *Califarnia's Paid Family Leave Act Is Less Onerous than Predicted*. Society for Human Resources Management Publication. Retrieved 11 January 2016, from http://www.shrm.org/LegalIssues/EmploymentLawAreas/Documents/LR012010.pdf

17 Deprez, E. (2015, October 22). California Shows How Paid-Leave Law Affects Businesses: Not Much. *Bloomberg Politics*. Retrieved 11 January 2016, from www.bloomberg.com/politics/articles/2015-10-22/california-shows-how-paid-leave-law-affects-businesses-not-much

18 Ramirez, M. (2012). *New Jersey Business and Industry Association: The Impact of Paid Family Leave on New Jersey Businesses*. Bloustein School of Planning and Public Policy, Rutgers University Publication. Retrieved 11 January 2016, from http://bloustein.rutgers.edu/wp-content/uploads/2012/03/Remirez.pdf

19 Ibid.

20 Lerner, S. & Appelbaum, E. (2014, June). *Business as Usual: New Jersey Employers' Experiences with Family Leave Insurance*. Center for Economic and Policy Research Publication. Retrieved 11 January 2016, from http://www.cepr.net/documents/nj-fli-2014-06.pdf

weeks of leave for temporary disability;[21] Rhode Island allows 30 weeks;[22] and Hawaii, New Jersey and New York each allow 26 weeks.[23]

As you know, of those five states, three also have paid family leave programs that provide time for family care: California and New Jersey each provide an additional six weeks of paid leave for family caregiving, including caring for a new child.[24] Rhode Island provides four job-protected weeks.[25] Therefore, for two of the most common uses of paid family and medical leave – leave for one's own serious health condition, and leave to prepare for and recover from childbirth and bond with a new child – the District's proposal is in line with or even *less generous* than other states in terms of the duration of leave.

Let me provide two examples related to childbirth and leave for a new mother. In California, for a normal pregnancy, the typical period of disability begins four weeks before the birth and ends six weeks after the birth.[26] A woman with a normal pregnancy could access short-term disability insurance (SDI) (comparable to "medical leave" under the D.C. proposal) during these 10 weeks.[27] After her period of physical recovery ends, she is entitled to six weeks of paid leave to care for and bond with her new child through the state's paid family leave (PFL) program.[28] A new mother in California with a normal pregnancy would therefore be able to take a total of 16 weeks of paid leave through the state's programs:

- Four weeks pre-birth (paid through SDI);
- Six weeks post-birth (paid through SDI); and
- Six weeks of leave to care for the new child (paid through PFL).

Job protection during this time is provided through the state's pregnancy disability leave law for the first 10 weeks and through the California Family Rights Act during the six weeks of family care; federal job protection through the Family and Medical Leave Act, or FMLA, runs concurrently during 12 weeks of the time as well.[29]

Similarly, in New Jersey, a pregnant worker is usually eligible for paid disability leave for four weeks before the birth of a child and six to eight weeks after the birth under the state's temporary disability insurance (TDI) program.[30] Following this 10- to 12-week period, the worker would be eligible for six weeks of paid leave to care for the new child under the family leave insurance (FLI) program.[31] A woman in New Jersey would therefore typically be eligible for 16 to 18 total weeks of paid leave in conjunction with the birth of a child:

- Four weeks pre-birth (paid through TDI);

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21 Cal. Unemp. Ins. Code § 2653.

22 R.I. Gen. Laws § 28-41-7.

23 Haw. Rev. Stat. § 392-23; N.J. Stat. § 43:21-39(b)(1); N.Y. Workers' Comp. Law § 205(1).

24 Cal. Unemp. Ins. Code § 3301(c); N.J. Stat. § 43:21-39(b)(2).

25 R.I. Gen. Laws §§ 28-41-35(d)(1), (f).

26 California Employment Development Department. (n.d.). *FAQs – Pregnancy*. Retrieved from http://edd.ca.gov/Disability/FAQ_DI_Pregnancy.htm

27 California Department of Fair Employment and Housing. (n.d.). *Frequently Asked Questions* (p. 2). Retrieved 11 December 2015, from http://www.dfeh.ca.gov/res/docs/DFEH%20FAQs%20PDL.pdf

28 California Employment Development Department. (n.d.). *FAQs – Paid Family Leave (PFL) Benefits*. Retrieved from http://edd.ca.gov/Disability/FAQ_PFL_Benefits.htm

29 Cal. Gov't Code § 12945(a)(1); 2 Cal. Code Regs. § 11093(c); California Employment Development Department. (n.d.). *FAQs – Relation of Paid Family Leave (PFL) to the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA)*. Retrieved from http://www.edd.ca.gov/disability/FAQ_PFL_and_FMLA_and_CFRA.htm.

30 New Jersey Department of Labor and Workforce Development. (n.d.). *Pregnancy – Temporary Disability Benefits for Pregnancy Related Disabilities*. Retrieved from http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_pregnancy.html

31 New Jersey Department of Labor and Workforce Development. (n.d.). *Family Leave Insurance – Frequently Asked Questions*. Retrieved from http://lwd.dol.state.nj.us/labor/fli/content/fli_faq.html

- Six to eight weeks post-birth (paid through TDI); and
- Six weeks to care for the new child (paid through FLI).

In sum, the Universal Paid Leave Act does not provide significantly more paid leave than these existing state laws for either maternity leave or personal medical leave.

Additionally, there are several state legislatures currently considering programs with leave lengths that are commensurate with or go beyond the D.C. proposal. In New York, for example, there is a pending 12-week proposal for paid family leave;[32] for new mothers, this leave entitlement would dovetail with leave under the state's existing temporary disability insurance program (typically four to six weeks before the expected delivery date and four to six weeks after the delivery).[33] And Massachusetts is considering a bill that would allow up to 26 weeks for personal medical leave and up to 12 weeks for family leave.[34]

B. Contribution and Payment Design

The Universal Paid Leave Act would establish a maximum contribution rate of one percent of salaries or wages. This modest sum is comparable to contribution rates in California and Rhode Island. California's contribution rate is currently set at 0.9 percent for 2016.[35] In previous years, California's contribution rate has hovered around the 1.0% contemplated by D.C.; the highest rate has been 1.2 percent in 2011.[36] Rhode Island's contribution rate for 2016 is set at 1.2 percent,[37] the same rate that has been in place since the state began offering temporary caregiver insurance in 2014.[38] Each existing law has procedures in place that allow for an annual fluctuation of the contribution rate within a specified range. We recommend that D.C. incorporate the same mechanism into its law.

The payment scheme proposed in the Universal Paid Leave Act warrants some clarification. The Council has heard many misstatements about employer contributions. Some who have testified before claimed that no other state requires employers to pay into a paid family and medical leave fund. It is true that paid *family* leave programs in California, New Jersey and Rhode Island are funded through employee-only contributions, but three of the five states with temporary disability insurance laws – New Jersey, New York and Hawaii – require employers to contribute.[39] And in 2015, several states proposed paid family and medical leave laws that would be funded in whole or in part through employer contributions,

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32 A. 3870, 201st Leg., Reg. Sess. § 9(1) (N.Y. 2015), *available at* http://assembly.state.ny.us/leg/?default_fid=&bn=A03870&term=2015&Summary=Y&Text=Y (amending N.Y. Workers' Comp. Law § 205(1)).

33 New York State Workers' Compensation Board. (n.d.). *Disability Benefits (Off-the-Job Injury or Illness – Frequently Asked Questions.* Retrieved from http://www.wcb.ny.gov/content/main/DisabilityBenefits/Employer/commonQuestions.jsp

34 H. 1718, 189th Gen. Court, Reg. Sess. §§ 3(b), (c) (Mass. 2015), *available at* https://malegislature.gov/Bills/189/House/H1718.

35 California Employment Development Department. (n.d.). *Rates, Withholding Schedules, and Meals and Lodging Values.* Retrieved from http://www.edd.ca.gov/Payroll_Taxes/Rates_and_Withholding.htm

36 California Employment Development Department. (2015, January). *Tax Rates, Wage Limits, and Value of Meals and Lodging.* Retrieved 15 December 2015, from http://www.edd.ca.gov/pdf_pub_ctr/de3395.pdf; California Employment Development Department. (2011, January). *Tax Rates, Wage Limits, and Value of Meals and Lodging.* Retrieved 15 December 2015, from https://www.visionpayroll.com/kb/wp-content/uploads/2011/11/de3395.pdf

37 Rhode Island Department of Labor and Training. (n.d.). *2016 UI and TDI Quick Reference – Effective January 1, 2016.* Retrieved from http://www.dlt.ri.gov/lmi/news/quickref.htm

38 Rhode Island Division of Taxation, Employer Tax Section. (n.d.). *Attention Employers: Changes to Federal Unemployment Taxes.* Retrieved from http://web.archive.org/web/20151105142157/http://www.uitax.ri.gov/; U.S. Department of Labor, Employment & Training Administration. (n.d.). *Comparison of State Unemployment Laws – Chapter 8, Temporary Disability Insurance* (p. 8-3). Retrieved 15 December 2015, from http://www.unemploymentinsurance.doleta.gov/unemploy/pdf/uilawcompar/2014/disability.pdf

39 New Jersey Department of Labor and Workforce Development. (n.d.). *Cost to the Worker – State Plan.* Retrieved from http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_cost.html; N.Y. Workers' Comp. Law § 210; Hawaii Department of Labor and Industrial Relations, Disability Compensation Division. (n.d.). *About Temporary Disability Insurance.* Retrieved from http://labor.hawaii.gov/dcd/home/about-tdi/

including Louisiana,[40] Maryland,[41] Massachusetts,[42] Minnesota,[43] Missouri[44] and Washington.[45] In addition, as any economist will attest, it should not matter who pays. And because the District has certain design constraints, the proposed model is the best way to ensure universal coverage to those who live or work in the District.

C. Program Usage

Women and men who use paid family and medical leave do so because they experience serious life events that require them to take time away from their jobs. All of us at one point or another will need to take time away from work to deal with the best and worst kinds of family needs and serious medical needs. But in most cases, these types of events don't happen every year or all at once. A U.S. Department of Labor study on the Family and Medical Leave Act (FMLA) estimates that 13 percent of workers overall – including 16 percent of those eligible for the FMLA itself and 10 percent of all others – take leave for purposes covered by the FMLA (so for serious family or medical reasons) in any given year.[46] A review of program statistics from California and New Jersey indicate, too, that only a small share of the workforce uses temporary disability insurance or paid family leave insurance in any given year. This means that any concerns that a new paid leave program in the District will trigger a substantial rise in employee absences or fund insolvency due to high demand are very likely unfounded.

Looking just at paid family leave, a National Partnership analysis of the first years of the programs in California, New Jersey and Rhode Island shows that less than one percent of the states' populations took leave. In California, 0.86 percent of eligible workers filed claims for bonding or caregiving. In New Jersey, 0.61 percent of eligible workers filed claims. And in Rhode Island, 0.68 percent of eligible workers filed claims. We explain these figures further and provide additional breakdowns by gender and reasons for taking leave in a report we released in February of last year, *First Impressions: Comparing State Paid Family Leave Programs in Their First Years - Rhode Island's First Year of Paid Leave in Perspective*, which is attached as an appendix to this testimony.[47]

We also know from existing federal and state laws that not all workers who take leave use all of the time provided by statute – and, in fact, most do not. Under the federal FMLA, workers take an average of five weeks, with about 40 percent of workers taking 10 days or less.[48] Similarly, in states with temporary disability insurance, the average duration of leave is nowhere near the maximum permitted: In California where, again, 52 weeks of

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40 H.B. 703, 2015 Leg., Reg. Sess. § 1 (La. 2015), *available at* http://www.legis.la.gov/legis/ViewDocument.aspx?d=937065; S.B. 84, 2015 Leg., Reg. Sess. § 6 (La. 2015), *available at* http://www.legis.la.gov/legis/ViewDocument.aspx?d=934055.

41 H.B. 985, 2015 Leg., Reg. Sess. subtitle 6 (Md. 2015), *available at* http://mgaleg.maryland.gov/2015RS/bills/hb/hb0985f.pdf.

42 See note 34, § 1(d).

43 S.F. 1085, 89th Leg., Reg. Sess. art. 3, § 2. subdivision 6(b) (Minn. 2015), *available at* https://www.revisor.mn.gov/bills/text.php?number=SF1085&version=0&session_year=2015&session_number=0.

44 H.B. 1161, 2015 Leg., Reg. Sess. § A(285.415) (Mo. 2015), *available at* http://house.mo.gov/billtracking/bills151/billpdf/intro/HB1161I.PDF.

45 H.B. 1273, 2015 Leg., Reg. Sess. § 15(1) (Wash. 2015), *available at* http://lawfilesext.leg.wa.gov/biennium/2015-16/Pdf/Bills/House%20Bills/1273-S.pdf.

46 Klerman, J., Daley, K. & Pozniak, A. (2012, September 7). *Family and Medical Leave in 2012: Technical Report*. Abt Associates Publication. Retrieved 12 January 2016, from http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf

47 National Partnership for Women & Families. (2015, February). *First Impressions: Comparing State Paid Family Leave Programs in Their First Years*. Retrieved 12 January 2016, from http://www.nationalpartnership.org/research-library/work-family/paid-leave/first-impressions-comparing-state-paid-family-leave-programs-in-their-first-years.pdf

48 See note 46.

personal medical leave are available, the average duration of leave is 16 weeks.[49] In New Jersey, it is 10.1 weeks.[50] For women's pregnancy and bonding rates combined, the average duration of leave is 11 weeks in California and nine weeks in New Jersey.[51] To be sure, benefit levels, benefit maximums, and periods of job protection can impact workers' practical ability to take an extended period of time away from work, but certain safeguards can ensure that workers do not receive benefits after their or their family member's period of infirmity has ended. For example, TDI and paid family leave programs require medical certifications that must be completed by health providers; the certification forms include condition codes that create a presumed period of disability and claims that extend beyond that period are flagged by the agencies for their review.[52]

	Family Leave		Personal Medical Leave	
Paid Leave	**Maximum per year**	**Average length of leave or claim (2014)**	**Maximum per year**	**Average length of leave or claim (2014)**
California[53]	6 weeks	5.3 weeks	52 weeks	16 weeks (11 for pregnancy/childbirth)
New Jersey[54]	6 weeks* (42 days)	5 weeks 5.4 for bonding 4.1 for other	26 weeks	10.1 (9.3 for pregnancy/ childbirth)
Rhode Island[55]	4 weeks	88 percent took full 4 weeks	30 weeks (total all uses)	Not available
Unpaid Leave				
Federal Family & Medical Leave Act[56]	12 weeks (total all uses)	5 weeks for all types combined (27.7 days)	12 weeks (total all uses)	5 weeks for all types combined (27.7 days)
Credit: Table courtesy of Debra Fitzpatrick, Center on Women, Gender and Public Policy at the University of Minnesota, from forthcoming report for the Minnesota Department of Employment and Economic Development.				

The amount of leave that men take for family care and bonding also tends to be much shorter than the maximum allowed by the FMLA or state paid family leave programs. For example, the combination of the lack of access to leave and the stigma that unfortunately still surrounds men taking leave means that most men take no more than two weeks of

49 California Employment Development Department. (2015). *FAQ – Disability Insurance (DI) Benefits*. Retrieved from http://www.edd.ca.gov/Disability/FAQ_DI_Benefits.htm; California Employment Development Department. (2015). *May 2015 Disability Insurance (DI) Fund Forecast* (Table 2). Retrieved 12 January 2016, from http://www.edd.ca.gov/About_EDD/pdf/edddiforecastmay15.pdf

50 New Jersey Department of Labor and Workforce Development (2015, October). *Temporary Disability Insurance Workload in 2014: Summary Report* (Table 6). Retrieved 12 January 2016, from http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/TDI%20Report%20for%202014.pdf

51 See notes 49 and 50.

52 California Employment Development Department. (n.d). *Physician/Practitioner's Guide to Disability Insurance*. Retreived 13 January 2016, from http://www.edd.ca.gov/pdf_pub_ctr/de2548.pdf; California Employment Development Department TDI personnel (2015); Personal communication via telephonic conference call; New Jersey Department of Labor and Workforce Development. (2015); New Jersey Department of Labor and Worforce Development, Division of Temporary Disability Insurance. *Claim for Disability Benefits (DS-1)*. Retrieved 13 January 2016, from http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/WDS1.pdf; New Jersey Department of Labor and Worforce Development personnel. (2012). Personal communication via telephonic conference call.

53 See note 49.

54 New Jersey Department of Labor and Workforce Development. (n.d.). *Calculating Benefit Amounts – State Plan*. Retrieved from http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_calculating_bene_amounts.html; New Jersey Department of Labor and Workforce Development. (2015, October). *Family Leave Insurance Workload in 2014: Summary Report* (Table 6). Retrieved 12 January 2016, from http://www.njleg.state.nj.us/OPI/Reports_to_the_Legislature/Family_leave_2014.pdf; see also note 50.

55 Rhode Island Department of Labor and Training. (n.d.). *Temporary Disability Insurance/Temporary Caregiver Insurance*. Retrieved from http://www.dlt.ri.gov/tdi/; Rhode Island Department of Labor and Training. (n.d.). *Temporary Disability Insurance/Temporary Caregiver Insurance: Frequently Asked Question*. Retrieved from http://www.dlt.ri.gov/tdi/tdifaqs.htm; Rhode Island Department of Labor and Training. (2015, November 16). *Launching the Rhode Island Temporary Caregiver Insurance Program (TCI): Employee Experiences One Year Later* (p. 2). Retrieved 12 January 2016, from http://www.dlt.ri.gov/TDI/pdf/RIPaidLeave2015DOL.pdf

56 See note 46, pp. 141-142.

leave in conjunction with the birth of a child.[57] In other words, creating a leave program that makes paid leave more available is unlikely to lead to a rapid uptick in new fathers taking leave for long periods of time. It will, however, over time, help to create the conditions and culture necessary for more men to take critical leave time in the early months of their children's lives, as experience from California's program has shown.[58]

In short, claims that paid leave programs result in major disruptions for employers are overstated. And it is unlikely that the Universal Paid Leave Act would substantially increase the rate at which people already take leave under the District's existing unpaid leave law and the federal FMLA, or dramatically increase the length of leave. The real difference will be that hundreds of thousands of workers will be able to afford to take the time away from work that they need when serious family and medical needs arise, without jeopardizing their families' ability to make ends meet. Others who have chosen to forgo leave now will be able to hold the hand of a dying parent or comfort a hospitalized child.

III. Key Elements of Program Design

That takes me to my last set of points – an overview of the elements that will make the District's program most successful in meeting the needs of the District's residents, workers and hundreds of thousands of working families. Based on experience helping to craft a proposal at the federal level and assisting states that have implemented or sought to implement family and medical leave laws, the National Partnership strongly recommends that the Council consider universality, affordability, the breadth of reasons people need leave, and resources for education and outreach as key features of a D.C. program.

A. Available to all workers

As its name suggests, the Universal Paid Leave Act must provide universal coverage to people that live or work in the District. Paid family and medical leave should be available to all workers regardless of the size or sector of their employers and whether they work full time, part time, or are self-employed. It should be available to both D.C. residents and D.C. workers to ensure the widest possible benefits for our city and its working families. It must also offer women and men equal amounts of leave time. Caring for a new child or seriously ill loved one is no longer "women's" work. Men increasingly want to be caregivers, and when they do more caregiving early in a child's life, it promotes more gender equality both at home and at work – and that benefits businesses and the economy.

Unfortunately, in the context of unpaid family and medical leave laws, we are all accustomed to policies that carve out businesses based on size – and many of us have seen the challenges those carve-outs cause when people who need access to leave cannot take it. The challenges become greater in the *paid* leave context, and the risk of exacerbating economic inequality is even more acute. Moreover, as noted, experiences in other states

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57 Ibid.; Harrington, B., et al. (2014). *The New Dad: Take Your Leave.* Boston College Center for Work & Family Publication. Retrieved 12 January 2016, from https://www.bc.edu/content/dam/files/centers/cwf/news/pdf/BCCWF%20The%20New%20Dad%202014%20FINAL.pdf; Harrington, B., et al. (2015). *The New Dad: A Portrait of Today's Father.* Boston College Center for Work & Family Publication. Retrieved 12 January 2016, from http://www.bc.edu/content/dam/files/centers/cwf/pdf/BCCWF%20The%20New%20Dad%202015.pdf

58 Bartel, A., Rossin-Slater, M., Ruhm, C., et al. (2015, November). *Paid Family Leave, Fathers' Leave-Taking, and Leave-Sharing in Dual-Earner Households: Working Paper No. 21747.* National Bureau of Economic Research. Retrieved 13 January 2016, from http://www.nber.org/papers/w21747

don't warrant special treatment of small businesses. In fact, in California, small- and medium-sized businesses (those with fewer than 50 employees and those with 50 to 99 employees, respectively) reported more positive outcomes than large businesses (100+ employees), in part because small businesses may be less able to afford the full cost of paying for an individual's leave on their own and an insurance pool makes leave affordable.[59]

The Council must remember that social insurance programs are premised on universal access. The smaller the insurance pool, the more expensive coverage becomes for everyone. Creating a program with opt-in or opt-out access for any reason except those that are strictly required by existing laws threatens the solvency and stability of the program. Any proposal should also give people the freedom to switch jobs without losing access to leave.

B. Affordable and Safe to Use

The promise of access to paid family and medical leave is illusory if workers cannot afford to take the leave available to them, or if they fear retaliation at work for taking leave. One of the fundamental shortcomings of California's program is that its 55 percent wage replacement rate is too low. Low- and moderate-income people cannot afford to subsist on so little. New Jersey's 66 percent rate is better, but even then leave for some is out of reach; in addition, its maximum weekly payment of $657, about half of median household income in New Jersey, is too low. Another flaw of each program is that neither offers non-retaliation or job protection for those who fall outside the scope of federal or state FMLA laws, whereas Rhode Island's law does protect the jobs of everyone who takes paid family leave, regardless of the size of their employer.

As the Council evaluates the parameters of this proposal, I urge you to think of paid family and medical leave benefits not as a safety net intended to catch someone from falling, but as a strong rope that connects people who take leave to work and maintains continuity during leave. That means creating a leave benefit that replaces a very high percentage of the wages of low- and moderate-wage workers and a sizable portion for everyone else, up to a cap that allows people to continue to pay their rent or mortgage, their bills, put food on the table and pay for transportation. It also means assuring those who take leave that they will not face adverse job consequences for taking the leave available to them. The testimony of the D.C. Fiscal Policy Institute and others at the December hearing made clear that many workers in the District, particularly those with lower levels of education and people from our African American and Latino communities, are in precarious financial conditions already, with great job instability. These are the exact populations for whom paid leave can be a pathway to better pay, more stable housing, further education and job training opportunities, and better circumstances for their children.

It is easy to focus on what this new program will cost, but the more important question is what it is costing workers and families, caregivers and care recipients, businesses and the economy to continue on our current untenable and unwise path of not providing paid family and medical leave. Let's not lose sight of the fact that with small contributions, the

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59 Appelbaum, E., & Milkman, R. (2011, January 19). Paid Family Leave Pays Off in California. *Harvard Business Review, HBR Blog Network*. Retrieved 5 March 2015, from http://blogs.hbr.org/2011/01/paid-family leave-pays-off in/

District's employer and employee stakeholders can make a meaningful investment in human capital, happiness, productivity and prosperity.

C. Reflective of All FMLA Reasons and Family Definitions

The debate about paid leave tends to focus on young parents needing leave to care for new babies. But the Council must also not lose sight of the other precarious circumstances workers face. Younger and older workers may face their own serious health conditions, like cancer, a heart attack or a stroke, that require them to take leave from work for medical treatment and to recover. Workers of all ages – including millennials – also need time to care for family members facing serious medical conditions – for example, parents who are dying or children who are in the hospital. Currently, more than 75,000 people in the District provide unpaid care to a loved one at an estimated value of $870 million dollars per year.[60] Any final policy must be as comprehensive as the Universal Paid Leave Act is now. The family caregiving reasons and family definitions in the bill should remain as they are, to maintain consistency with existing D.C. law and to reflect the range of family caregiving relationships that exist in our diverse city.

D. Ongoing Education and Outreach

The final program must also include a meaningful commitment to use some of the program's revenues or other government funding for a robust initial and continuing outreach and education program. One of the lessons from California is that the initial investment in education made a difference in the program's first year.[61] When that investment lapsed, workers' awareness about the program – particularly among those most in need of paid leave – dropped, and more than a decade later, the state has reaffirmed its commitment to ensuring that the state's workforce knows about the paid family leave program through a sizable, multi-year investment.

The Council should ensure adequate funding for a long-term education and outreach campaign to ensure that all stakeholders are aware of and understand the program. For high-road employers, this can mean cost-savings as they coordinate benefits from the D.C. program with their own additional benefits. For more typical employers, this means ensuring compliance through notice and posting requirements so that workers know their leave rights. And for employees, this means transparent, clear and multi-lingual materials or even ambassadors that provide information about applying for and receiving benefits.

* * *

Mr. Chairman and members of the Council, it is an honor to be here with you and with these other esteemed experts today. As a District resident, employee, parent and spouse, I look forward to my city being able to call itself a national leader when it comes to paid family and medical leave. I look forward to answering your questions and to working with you to finalize and implement a strong bill. Thank you.

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60 Reinhard, S. C., et al. (2015, July). *Valuing the Invaluable: 2015 Update* (Table B1). AARP Public Policy Institute Publication. Retrieved 12 January 2016, from http://www.aarp.org/content/dam/aarp/ppi/2015/valuing-the invaluable-2015-update-new.pdf

61 Firestein, N., O'Leary, A., & Savitsky, Z. (2011). *A Guide to Implementing Paid Family Leave: Lessons from California*. Labor Project for Working Families and Berkeley Center for Health, Economic & Family Security Publication. Retrieved 12 January 2016, from http://www.working-families.org/publications/pfl_guide.pdf; see also note 47.

ISSUE BRIEF

First Impressions: Comparing State Paid Family Leave Programs in Their First Years

Rhode Island's First Year of Paid Leave in Perspective

FEBRUARY 2015

Family caregiving is a major challenge for millions of Americans. Today, more than 30 million working families include young children, nearly four million children are born each year, and more than 25 million people with paying jobs also provide unpaid care to loved ones every year.[1] Yet the majority of working people in the United States cannot take time away from their jobs to welcome new children or care for their loved ones without risking loss of their jobs or their economic security because they do not have access to paid family leave.[2]

Three states – **California, New Jersey and Rhode Island** – have sought to change this by putting in place public policies that respond to working families' need for paid family leave. These states' programs insure workers for a share of their usual wages while they take time away from their jobs to care for a family member with a serious health condition or to bond with a new child. Each of these states' paid family leave insurance programs build upon longstanding state temporary disability insurance programs that workers can use to take time away from their jobs to address their own serious health issues, including preparing for or recovering from childbirth.

California's and New Jersey's paid family leave programs have insured workers since 2004 and 2009, respectively. Rhode Island's program just celebrated its first anniversary. This analysis draws on program utilization data from each state to assess workers' use of paid family leave in the first year of each program's operation. The analysis provides useful insights into the most common reasons people take leave, and a window into the gender dynamics of leave taking.

Key Findings

Last year, in 2014, California's paid family leave program celebrated its 10th implementation anniversary and New Jersey's paid family leave program celebrated its fifth implementation

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anniversary. On January 5, 2015, Rhode Island's paid family leave program celebrated its first implementation anniversary. To mark these milestones, the National Partnership for Women & Families conducted an original analysis comparing the first year of each of the programs. We collected historical claim records from the agencies in California (from July 2004-June 2005), New Jersey (from July 2009-June 2010) and Rhode Island (from January-December 2014) charged with implementing the paid leave programs to better understand the types of claims filed and the gender differences in program participation during each program's first year. We accounted for workforce size, women's workforce participation rates, and the birth rates and median age differences within each state.[3]

Key findings of our comparative analysis show:

- **First-year use of leave was higher in California than in New Jersey or Rhode Island**. This was likely due, in large part, to funding dedicated to education and outreach in the California program's first year. However, subsequent data on awareness of the state's program has made clear that one year of education and outreach is not enough.
- **Across all three programs' first years, workers used paid family leave most often to care for a new child**. However, Rhode Island's program was used for family caregiving more often than the California and New Jersey programs in their first years. This difference could be due to several factors, including greater understanding of the program and the fact that Rhode Island's population is older than the other two states' populations were. Therefore, family care needs there may be more acute.
- **Women were the vast majority of claimants in all three states during the first year of each program**, although men filed a higher percentage of claims in the first year of Rhode Island's program than did men in the first year of California's and New Jersey's programs.
- **Rhode Island experienced higher rates of men participating in the first year of its program, primarily to care for new children**, despite Rhode Island having a lower birthrate than the other two states during the first years of each program.

Background

California, New Jersey and Rhode Island have their own statewide paid family leave programs that provide eligible workers with a portion of their usual wages when they need to take time away from their jobs to bond with a newborn, newly adopted or newly placed foster child, or to care for a family member with a serious health condition. Each state added paid family leave insurance to longstanding temporary disability insurance programs that already provided for longer-term, personal medical leave. This maximized efficiency and lowered implementation and administrative costs.[4] It also means that, in all three states, eligible workers are entitled to both paid family and medical leave. For example, a woman who gives birth in those three states can take a period of disability or medical leave, followed by a period of family leave.

All three states fund the paid family leave portions of their programs through employee-paid payroll deductions and administer their programs through their temporary disability insurance programs. Paid family leave funds in each state are solvent and have even experienced surpluses. Specific program information for each of the three states is described below.

CALIFORNIA

- Passed in 2002 and implemented in 2004, California's paid family leave program (Family Temporary Disability Insurance) provides up to six weeks of benefits for eligible individuals who must take time away from their jobs to care for a seriously ill child, spouse, parent or registered domestic partner, or to bond with a new child. As of July 1, 2014, California workers can also receive paid family leave benefits when taking time away from their jobs to care for a parent-in-law, grandparent, grandchild or sibling with a serious health condition.[5]

- Benefits for disability and family care are funded by employees only (currently at one percent of annual wages). The program provides for up to 52 weeks of disability insurance pay and six weeks of paid family leave. The payroll deduction amount fluctuates within a small range annually. The typical benefit is 55 percent of a worker's weekly wages, up to a maximum of $1,104 per week in 2015.[6] To qualify for the maximum weekly benefit amount, an individual must be paid at least $25,385.46 in one of the calendar quarters used to determine program eligibility.[7]

- California workers have filed approximately 1.7 million family leave claims since the state implemented its program on July 1, 2004 – 1.5 million of which were filed by parents seeking time to care for new children.[8]

NEW JERSEY

- Passed in 2008 and implemented in 2009, New Jersey's paid family leave program (Family Leave Insurance) provides up to six weeks of benefits to eligible individuals to bond with newborn or newly adopted children and to care for a spouse, domestic partner, civil union partner, parent or child with a serious health condition.[9]

- Unlike California, New Jersey separates family leave insurance contributions from temporary disability insurance contributions. The family leave program is financed 100 percent by worker payroll deductions, whereas the state's temporary disability insurance program is financed jointly by employee and employer payroll contributions. Starting January 1, 2015, each worker contributes 0.09 percent of the taxable wage base into the family leave insurance fund. For 2015, the taxable wage base is the first $32,000 in covered wages paid during the calendar year.[10] The weekly benefit rate is 66 percent of a worker's average weekly wage, up to a maximum benefit of $604.[11]

- New Jersey workers have filed more than 162,000 family leave claims since the state implemented its program on July 1, 2009 – 133,000 of which were filed by parents seeking time to bond with a new child.[12]

RHODE ISLAND

- Passed in 2013 and effective January 5, 2014, Rhode Island's paid family leave program (Temporary Caregiver Insurance) provides up to four weeks of benefits to eligible individuals to bond with a newborn or newly adopted child and to care for a child, parent, parent-in-law, grandparent, spouse or domestic partner with a serious health condition. Rhode Island's law offers workers fewer weeks of paid family leave than California's and New Jersey's; however, workers are protected against job loss and retaliation for taking paid family leave.[13]

- Benefits for disability and family care are funded by employees only. The withholding rate as of January 1, 2015, is 1.2 percent of a worker's first $64,200 in wages.[14] The maximum weekly benefit is $770.[15]

- In Rhode Island, one year after the program's implementation, nearly 4,000 workers have filed paid family leave claims. Nearly three-quarters of those claims were filed by parents seeking time to bond with a new child.[16]

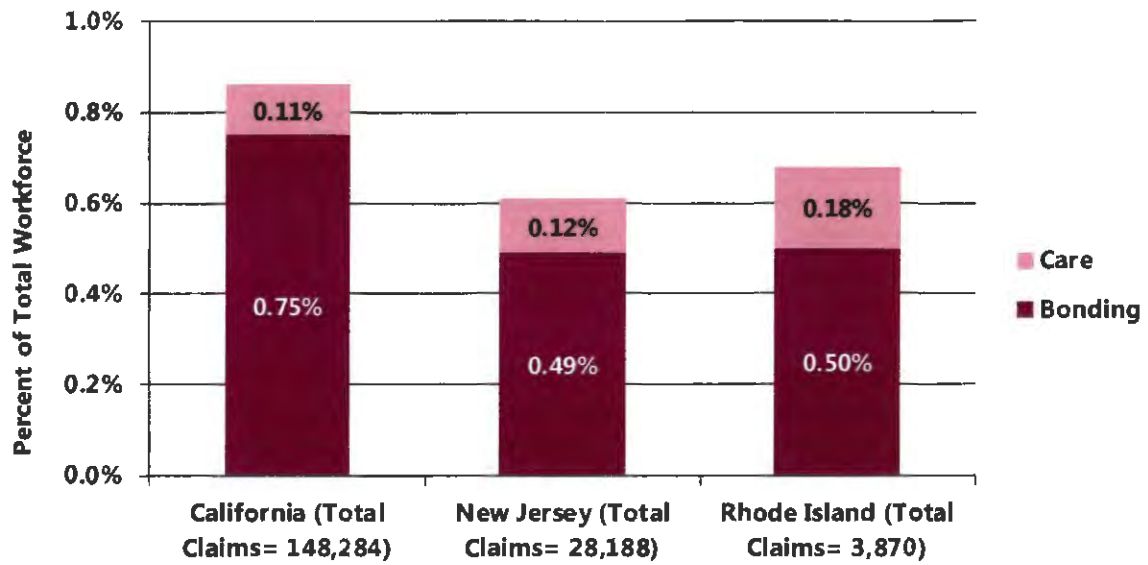
State Paid Family Leave Program Participation in the First Year

On the first-year anniversary of Rhode Island's paid family leave insurance program, we reviewed claims reports for each of the three state programs to see if there were trends and patterns. We assessed the extent to which Rhode Island's paid family leave program is used overall, as well as by gender and claim type, compared to the claims approved in the first year of the programs in California and New Jersey. As more states consider adopting paid family and medical leave programs, these preliminary assessments can help policymakers and program administrators better predict how their programs will be used. The findings also provide a foundation for future research.

Adjusting for workforce population size, in the first year of each program, California's program was most used, and New Jersey's was least used.

Although the workforce populations among the three states varied greatly in the years analyzed,[17] Californians filed claims at a higher rate than workers in the two other states (Figure 1). Adjusting for workforce population size, in the first year of each program, California's program was most used, and New Jersey's was least used. In California, 0.86 percent of eligible workers filed claims for bonding or caregiving. In New Jersey, 0.61 percent of eligible workers filed claims. And in Rhode Island, 0.68 percent of eligible workers filed claims.[18]

FIGURE 1. STATE PAID LEAVE PROGRAM PARTICIPATION RATE (WORKFORCE POPULATION ADJUSTED)



The higher participation rate for California's program, compared to New Jersey's and Rhode Island's, is likely a product of an outreach and education campaign executed and paid for by the state during the program's first year of operation. New Jersey and Rhode Island had no such funding or outreach plans in their laws. In 2003-2004, the California Employment Development Department (EDD), the state agency administering the family temporary disability insurance program, conducted a one-year public education campaign including:

- Promotional billboards near heavily trafficked public highways and hospitals;
- Informational brochures and posters available in a number of languages (including Vietnamese, Chinese, Spanish and Tagalog); and
- Direct outreach to clinics and community centers in major urban areas including Fresno, San Diego, the San Francisco Bay Area and Los Angeles.[19]

EDD's efforts to educate Californians about the new paid family leave benefit were hampered by the fact that only $1 million of EDD funds were used for the initial statewide advertising campaign.[20] Paid family leave outreach received a significant boost from a coalition of advocacy organizations, including the Legal Aid Society—Employment Law Center, Equal Right Advocates and the Labor Project for Working Families. The Asian Law Caucus and the California Women's Law Center provided legal advice and information on the new law through their hotlines and legal clinics.[21] So while formal outreach and education efforts by EDD were significantly limited, the coalition raised funds from foundations to provide trainings on paid family leave to advocates and union representatives through multiple organizations over several years.[22]

Still, awareness in California remains low, especially among economically vulnerable workers, and efforts are underway to use recently secured funding to promote awareness and encourage program use.[23] This is particularly important in light of recent data showing that Californians' awareness of the program has declined and few people know about the law's 2014 family care expansions.[24]

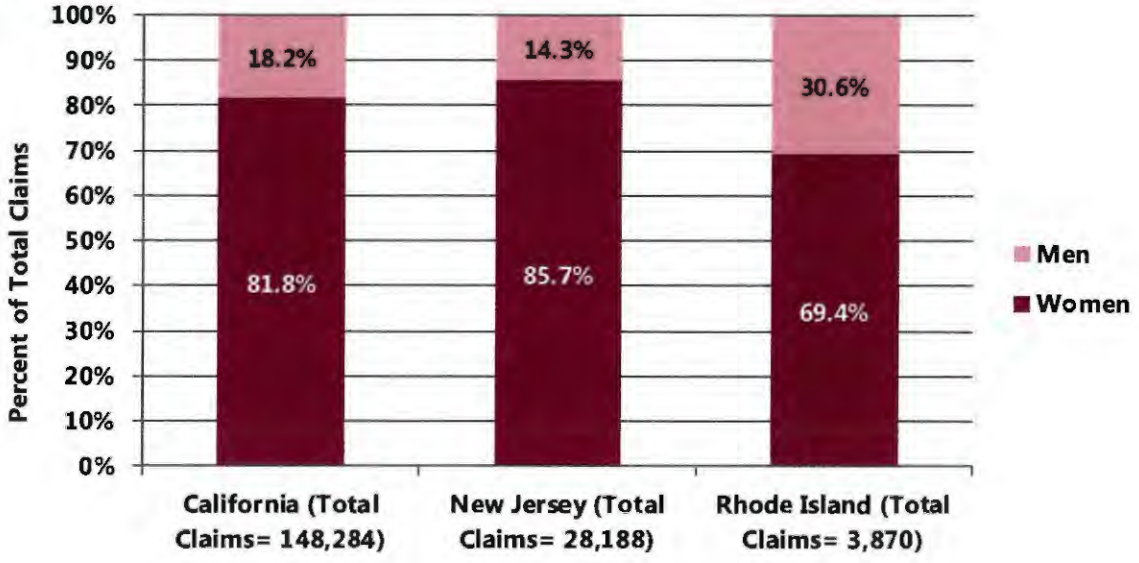
Women Use Paid Family Leave Programs at Higher Rates Than Men, but Rhode Island Shows Early Signs of a Better Balance

Both women and men benefit from paid family leave, yet our analysis reveals that women filed the vast majority of claims in the first years of California's, New Jersey's and Rhode Island's programs (Figure 2): 82 percent of claims in California, 86 percent in New Jersey and 69 percent in Rhode Island.

However, Rhode Island's program reflects a growing trend toward gender equality in the workforce and in program use. Nearly 31 percent of Rhode Islanders who participated in the state paid family leave program during its first year were men; that participation rate is about twice the rate for men in New Jersey in its first year (14.3 percent) and more than one-and-a-half times the rate for men in California in its first year (18.2 percent). This difference is even more striking when the relatively even gender balance within Rhode Island's workforce is taken into account. Women made up nearly half of Rhode Island's workforce (48 percent in 2014), a higher percentage than in California (45 percent in 2005) and a slightly higher percentage than in New Jersey (47 percent in 2010).[25]

Note: This analysis had a one-year scope, but longitudinal program data from California suggests greater gender equity in program participation over time. Men comprised just 18 percent of those who took leave during the program's first year, but they comprised approximately one-third of workers taking leave for both child bonding and family care in 2014.[26]

FIGURE 2. PARTICIPATION BY GENDER



Bonding With a Newborn or Adopted Child is the Most Common Reason Workers Take Paid Family Leave, But Family Caregiving in Rhode Island is More Common Than in Other States

Through all three paid family leave programs, workers may take time away from their jobs for two reasons: to care for a newborn, newly adopted or newly placed foster child (bonding claims), or to care for a child, spouse or other family member with a serious health condition (family care claims).

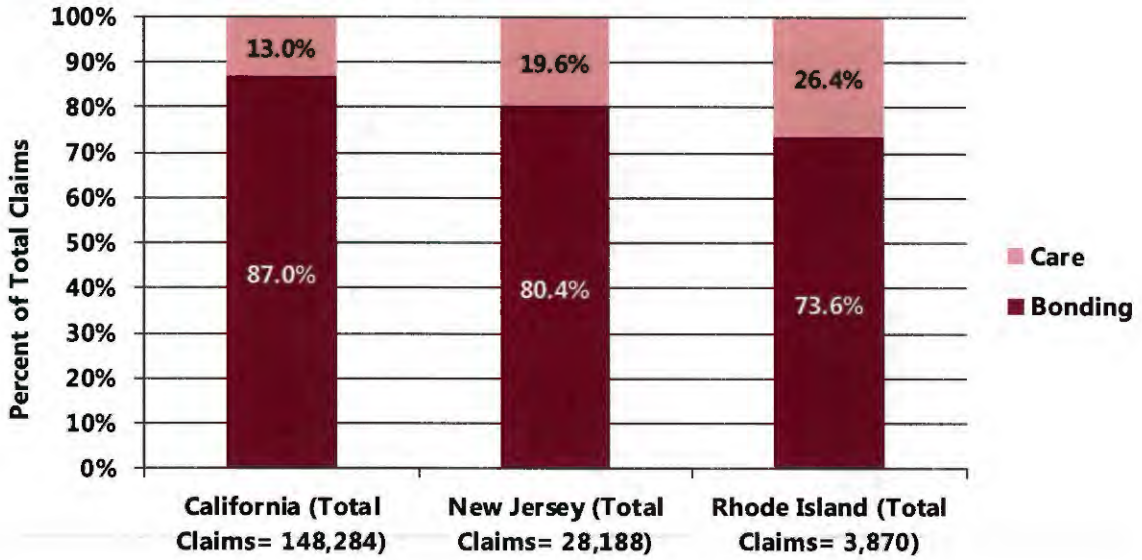
The vast majority of workers – both women and men – who took paid family leave through these programs in their first years did so to bond with a new child (Figures 3 and 4). This was particularly true in California (87 percent) and New Jersey (80.4 percent). It was also true – although to a lesser extent – in Rhode Island (73.6 percent) (Figure 3). This means that a higher percentage of workers in Rhode Island filed family care claims (26 percent) than in New Jersey (20 percent) and California (13 percent). This difference may be explained, in part, by Rhode Island's higher median age and higher proportion of people 65 and older,[27] but it might also be due to greater awareness that the program can be used for family care. It is too early to tell whether the fact that paid family leave is available to care for more family members in Rhode Island plays a role in greater rates of leave taking for family caregiving in the state; data for the first year show that three percent of family care claims were filed by workers who needed family leave benefits to care for someone other than a parent, spouse or child.

Men as Family Caregivers

The first year of Rhode Island's program is notable because a greater percentage of men took leave to bond with new children than was the case in the first year of the paid family leave programs in California and New Jersey. Rhode Island is the only state in which the types of claims (bonding compared to family care) filed by men were similar to the types of claims filed by women (Figure 4). Three-quarters of men who filed claims and nearly three-quarters of women who filed claims did so to bond with a new child. In comparison, during the first year of the programs in California and New Jersey, claims filed by women were disproportionately skewed toward child bonding when compared to

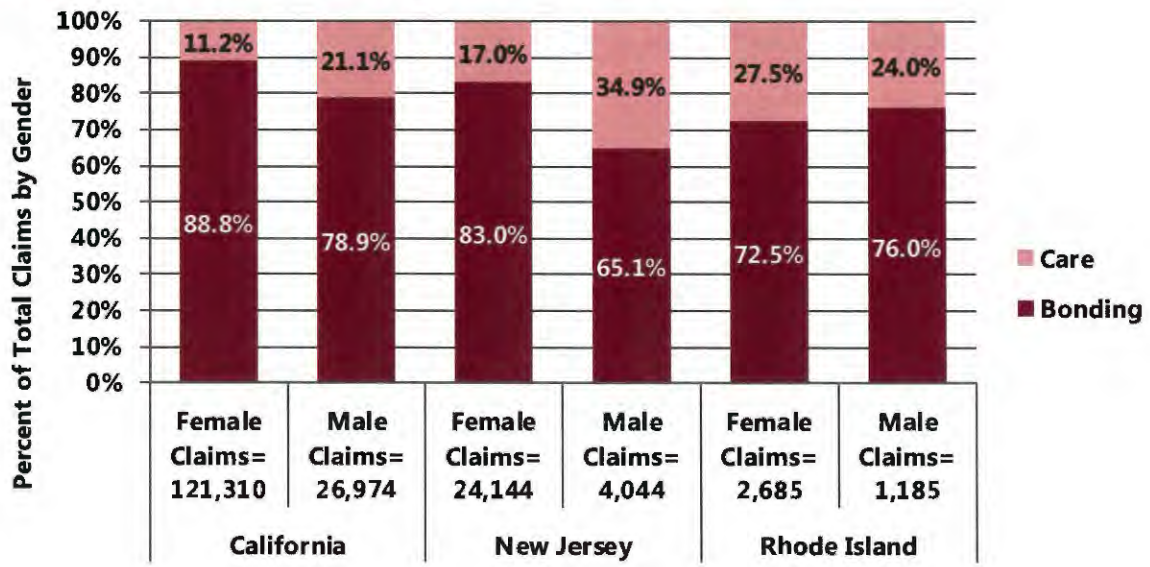
claims filed by men. Even adjusting for Rhode Island's birthrate, which is lower than California's and New Jersey's were, Rhode Island men filed claims for bonding versus care at similar rates to Rhode Island women.[28]

FIGURE 3. PARTICIPATION BY TYPE OF CLAIM



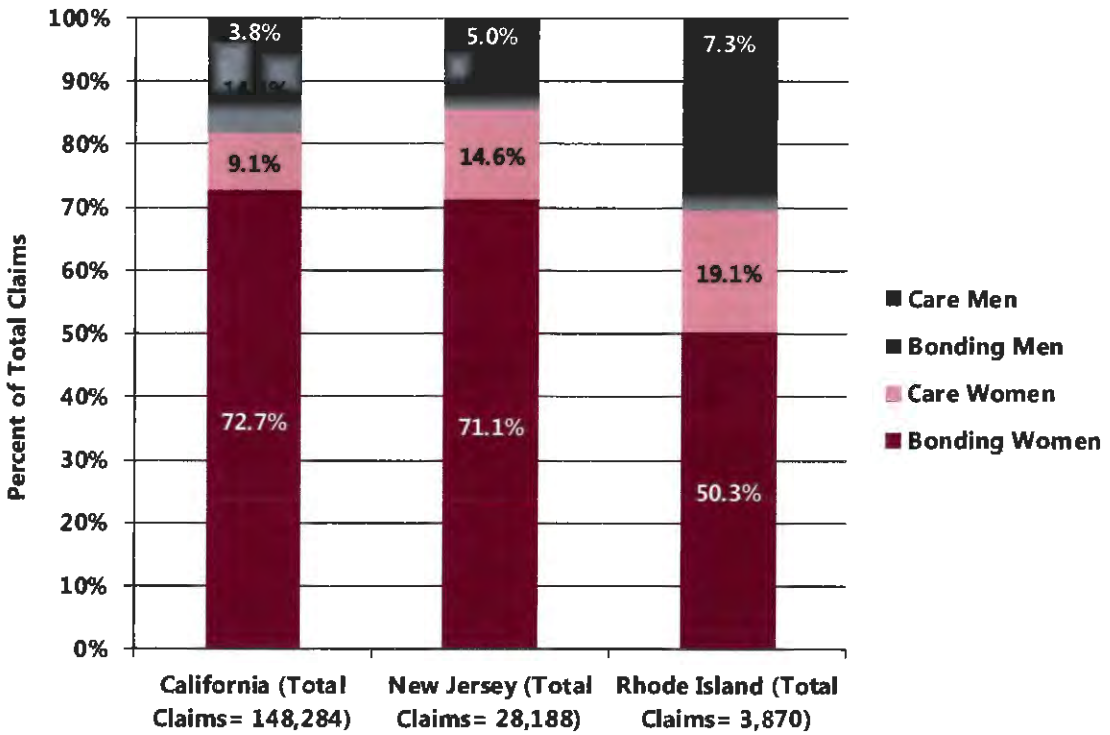
Conversely, in California and New Jersey, men who filed claims were much more likely than women to provide care to a seriously ill family member. In the first years of California's and New Jersey's programs, men who filed claims did so for family caregiving at roughly twice the rate of women (Figure 4). In Rhode Island, however, there was approximately the same likelihood that a woman would file a claim for family caregiving as a man (27.5 percent of claims filed by women and 24 percent of claims filed by men were for family caregiving).

FIGURE 4. PARTICIPATION BY TYPE OF CLAIM AND GENDER



One possible explanation for the difference between the states on this is that neither California nor New Jersey permitted workers to use paid family leave to care for their in-laws and grandparents until California's recent expansion in 2014. Rhode Island has permitted workers to use paid family leave to care for in-laws and grandparents since its inception, which means that a higher share of women may be taking paid family leave to care for in-laws, grandparents, or other family members. Rhode Island's caregiving claims deserve further in-depth gender analysis.

FIGURE 5. PARTICIPATION BY GENDER AND TYPE OF CLAIM



Overall, it is clear that Rhode Island's program in its first year was not simply a program used by women to care for new children. Rhode Island's program was more balanced in terms of the types of claims filed and participation by men (Figure 5).

Conclusion

Since 2004, hundreds of thousands of workers in California, New Jersey and Rhode Island have participated in family leave insurance programs to care for new children and family members with serious health conditions. Our analysis of the first year of each program demonstrates that only a small share of the workforce uses paid family leave programs; that outreach and education are important vehicles to educate workers about the programs; that both women and men make use of these programs; and that – if Rhode Island's trends hold and California's longitudinal experience serves as a guide – more gender equality in taking leave may be on the horizon.

This analysis of the first year of the nation's first three state paid family leave programs should help policymakers who are considering implementing programs in their states and provide a foundation for future research.

1 U.S. Census Bureau. (2014). *American Community Survey 1-Year Estimates 2013, Table DP02: Selected Social Characteristics in the United States*. Retrieved 4 February 2015, from http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_1YR_DP02&prodType=table; Martin, J. A., Hamilton, B. E., Ventura, S. J., Osterman, M. J., & Mathews, T. J. (2013). Births: final data for 2011. *National Vital Statistics Report, 62*(1), 1-70.; Lyles, L. (2014, September 24). In Support of Paid Leave: 25 Million Stories [Blog post]. United States Department of Labor Publication. Retrieved 4 February 2015, from http://social.dol.gov/blog/in-support-of-paid-leave-25-million-stories

2 U.S. Bureau of Labor Statistics. (2014, September). *Employee Benefits in the United States National Compensation Survey: Employee Benefits in the United States, March 2014* (Tables 16 and 32). Retrieved 4 February 2015, from http://www.bls.gov/ncs/ebs/benefits/2014/ebbl0055.pdf

3 Program claim records provided by State of California Employment Development Department, State of New Jersey Department of Labor and Workforce Development Office of Research and Information, and State of Rhode Island Department of Labor and Training- Labor and Market Information. (All records are on file with the National Partnership for Women & Families.)

4 The other states that have temporary disability insurance programs in place are Hawaii and New York.

5 Calif. Unemp. Ins. Code §§ 3300-3304.

6 State of California Employment Development Department. (2014). *State Disability Insurance – Quick Statistics: Paid Family Leave Average Weekly Benefit*. Retrieved 4 February 2015, from http://www.edd.ca.gov/about_edd/pdf/qspfl_Avg_WBA.pdf; State of California Employment Development Department. (2014). *State Disability Insurance – Quick Statistics: Disability Insurance Average Weekly Benefit Amount*. Retrieved 4 February 2015, from http://www.edd.ca.gov/about_edd/pdf/qsdi_Avg_WBA.pdf. Data are through December 2014.

7 State of California Employment Development Department. (2014). *Paid Family Leave Benefits*. Retrieved 4 February 2015, from http://www.edd.ca.gov/Disability/PFL_Benefit_Amounts.htm

8 State of California Employment Development Department. (2014). *State Disability Insurance – Quick Statistics: Paid Family Leave Claims Filed*. Retrieved 4 February 2015, from http://www.edd.ca.gov/About_EDD/Quick_Statistics.htm (Data are through December 2014.)

9 N.J. Stat. §§ 43:21-27(k).(o), 43:21-39(b)(2).

10 State of New Jersey Department of Labor and Workforce Development Office of Research and Information. (2014, December). *Costs to the Worker*. Retrieved 4 February 2015, from http://lwd.state.nj.us/labor/fli/content/cost.html

11 State of New Jersey Department of Labor and Workforce Development. (2015). *Calculating Benefit Amounts - State Plan*. Retrieved 2 February 2015, from http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_calculating_bene_amounts.html

12 State of New Jersey Department of Labor and Workforce Development. (2009-2014). *Family Leave Program Statistics*. Retrieved 4 February 2015, from http://lwd.dol.state.nj.us/labor/fli/content/fli_program_stats.html (Unpublished calculation; Data are through December 2014.)

13 R.I. Gen. Laws §28–41-35(f) et seq.

14 State of Rhode Island Department of Labor and Training. (2014). *Temporary Disability Insurance/Temporary Caregiver Insurance*. Retrieved 4 February 2015, from http://www.dlt.ri.gov/tdi/

15 State of Rhode Island Department of Labor and Training. (2014). *Temporary Disability Insurance/Temporary Caregiver Insurance, Frequently Asked Question*. Retrieved 4 February 2015, from http://www.dlt.ri.gov/tdi/tdifaqs.htm Average claim amount is as of December 2014.

16 Figures provided to the National Partnership by the Rhode Island Department of Labor and Training. Rhode Island Department of Labor and Training. (n.d.). *Monthly Update: Temporary Disability Insurance Program: January to December 2014*.

17 California's workforce is more than three times the size of New Jersey's and Rhode Island's workforces combined. Using the year ending each program's first year of implementation as a marker, there were 17.2 million people in California's workforce in 2005, New Jersey had a workforce population of 4.6 million in 2010, and Rhode Island had a workforce population of 570,382 in 2013.

18 These percentages are used to compare the proportions of claims relative to the state workforce population within that state for the given year. Note that the total number of claims are defined here as claims eligible to receive benefits rather than the total number of claims filed. In the case of New Jersey, total number of claims are the claims eligible to receive benefits and have gender and claim type information available.

19 Firestein, N., O'Leary, A., & Savitsky, Z. (2011). *A Guide to Implementing Paid Family Leave: Lessons from California*. Labor Project for Working Families and Berkeley Center for Health, Economic & Family Security Publication. Retrieved 4 February 2015, from http://paidfamilyleave.org/pdf/pfl_guide.pdf

20 Ibid.

21 Ibid.

22 See note 19.

23 California Legislative Analyst's Office. (2014, August). *Supplemental Report of the 2014-15 Budget Package* (p. 22). Retrieved 4 February 2015, from http://www.lao.ca.gov/reports/2014/supplemental/2014-15-supplemental-report.pdf

24 DiCamillo, M., & Field, M. (2015, January). *Just 36% of Voters Aware of State's Paid Family Leave Program*. Release #2494. Field Research Corporation and California Center for Research on Women and Families. Retrieved 4 February 2015, from http://www.field.com/fieldpollonline/subscribers/Rls2494.pdf

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28 California had a higher rate of women who gave birth in 2004 (6.94 percent of all females 16 years and over in the labor force), compared to women who gave birth in New Jersey in 2008 (5.01 percent), and women who gave birth in Rhode Island in 2012 (4.23 percent). Taking this into account, there are still differences in men's program participation rates across the three states, with men in Rhode Island filing a higher share of bonding claims than men in California or New Jersey.

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at www.NationalPartnership.org.

Testimony of Heather Boushey,
Executive Director and Chief Economist, Washington Center for Equitable Growth
Committee of The Whole,
Council of the District of Columbia
on the Universal Paid Leave Act of 2015 (Bill 21-415)

Thursday, January 14, 2016

Thank you, Chairman Mendelson, for calling this hearing. And thank you to the DC Council for extending an invitation to speak to you today. I am honored to be here.

My name is Heather Boushey and I am Executive Director and Chief Economist at the Washington Center for Equitable Growth. We seek to accelerate cutting-edge analysis into whether and how structural changes in the U.S. economy, particularly related to economic inequality, affect economic growth.

I am also the author of a forthcoming book from Harvard University Press, *Finding Time: The Economics of Work-Life Conflict*, where I go into great detail on the need for policies such as the Universal Paid Leave Act of 2015. What I've learned through my research is that the economic evidence points in one direction: Smoothing and securing people's participation in the economy is good for families, good for firms, and good for the economy. Family and medical leave insurance would help all DC workers be less economically vulnerable when balancing work, illness, and family care.

I recognize that there are some added costs for businesses when implementing paid family leave—most importantly, the expenses incurred when coping with an employee's absence. However, the cost of coping with an employee's absence is not new to businesses in the District of Columbia since the District of Columbia Family and Medical Leave Act of 1990 already grants employees 16 weeks of family leave and 16 weeks of medical leave within any 24-month period. The additional step of universal paid leave will enable workers to meet the needs of their families and of the firms they work for in better and more productive ways. This will help make the District of Columbia more—not less—economically competitive and broadly benefit families.

I will make four points in my testimony today:

1. Paid family leave is a necessary policy for modern families.
2. Family economic security is important for our overall economic strength and stability.
3. Localities—like the District of Columbia—should consider action because neither private employers nor federal policymakers have thus far addressed this urgent economic issue.
4. There are models from three states that have led the way that show paid family leave is good for the economy.

Paid family leave is a necessary policy for modern families

The majority of families do not have a stay-at-home parent to provide care for children or for ailing family members.[1] At the top of the income ladder, families are more often comprised of two earners, while at the bottom, they typically have one earner, often someone playing the dual role of sole earner and sole caretaker/parent. Among children, 71 percent live in a family with either two working parents or a single working parent, and the percentage of adult children providing care for a parent has tripled over the past 15 years.[2] Among workers who were employed at some time while caregiving, one in five reported that they took a leave of absence from work in order to address caregiving responsibilities.[3]

Because of the changes in how families interact with the economy, when a new child comes into the family, when a family member is seriously ill, or when a worker himself is ill, an employee needs a few weeks or more to be at home. Most families no longer can rely on a stay-at-home caregiver to provide this care, and firms cannot assume that families have someone at home. Instead, employees must negotiate time off with their employer. The District of Columbia was at the forefront of addressing the need to better balance family care and work responsibilities when it established the right to 16 weeks of unpaid leave in 1990.

However, for many low-, moderate-, and even high-income families, unpaid leave is nice, but unaffordable. The loss of income—even for just a few months—can cause a serious economic pinch for most families. Most families' savings will cover barely a few months' expenses.[4] Families must have the money to pay the rent or mortgage and put food on the table (and pay the utility bill, the health insurance copayments, and everything else), which is possible only with a regular paycheck, or at least a portion of it. This leads many to refuse unpaid leave, even when it would help them and their families address their care needs. According to a recent survey by the U.S. Department of Labor and Abt Associates, 46 percent of those who need leave but don't take it cited an inability to afford the time off.[5]

Paid family leave addresses a key conflict caused by the lack of a full-time, stay-at-home caregiver and keeps caregivers in the workforce. Over the past 40 years, this added employment of women has been responsible for much of the gains in family income across the income distribution. From 1979 to 2007, low-income women were responsible for all of the growth in their family income. Their earnings as a source of total family income increased by 156 percent, which more than made up for the 33 percent decrease in men's contribution during the time.[6] Families cannot afford to go back to having a stay-at-home caregiver.

Family economic security is important for our overall economic strength and stability

The economy is a system in which both firms and families matter. Each is a key player in our economy. Families buy goods and services from firms and, in turn, supply firms with workers by selling time. Firms buy people's labor, or time, to produce goods and services, which they then sell to families, completing the cycle.

However, where the very purpose of a firm is to engage in the economy, the purpose of families is both economic and non-economic. Families are where we raise children and care for one

another. These roles may be subjectively more important to family members than their role in the economy, which raises the importance policies such as paid family leave play in our economy.

In order to see how paid family leave will affect the DC economy, we need to look at all kinds of costs and benefits. Costs include all the hidden costs that may be hard to see. Costs aren't only what firms pay out of pocket, and benefits aren't only about more money. We also need to look at the long-term effects. Upfront costs might be obvious, but benefits may take a while to show up, especially those that affect productivity.

Policies that keep good people in their jobs save firms money. Sociologist Sarah Jane Glynn and I conducted a review of the literature on the cost of job turnover and found that up and down the pay ladder, businesses spend about one-fifth of a worker's salary to replace that worker. Among jobs that pay $30,000 or less, the typical cost of turnover was about 16 percent of the employee's annual pay, only slightly below the 19 percent across all jobs paying less than $75,000 a year.[7]

Paid family leave improves wages and earnings for caregivers. In my research, I found that women who had access to paid leave when they had their first child had wages years later that were 9 percent higher than similar women who had not had access to paid leave.[8] Other researchers have found that women who had access to job-protected maternity leave were more likely to return to their original employer. This reduced the gap in pay that mothers experience relative to nonmothers. The Rutgers University Center for Women and Work found that working mothers who took paid family leave for 30 days or more for the birth of their child are 54 percent more likely to report wage increases in the year following their child's birth, relative to mothers who did not take leave.[9]

Economists find that the lack of paid family leave is one reason that the United States ranks 17th out of 22 OECD countries in female labor force participation. In one recent study, Cornell University economists Francine D. Blau and Lawrence M. Kahn found that the failure to keep up with other nations and adopt family-friendly policies such as parental leave is a reason for this lack of employment.[10]

A lower employment rate for caregivers has dramatic economic consequences. In my work with Eileen Appelbaum and John Schmitt, we estimated that, between 1979 and 2012, the greater hours of work by women accounted for 11 percent of the growth in gross domestic product. In today's dollars, had women not worked more, families would have spent at least $1.7 trillion less on goods and services—roughly equivalent to the combined U.S. spending on Social Security, Medicare, and Medicaid in 2012.[11]

The economic effects of paid leave are also important for families caring for an elder. According to the Bureau of Labor Statistics, about one in six Americans (16 percent) cares for an elder for an average of 3.2 hours a day. Most unpaid family caregivers—63 percent—also hold down a job; most of those with a job are employed full time.[12] The National Alliance for Caregiving's 2015 survey found that among those caring for an aging or ailing loved one, 61 percent reported that this negatively affected their paying job, because they needed leaves of absence, had to reduce their work hours, or received performance warnings. The survey also found that 38 percent of caregivers reported feeling high stress.[13] This means that the "family" part of family

and medical leave is important for large swaths of the U.S. workforce. This is especially true since, unlike in other countries, few elders receive support from government—about 6.4 percent of seniors are in long-term care in the United States compared with 12.7 percent across other developed economies.[14]

Because paid family leave protects families from suffering financial setbacks when working, parents are not forced to take unpaid leave or exit the labor force entirely in order to provide care for their children. This can reduce long-term costs for state and local governments. Researchers from Rutgers University's Center for Women and Work found that paid family and medical leave reduced the number of women who relied on public assistance. In the year after they had their child, women who took paid leave were 39 percent less likely to receive public assistance, like TANF, compared with mothers who did not take leave but returned to work. They were also 40 percent less likely to receive food stamp income in the year following a child's birth.[15]

Paid family leave improves a family's ability to care for the next generation. The economists Raquel Bernal and Anna Fruttero explain that paid parental leave can increase a child's average human capital as parents use their leave to spend time with their new baby, which, as research indicates, increases a child's future skill level. Parental leave also enhances children's health and development and is associated with increases in the duration of breastfeeding and reductions in infant deaths and later behavioral issues. Similarly, returning to work later is associated with reductions in depressive symptoms among mothers.[16]

Localities—like the District of Columbia—should consider action because neither private employers nor federal policymakers have thus far addressed this urgent economic issue

Private employers do not typically provide paid family leave. A paid family leave program covers only about 13 percent of employees. There are a number of high-profile exceptions, such as Google, which now provides 18 weeks of paid maternity leave and 12 weeks of paid paternity leave for its employees, but they are rare.[17]

When firms do provide leave, they often only give it to their higher-paid employees. Only 5 percent of workers in the bottom quarter of earners have paid family and medical leave through their employer, compared with 21 percent in the top quarter. The trends look similar across educational categories. Unlike pensions and health insurance, uniform leave policies are not mandatory. Low-income families are least likely to be able to afford paid help to care for loved ones, so this lack of leave can quickly lead to an exit from employment or a sharp reduction in family spending.[18]

There is no federal guarantee of paid family leave. In the absence of federal action, there is an opportunity for states and localities to develop programs and policies that provide this increasingly critical piece of help to working families. The United States is the only advanced industrialized nation without a federal law providing workers access to paid maternity leave, and one of only a handful of nations that does not offer broader family and medical leave insurance. In fact, among OECD countries, mothers are, on average, entitled to 17 weeks of paid maternity leave around childbirth alone, so the DC proposal is modest.[19]

Three states—California in 2002, New Jersey in 2008, and Rhode Island in 2013—provide a model for this kind of program. In these states, paid caregiver leave for new parents and workers who need to care for a seriously ill family member was an expansion to their longstanding statewide temporary disability insurance programs. Benefits are for six weeks in California and New Jersey, four weeks in Rhode Island, and typically cover about half or more of an employee's pay, capped at around what the typical, or median, worker earns in a week. Benefits in those states are paid for through an employee payroll deduction for family leave, though the New Jersey temporary disability insurance plan, the most expensive portion of their paid leave program, is two-thirds employer funded.

In the current bill, DC employers pay the insurance premium for paid leave, which makes it different than in these three states. This is due to the unique nature of our city's ability to tax. However, like in the three states, the program spreads the costs of leave through an insurance pool. While the tax is on employers, economic research tells us that they will pass on this additional cost to either consumers, through minimal price increases, or to employees through nominal salary adjustments over time.

Paid family leave is good for the economy

Research on the effects of paid leave policies finds that leave periods up to a reasonable length of time is positive for employment outcomes, and those positive employment outcomes are consequently beneficial to the entire economy. In an extensive survey of employers and employees, the sociologist Ruth Milkman and the economist Eileen Appelbaum found that in California, the overwhelming majority of employers—9 out of 10—reported that the paid family leave program has had either no effect or positive effects on profitability or performance. Further, the researchers found that 9 out of 10 employers (87 percent) reported no increase in their costs.[20]

Some might also argue that paid leave is bad for business because it hurts their bottom line. The truth of the matter is that this argument fails to consider the opportunity costs of not providing paid leave, the costs that businesses here in the District and around the United States face currently. Further, a standard that provides workers with paid leave that is funded in a fair, administratively effective way levels the playing field and gives all businesses the ability to compete for talent, not just those that are large and can treat paid leave as a perk rather than a right.

Paid family and medical leave fosters economic security—boosting local demand—by making it possible to sell time in a way that works for families. After California implemented paid family leave, researchers found workers, especially low-wage workers, who took paid family leave through the state program were more likely than those who did not to transition back into their job and remain in the labor force. Among workers in low-paying jobs, 88.7 percent of those who used the leave returned to their jobs, compared with 81.2 percent of those who did not use the leave. The economist Tanya Byker found that the paid family and medical leave programs in California and New Jersey increased the number of mothers in the labor force around the time

when they had a child. This was particularly the case for women without a college degree. Similarly, access to family leave to care for an elder can keep people in the workforce.[21]

Paid family leave helps close the gender pay gap because it gives both men and women time to care for their families, boosting family incomes. The percentage of leave taken by men in California has increased since the institution of the state's paid leave program. Men's share of parent-bonding family leave—as a percentage of all parent-bonding family leave claims—increased from 17 percent in the period from 2004 to 2005 to 30.2 percent in the period from 2011 to 2012. In addition, men in California are taking longer leaves than they did before family and medical leave insurance was available.[22]

Conclusion

As a District resident, I am proud that the DC Council is considering legislation that would help not only families across the income spectrum, but our entire economy. Families living in the District and considering moving here are different from those decades ago. They don't often have the luxury of having a parent who doesn't have to work, but they still have to deal with the challenges of welcoming a new baby or caring for an aging spouse or parent. And helping these families stay connected to the workforce helps businesses retain quality employees and keep people who otherwise might drop out connected to the workforce. That means these families can still spend time shopping at DC stores and paying income taxes, rather than cutting their budgets or relying on public assistance. We know from experience in states that have implemented paid leave that these changes are benefiting both workers and businesses. I, again, am honored to be here testifying about the Universal Paid Leave Act of 2015, and I thank you for the opportunity.

Allow me to restate two key points from my testimony. First, with an added cost per employee, it is less important whether the employer or the employee pays the bill. In the end, the cost will in all likelihood be passed onto employees through either changes in nominal pay over time or a marginal addition to consumer prices.

Second, the key economic point is that having families with working caregivers isn't just nice, it's an economic imperative for families and for our economy more generally. This is the kind of policy that keeps people in the workforce and sustains family income. This will, in turn, sustain consumer buying power, boost local tax revenues, and lower government expenditures on programs to support the unemployed and caregivers who have trouble addressing conflicts between work and life.

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Sarah Jane Glynn
Center for American Progress
Testimony before the District of Columbia City Council
Regarding the Universal Paid Leave Act of 2015, B21-415
January 14, 2016

Introduction

Good afternoon and thank you for the invitation to participate in today's hearing on Bill 21-415, the "Universal Paid Leave Act of 2015." My name is Sarah Jane Glynn, and I am Director of Women's Economic Policy at the Center for American Progress. The Center is an independent, nonpartisan policy institute that is dedicated to improving the lives of all Americans, through bold, progressive ideas, as well as strong leadership and concerted action. My primary role at CAP is to conduct research and policy development on economic issues that disproportionately impact women and their families – which includes but is not limited to paid family and medical leave (PFML). In this capacity I have researched options for paid leave implementation at both the state and federal level, and am currently working with several different states and municipalities to help determine best practices for designing and implementing paid family and medical leave programs.

Unfortunately, the United States is the only advanced economy—in fact, one of only a few countries in the world—that does not guarantee mothers the right to paid maternity leave. And, the United States is one of only a handful of wealthy countries that also does not extend the right to paid parental leave to fathers, workers with other family caregiving responsibilities, or workers who experience a short-term disability. In short, the United States is an extreme outlier among all comparable economies because its national policies do not guarantee the right to any form of paid leave from work for any reason.

Because of the lack of a national policy, access to paid leave in the U.S. is very uneven. Certain types of workers —primarily, those in high-paying professional jobs—are much more likely to have access to paid leave compared with other workers. Nationally, only 12 percent of the private sector has access to paid family leave, and only 40 percent has temporary disability insurance offered through their jobs. Furthermore, the workers who are least able to afford time off without pay also are far more likely not to have access to paid leave: High-income workers are more than five times as likely to have access to paid family leave compared with low-income workers. This disparity means that too many families have to put their economic security at risk when they face family caregiving responsibilities. Moreover, because women are often expected to handle caregiving for their families, they are disproportionately forced to make difficult choices about how to ensure they or their families get the care they need.

But the reality is that most workers – regardless of their income – will find themselves needing time off at some point during their working lives, either to address their own health needs, to care for a seriously ill family member, or to care for a new baby. The vast majority of these workers will be on their own to figure out how to respond without putting themselves, their families, or

their jobs at risk. It is both surprising and disappointing that the United States has not yet found a way to address workers' needs for paid leave, particularly given the fact that every other advanced economy in the world has been able to do so, and many states and cities across the country are finding innovative ways to take action in support of working families.

Indeed, while our national policies may lag behind the rest of the developed world, individual states have been active in challenging the status quo and extending the right to paid leave to their workers. Currently, five states have temporary disability insurance, or TDI, programs that provide wage replacement to workers when they cannot work due to a serious illness or injury incurred outside the workplace. California, New York, New Jersey, and Rhode Island implemented state TDI programs in the 1940s, while Hawaii's law was passed in 1969. The five state TDI programs were the only form of wage replacement available to workers who were temporarily unable to work throughout the rest of 20th century, until California passed a paid family leave policy in 2003. Implemented in 2004, California's policy extended its TDI program beyond wage replacement for illness or injury and offered benefits to workers who needed time off to care for a new child or to provide care to a seriously ill or injured family member. New Jersey and Rhode Island followed suit, adding family care to their already existing TDI programs.

The expansion of temporary disability insurance to include paid family leave was an important step in California, New Jersey, and Rhode Island to help address the needs of working families, and establish workplace standards to help create a level playing field for all workers and bring workers' rights closer in line to the International Labour Organization's global standards. The programs in these states—and their positive effects on the states' workers, employers, and economies, much of which you will hear about today from some of my esteemed colleagues—highlight the viability and importance of paid family leave and temporary disability insurance.

Program Administration and the Goals of a Paid Leave Program

The larger social goals for a PFML program must be woven explicitly into the program's structure, rules, and requirements. In the context of the U.S. economy, three goals should be kept in mind when crafting any PFML program: reducing inequality; promoting both short- and long-term economic security; and promoting greater gender equity at work and at home.

Reduce inequality

Currently, access to paid family leave in the United States is highly unequal: Only 12 percent of private-sector workers have access to paid family leave, and only 40 percent have temporary disability insurance provided through their employers. Workers with earnings in the top 10 percent are more than five times as likely to have access to paid family leave and temporary disability as those in the lowest 10 percent. Although highly paid professional workers are the most likely to have access to paid leave, all workers are equally likely to experience the need for leave, either to care for themselves or for a family member, at some point in their working lives. This is why a program must offer all workers an equal opportunity to access leave. The program should have eligibility rules that ensure that all, or nearly all, workers can qualify for paid leave when they need it.

Build and maintain family economic security

A PFML program should help promote families' economic security in both the short and the long term. Promoting short-term economic security requires a leave program to provide a level of wage replacement that is sufficient to meet a family's needs without disincentivizing work. Benefit calculations should be progressive enough to facilitate usage by low-wage workers and generous enough to encourage participation, while reasonable caps can be put in place to ensure that the overall costs of the program are not too high. The program should also promote long-term economic security by supporting continued labor force participation by both men and women throughout the course of their adult lives. Current estimates are that women lose $274,044 and men lose $233,716 in total lifetime earnings and Social Security benefits as a result of leaving the workforce in order to provide family care. Paid family leave, however, has been shown to have a particularly strong effect on women's labor force participation rates both in the United States and abroad: Access to paid maternity leave has been explicitly linked to mothers' faster returns to work and an increased likelihood of returning to the same job with the same employer. Only very lengthy maternity leave policies have been linked to lower rates of women's employment: This effect is seen primarily in countries that offer more than 12 months of leave.

Promote gender equity

Finally, a PFML program should be intended to help promote gender equity within workplaces and families. When men take family leave, they are more engaged in providing care for their children, an effect that persists even after they return to work, resulting in greater gender parity within families. Providing men with greater access to leave also reduces the stigma around leave-taking, an activity that is currently associated more heavily with working women. And data from other countries and U.S. state programs show that wage replacement increases men's leave-taking behavior. Facilitating women's return to work and promoting men's leave-taking will also help equalize the work histories of men and women, given that women are currently more likely to take extended spells away from work than men. Closing the gap in women's and men's levels of job experience would help narrow the gender wage gap by more than 10 percent.

Overarching principles

In order to effectively meet all of these goals when implemented, any PFML program should be structured in order to:

- Be broadly available to all workers
- Cover a comprehensive list of serious medical and family needs
- Provide adequate wage replacement
- Be inclusive of diverse families and their care responsibilities
- Be available to workers without fear of negative employment consequences
- Be affordable and cost effective for those administering and participating in the program

The DC bill meets all of these criteria by ensuring universal coverage, covering an inclusive set of caregiving and medical needs, offering a high level of wage replacement, recognizing the wide-variety of family arrangements in the District, ensuring that leave-takers would not need to fear adverse employment consequences, and being structured in a way to minimize unnecessary costs.

In my testimony I will specifically address issues related to paid family and medical leave program administration. While some of the aspects of program administration that I will address are not written directly into the legislation and would need to be determined during the regulatory process, there are best practices from other programs that can, and should, be utilized when crafting a paid family and medical leave program.

Paid family and medical leave program administration

A paid family and medical leave program must have the ability to meet a basic set of criteria in order to function in an effective and efficient manner. This includes being able to:

- Determine whether the leave-taker meets the program eligibility requirements and whether an application for leave is valid. This includes both the ability to make determinations on whether the worker's condition—medical, parental, or caregiving—qualifies him or her for leave and the ability to process the appropriate application materials.
- Determine the amount of the paid leave benefit.
- Process payment information and disperse funds in a timely manner to eligible leave-takers.
- Have the capacity to address appeals in a timely and efficient manner.
- Coordinate with existing employer-provided benefits to avoid overpayments or duplicative benefits.
- Operate in the most efficient and cost-effective way possible, in order to ensure low overhead.

Eligibility Determinations. The first and most basic task of a paid leave program is to determine whether or not an individual applicant is eligible for leave. Program eligibility is based on two overlapping criteria: first, does the individual meet the eligibility requirements in order to gain access to the program, and second, have they experienced a qualifying experience that would trigger access to paid leave? The first function, determining whether an individual applicant meets the program eligibility requirements, is a relatively straightforward determination to be made by the administering agency based on the available government data. In the case of the proposed DC program, this would involve verifying that the leave-applicant is a resident of the District and/or is employed by a covered employer in the District. The second function, establishing whether or not a qualifying condition has occurred, requires a more detailed process. But, understanding how determinations are made in other state programs may help to assuage some of the concerns that have been raised in the context of the proposed DC program.

Making a determination about a qualifying leave episode includes two complimentary components: verifying that a qualifying condition has occurred, and determining the appropriate length of leave for the particular qualifying condition. Making determinations regarding parental leave is relatively uncomplicated because verifying the birth or adoption of a child and parentage is usually very straightforward. In the case of parental leave, qualifying individuals would be automatically eligible for up to 16 weeks of leave. Based on how such programs have operated at the state level, it is unlikely that all program participants would use the full 16 weeks. The available data on program participation in California, New Jersey, and Rhode Island shows that the average length of parental leave is below the maximum threshold permitted in each state. For example, while California provides up to 52 weeks of temporary disability leave to workers, the

average claim is less than the 16 weeks being proposed for the District.[i] The same is true for California's paid family leave program, and for the other state programs.[ii] Further, parental leaves only make up about 25% of all leaves taken in California, New Jersey, and Rhode Island. Although it is difficult to make a perfect assessment of usage in the District of Columbia, the fact that the city has the lowest total fertility rate in the nation[iii] may suggest that most mothers in the District, the group that is most likely to take the full length of time made available through the proposed program, would only be eligible for parental leave once or twice in her lifetime.

In the case of medical or family caregiving leave, the determination process typically involves a more detailed review to assess eligibility. The existing state paid leave programs provide a useful roadmap by demonstrating how programs can develop a straightforward yet rigorous process to ensure that leave is made available only to those with a legitimate need and for an appropriate length of time. For example, when a worker applies for temporary disability leave in Rhode Island their medical provider must submit medical documentation, which contains an ICD code. The ICD is the International Statistical Classification of Diseases and Related Health Problems, a classification system which provides detailed information on medical conditions including the severity of the illness. The information provided by an applicant's medical provider is then crosschecked against the Official Disability Guideline, or ODG, which includes information on anticipated recovery times. The same process is in place for claimants applying to take family caregiving leave. In other words, workers cannot simply claim they need extended medical leave of 16 weeks for themselves or caregiving leave for a seriously ill family member – they must provide documentation from a qualifying medical provider that is rigorously reviewed against existing classification systems and guidelines. Such measures have been used successfully to minimize the potential for fraud or extended, "unnecessary" leaves.

It is worth noting that the medical documentation necessary to receive paid temporary disability leave or family caregiving leave under the existing state programs is far more detailed than the medical documentation required under both the federal FMLA and DCFMLA. Workers are not required to make their personal medical history and detailed diagnoses available to their employers when filing for FMLA leave because of worker privacy considerations. However, government-run paid leave programs are permitted to require more detailed medical information for purposes of permitting access to the program. Although this detailed medical information is not shared with the leave-taker's employer, these more rigorous program requirements helps reduce even further the low risk of abuse and concerns about potential misuse expressed at the last hearing.

Program Infrastructure. To build out the infrastructure for a paid family and medical leave program in the District of Columbia, there are a number of lessons that can be learned from other states, as well as already existing efficiencies within the DC government that can be built upon. First and important to understand as a threshold matter is that the absence of a temporary disability insurance program, such as those in California, New Jersey, and Rhode Island, is not an impediment to establishing a cost-effective and efficient system for evaluating claims and administering benefits. Even though the exact agency home and administration of the proposed program in DC still needs to be determined, either legislatively or through the regulatory process, there are already existing governmental functions that could serve as templates for a new benefit program. For example, both the Department of Employment Services and the Office of Tax and

Revenue hold individual level data on the employment and earnings of those who live or work in the District. Similarly, the DOES's Office of Workers' Compensation has experience processing medical claims, while the Compensation Review Board has experience and protocols in place to address appeals process. And both the Office of Workers' Compensation and the Unemployment Compensation Program have the ability to process short-term benefit payments.

In terms of costs, the exact start-up costs necessary for DC to establish a paid family and medical leave program will be dependent upon the administering agency and the application processes and IT infrastructure, among other factors. These exact costs can be calculated and assessed based on careful analysis in anticipation of or as part of the regulatory process. Start-up costs and the initial population of the trust fund can be funded through government investments or by building in a "buffer" between the date when taxes begin being collected and the first available leave period.

The ongoing administrative costs associated with administering a paid family and medical leave program can also differ depending on the exact nature of the program structure. However, in the existing state paid family leave and temporary disability insurance programs, administrative costs represent less than 5 percent of total benefit payments. As a point of comparison, Medicare's total administrative costs are estimated at 5.2 percent, while private health insurance firms report overhead of around 12 percent. Building upon the existing programs and processes at the Department of Employment Services and the Office of Tax and Revenue would allow the District to maintain low administrative costs while still ensuring that vital functions such as fraud prevention and a robust appeals process are in place.

An effective program will include a process to ensure that government benefits are appropriately coordinated with employer-provided leave benefits. In the same way that an individual cannot receive unemployment insurance benefits after they start working at a new job, individuals should not be able to "double-dip" and receive government provided paid leave benefits if they are still working or are receiving paid leave benefits from their employer. While the exact processes look slightly different, in both California and Rhode Island the paid leave administering agencies coordinate benefits with employers to ensure that workers are not being overpaid. Rhode Island, for example, provides financial statements to leave-takers detailing the length of leave they are eligible for and their benefit level. Rhode Island provides 2/3 wage replacement through their leave programs up to a cap of $795 per week, some employers chose to "top off" the benefit payments to bring their workers up to 100 percent wage replacement. In these instances leave-takers can share their official financial statement with their employer in order to make the appropriate payroll adjustments. California has similar processes in place, and employers can directly contact the Employment Development Department which administers paid family leave and temporary disability insurance in order to correctly coordinate their own policies with the state program. Because the DC program would provide 100 percent wage replacement, it is especially important to ensure that program administration would be coordinated with employer benefits, using other state experiences as a template. This has the potential to create considerable cost-savings for employers who currently self-fund their own temporary disability or paid family leave plans.

The potential for cost-savings is one of the many reasons why the Center for American Progress supports public policy interventions to provide paid family and medical leave, such as DC's

Universal Paid Leave Act. I consider myself lucky to work for an employer that provides generous paid leave benefits to cover temporary disabilities and family leave, all of which are voluntarily provided and currently self-funded. But while I know that my bosses consider me a valuable employee, the reason I have access to temporary disability and paid family leave is not just because it is a nice gesture, but because it makes economic sense to do so. Proposals such as the Universal Paid Leave Act would present potential cost-savings to CAP and to employers who offer similar benefits. And the development of a social insurance paid leave program would allow small businesses the ability to provide paid leave benefits to their workers at a fraction of the cost, helping them to remain competitive when recruiting workers.

I appreciate having the opportunity to be here today, and to address the Members of the Council on this important issue. I fully recognize the significance of addressing the need for paid family and medical leave not only as a researcher dedicated to this issue, but also as a Ward 5 resident who hopes to be able to continue living and working in the District. Thank you for your time today, and I look forward to answering any additional questions you may have.

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[i] State of California Employment Development Department, "State Disability Insurance (SDI) Statistical Information," available at http://www.edd.ca.gov/Disability/pdf/qsdi_DI_Program_Statistics.pdf (last accessed January 2016).

[ii] State of California Employment Development Department, "State Disability Insurance (SDI) Statistical Information," available at http://www.edd.ca.gov/Disability/pdf/qspfl_PFL_Program_Statistics.pdf (last accessed January 2016); New Jersey Department of Labor and Workforce Development, "Temporary Disability Insurance Workload in 2014 Summary Report," available at http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/TDI%20Report%20for%202014.pdf (last accessed January 2016).

[iii] Brady E. Hamilton et al, "Births: Final Data for 2014," (Atlanta, GA: Centers for Disease Control and Prevention, National Center for Health Statistics, 2015) available at http://www.cdc.gov/nchs/data/nvsr/nvsr64/nvsr64_12.pdf (last accessed January 2016).

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Comments on the D.C. Family Leave Tax Proposal

Joseph Henchman
Vice President of State Projects, Tax Foundation

Testimony to the Council of the District of Columbia, Committee of the Whole

January 14, 2016

Chairman Mendelson and members of the Committee:

My name is Joseph Henchman, and I'm vice president at the Tax Foundation, which is a non-profit organization based here in the city. I wear two hats at the Tax Foundation, one as a policy expert who testifies on state tax issues all over the country, and one as our COO in charge of hiring and internal budgeting, so those things bring me here today. I participate in a roundtable of other operations and HR people from D.C.-based think tanks and organizations across the political spectrum, where we discuss common issues. I should also say that I am a Ward 5 resident and that 50 percent of Tax Foundation staff are D.C. residents. We can be anywhere but we like being here.

By all accounts, the Council is determined to take the time to do this right, and I thank you for that. I'm hopeful my perspective helps you get there.

Summary of Universal Paid Leave Proposal

- Establishes a universal paid leave program for (1) all D.C. residents, (2) individuals who work more than 50% in D.C.; (3) individuals employed by D.C. employers who do not spend 50% or more of their working time in another state; and (4) self-employed residents of D.C. who do not opt out of the program. There is no exception for small employers, non-profit employers, or employers who already have paid leave programs. Individuals (except self-employed) are also prohibited from opting out of the system.

- Eligible individuals would be entitled to take up to 16 weeks of paid leave for self-care, to care for a family member, or to care for a new child. Recipients technically face a waiting period, with the first 5 days of leave not eligible for benefits, but if the leave period exceeds 5 days, those first 5 days are paid retroactively. Unlike systems in other jurisdictions, pay is matched 100 percent with no co-payment required. Eligible beneficiaries will receive up to $1,000 per week, plus 50% of average wages above that amount up to $3,000 per week. Partial weeks are prorated, and leave may be taken intermittently.

- The proposal would impose a 1 percent tax on the payroll of each covered employee, collected and paid by the employer. Federal employees, self-employed individuals, and D.C. residents working for an out-of-state employer would pay the tax directly. Once the fund reaches a solvent level, the tax then becomes a sliding scale tax, with rates of 0 percent of individual salaries up to $9,999; 0.5 percent on salaries between $10,000 and $19,999; 0.6 percent on salaries between $20,000 and $49,999; 0.8 percent on salaries between $50,000 and $149,999; and 1 percent on salaries of $150,000 and over.

- Covered employers must give notice of the paid leave benefit at hiring, annually thereafter, and "at the time the covered employer is aware that the leave is needed," or be fined $100 for each employee. Employers must also post a written notice in the workplace or be fined $100 for each day that the notice is not posted.

- An administrative process is established to process claims, adjudicate eligibility, and hear appeals. Employees may also file civil actions. Employers found guilty of committing a violation must pay compensation denied to the employee, interest, and reasonable attorney's fees and costs, *plus* the greater of (1) liquidated damages equal to the lost compensation or (2) triple damages plus any uncovered medical expenses. Employees who are paid benefits through fraud or error may be asked to repay the amounts received at the Mayor's discretion.

- The bill also expands the D.C. Family & Medical Leave Act, which guarantees unpaid leave up to 16 weeks per year for medical leave and 16 weeks every two years for family leave for employees who have worked for the employer for at least 12 months or for at least 1,000 hours in the past year. The bill changes this eligibility threshold to 6 months or 500 hours in the past year.

Comment One: Program costs will likely outstrip the revenue stream.

An individual earning the D.C. average income of $45,877 would thus pay a tax of $459 per year until the fund became solvent, and then a tax of $205 per year thereafter. The individual would be entitled to a paid leave benefit of $882 per week, or $14,116 if he or she takes the full 16 weeks. While the benefit level greatly exceeds the tax contribution of each person, it is not anticipated that all taxpayers will take advantage of the full benefit each year.

But it's worth noting that a D.C. average income earner will have collected more benefits than taxes paid after taking 2.6 days of paid family or medical leave per year. If average use is much more than that, a 1 percent tax rate will be insufficient. Given the lack of effective waiting period, the full 100% payment of lost wages, the lack of penalties for fraudulent or erroneous payments, and the structural incentive for employers to encourage use of the program, usage under this program is likely to

exceed the utilization of unpaid leave, and even the utilization of paid leave in other jurisdictions with similar programs.

Comment Two: Better program design options exist for paid leave.

I have written extensively on unemployment insurance programs, which are similar to this proposal in that both (1) impose payroll taxes on employees' wages that are (2) assessed at the employer level, to (3) fund a benefit of a certain amount (4) for a certain number of weeks (5) based on eligibility set and awarded by a government entity.[1]

Consequently, it's worth noting that this proposal does not include a number of features of unemployment insurance administration that have been adopted over the years in nearly every state to make the program workable and solvent:

- *Experience Rating*. Unemployment insurance balances (1) the goal of sharing the costs of unemployment among all employers with (2) not equalizing burdens among all employers, which would result in good employers effectively subsidizing all the costs of "bad apple" employers (those who frequently lay off employees). This is done most significantly by requiring employers who have a recent history of excessive layoffs to pay higher unemployment insurance tax rates, the "experience rating." This proposal imposes identical taxes on all employers regardless of how good or bad their paid leave policies are.

  The unintended consequence would be that employers who currently have good paid leave policies would effectively subsidize employers who do not, facing increased costs with no additional benefits. Employees who currently are able to ask their boss for time off might then only be able to get the benefit by going through the government administrative process (estimated at 10 days' time in the proposal).

- *Co-Payments or Deductibles*. Insurance programs often require a payment of some amount that must be paid by the beneficiary before the insurance pays out. For example, an insurance policy with a $1,000 deductible would require the beneficiary pay costs up to that amount in any claim. Co-payments and deductibles make people think twice about filing a minor claim, lowering overall costs and reducing unnecessary claim processing. They also ensure that beneficiaries do not rely entirely on the insurance program, taking actions to minimize or avoid out-of-pocket costs (moral hazard). For unemployment insurance, all states cap benefits at significantly below previous full salary; in most cases, the benefit is about 60 percent of previous full salary, with the average benefit around $300 per week. Here, with no benefit cap or waiting

[1] For the full paper on unemployment insurance program design options, visit http://goo.gl/nF5MWX.

period, there will be strong incentives to use the program unnecessarily or excessively beyond its designed purpose.

- *Verification Requirements.* The vast majority of states require unemployment insurance beneficiaries to conduct "work search" of a certain number of job contacts per week (usually 2-3). Verification cuts down on fraud and encourages recipients to avoid excessive use of benefits beyond the amount necessary. The paid leave proposal has no on-going verification requirements, with might include doctors' notes or confirmation of new births or sick relatives. These verifications may be unnecessary where there is strong employer-employee trust but this would be lost in a government-administered program. Additionally, the strong penalties on employers who in any way prevent an individual collecting benefits would make it unlikely that employers would alert officials about any excessive or non-essential use of the program.

- *Strong Anti-Fraud Measures.* All states have sizeable enforcement arms to root out unemployment insurance fraud, penalties on beneficiaries found guilty of fraud, and even tip lines to report fraudulent use. This proposal has excessively strong measures to punish employer violations but no measures to punish individuals who defraud the program beyond discretionary repayment of the benefits received. Even with these measures, anecdotal evidence suggests that excessive use of unemployment insurance benefits, beyond that required to transition between employment, is commonplace.

Additionally, the federal-state structure of unemployment insurance limits states' abilities to engage in a number of innovations that could improve program design. Some of these ideas could be incorporated for a paid leave structure:

- *Active case management to minimize benefit time.* Arizona assigned one-on-one counselors to facilitate benefit payments and helping the beneficiary solve issues while on benefits. The face-to-face sessions, rather than Internet- and phone-based contacts, improved the experience for beneficiaries and led to an estimated $14.94 savings in benefit costs for each $1 additional in administration costs.

- *Insurance options.* Workers' compensation programs pay an employee's lost income and medical expenses in any job-related accident. While many states have public funds for workers' compensation, employers in nearly all states can opt to purchase private insurance, self-insure, or group self-insure. This is in contrast to a single-provider model that would be inflexible for the wide variety of employment environments. An option would be to require all employers to demonstrate ability to provide family and medical leave benefits to eligible workers, either through self-funding, purchasing private insurance, setting up savings accounts for workers, or participating in a state fund.

- *Worker Savings Accounts*. Rather than collecting taxes and immediately paying the collected funds out in benefits, an option would be to require individuals to contribute to his or her account, with the mandatory saving stopping when a specified accumulated balance has been reached. Such a program would reduce the adverse incentive effects of unnecessary or excessive claims without any decrease in coverage. A 1998 paper by Daniel Altman and Martin Feldstein proposed various savings account alternatives for unemployment insurance, including a high-savings base (4 percent of earnings up to a cap of three times the average wage), low-savings base (4 percent of earnings up to a cap of the average wage), target account (accumulate until it reaches 50 percent of annual income), experienced-based target account (accumulate until it reaches 30 percent of annual wage plus all benefits received over the past two years), and experience rating component (combining any option above with a requirement that employers fund the first few weeks of benefits, to discourage creation of excessive employment). Accounts can be conservatively invested, and can operate in place of or alongside a state-run system.

Comment Three: Competitive Impact of 1%, 2%, and 3% Payroll Taxes

The D.C. government deserves great credit for a number of initiatives in the past several years that have improved quality of life, income, and competitiveness. We can't rest on our laurels, because there's always more to be done, but the record of each and every member of the Council shows a commitment to an economy that both works and works for everyone.

Balancing the costs of new programs and requirements with the economic productivity and growth needed to bear their cost is no easy science. One description I've always liked is that you can strain at the leash but you can't jerk it free and run off. I've testified in dozens of states in the last two years and in a lot of places they aren't able to discuss how to make the economy work for everyone because the economy in that state isn't working in the first place.

That's not the case here, and I don't play Chicken Little easily. The only real time I've done that is when I warned Kansas Governor Brownback not to cut taxes the way he did in 2012 or else a budget calamity would ensue. He didn't listen and I think I've been vindicated there. Mostly tax policy is about how you'll be a little better off or a little worse off with some change.

One tool we use to evaluate this is our *State Business Tax Climate Index*, which ranks the states on over 100 variables of tax policy. It's award-winning, widely-cited, and heavily used by experts and policymakers to evaluate policy. Not long ago, D.C. was ranked 45th of out of the 51 states, but has risen in recent years to 42nd as the first elements of the landmark D.C. tax reform package began taking effect, leapfrogging Ohio and Connecticut. As what you've already passed continues to take effect, we'll soon be able

to say D.C. is more tax competitive than Maryland, Georgia, and South Carolina, which will be huge.

We used our *Index* to model a payroll tax of 1% associated with this proposal, as well as 2% and 3% taxes that might be necessary to fully fund the paid leave program as outlined. We find that a 1% tax takes back about two-thirds of the tax competitiveness gains from the tax reform package (moving D.C. down to 44th), and a 2% tax takes back all of the gains (moving D.C. back to 45th). A tax higher than 3% would move D.C. below where it was before the tax reform package began taking effect (46th).

Tax Rate	Rank
Current	42nd of 51
+ 1%	44th of 51
+ 2%	45th of 51
+ 3%	45th of 51
+ 4%	46th of 51

Conclusion

As you consider this proposal alongside many others, the cumulative and tradeoff impacts on D.C.'s growing economic successes must be kept in mind. If we can provide any additional materials or answer any questions, please let us know.

Thank you.

January 14, 2016

TESTIMONY BEFORE CITY COUNCIL OF WASHINGTON DC ON PROSPECTIVE PAID LEAVE POLICY

Harry J. Holzer, McCourt School of Public Policy, Georgetown University

Thank you for inviting me today to speak to you about the likely economic effects of the Universal Paid Leave Act of 2015 (Bill no. B21-0415, which I will refer to below as "the Bill.")

As a former Chief Economist for the US Department of Labor (in the Clinton Administration), and as a labor economist who has spent an entire career focusing on the market for low-wage and low-skill workers, I am keenly aware of the current plight of these workers and their families. But any efforts to help them must consider likely costs as well as benefits, and the potential for unintended consequences of imposing regulations and mandates in competitive labor markets.

Like other speakers, I believe that generating more paid leave for American workers is vital to the health and well-being of female workers and their children, and can be done without harming employers. When implemented carefully, requiring paid leave can raise the work experience, earnings and labor force participation of mothers with small children; reduce the spread of illness at the workplace; improve the well-being of children by providing them with more parental time when they are young; and even reduce costly turnover for employers while improving performance among employees (which, in turn, help to offset the costs of providing paid leave).

Though many private employers choose to provide paid leave to their workers, there is no reason to believe that the private market on its own generates a socially optimal amount. A variety of "market failures" (such as imperfect information and rigid wages) can lead to a sub-optimal market provision of paid care; and these problems seem to especially limit access to paid leave among low-income workers and families, who arguably need it the most. So some publicly funded provision of such benefits, or even modest government mandates, are justified.

At this time, a number of states (including California, New Jersey and Rhode Island) require employers to provide 4-6 weeks of paid family leave, plus short-term disability leave, which is financed out of worker and/or employer contributions to temporary disability funds though their payroll taxes. In addition, the states of California and Connecticut plus several large cities (such as New York, San Francisco and Seattle) mandate paid sick leave to workers, mostly for 3-9 days per year. The research evidence to date in these cities and states shows clear benefits to female workers and their children with very few costs overall (and perhaps some benefits) to employers.[1]

I would, therefore, strongly support the implementation of somewhat similar policies in Washington DC. My preference would be that the federal government provide such leave, so states and cities wouldn't have to make such hard choices about costs that could impact their business environments relative to those of nearby competitor states. Unfortunately, given the

[1] These studies are well summarized in the report by the President's Council of Economic Advisers (2014). Additional strong studies of paid leave in California include Bartel et al. (2014 for family leave and Colla et al. (2014) for sick leave in San Francisco.

current political dysfunction of the federal government, it is inevitable that states and localities will have to confront these choices and make them on their own.

But the Bill in its current form goes *far beyond what is required or provided in any other city or state.* By providing 16 weeks of family leave and 16 weeks of temporary disability leave (perhaps 32 in all, depending on interpretations of the wording) on top of paid sick leave, and with full replacement of lost wages up to $1000/week (and 50% up to $3000), the bill would be much costlier here to employers and also employees than elsewhere. Because of this, the studies that I cite above on paid leave in other cities and states shed little light on the likely effects of this Bill. The DC business environment and labor market also differ from those in some important ways.[2]

Without any direct evidence, we must make our best, though uncertain, estimates of likely costs, and rely on economic reasoning to anticipate likely effects of the Bill for workers and employers.

In that vein, I have three sets of concerns about the Bill:

- It appears to be fiscally underfunded in its current form;
- It will impose serious costs on workers as well as businesses; and
- It will add to a cumulative burden of mandates and regulations recently imposed on employers in the District, relative to nearby jurisdictions such as Arlington VA, and

[2] Only California currently provides paid sick, family and temporary disability to its workers. Employers there may cap the amount of paid sick leave at 3 days per year.

will make DC a less attractive place over time to locate businesses or hire additional workers.

Underfunding of the Bill

It is very hard to measure the likely fiscal costs of providing these benefits, since we have so little evidence of their likely take-up rates among workers, and the durations of leaves of absence that workers will choose when they do so. All else equal, the more generous the benefits, the higher the likely take-up rates and durations will be, thus adding to the costs of financing them several ways. This is why we must be very careful when inferring such information from the apparent effects of the Federal Medical Leave Act (FMLA), where take-up was so modest because the mandates 12 weeks of leave (for employers of 50 or more workers) was unpaid, or even from other states that have been studied.

To estimate the likely costs of the Bill, I use data from a US Department of Labor study of FMLA (Klerman et al., 2012), which surveyed employees about their use of leaves under FMLA, and especially *why many did not take such leave, or took them for short time periods.* I use answers to these questions, plus informed judgments, to make a range of estimates described below.

To estimate the likely fiscal costs of providing benefits, we must be able to estimate:

- Take-up rates, given the generosity of the benefit;
- Likely durations of leaves;

- Different wage replacement rates among workers at different earnings levels; and
- Differential tax rates facing employers at different worker earnings levels.

An Appendix describes my calculations. My best, though uncertain, guess is that the fiscal costs of providing *the benefits of the Bill will be 3 percent or more of payroll per year, while the tax schedule imposed on employers will generate less than 1 percent of revenue per year*. Hence, the Bill appears to be quite severely underfunded in its current form.

Likely Costs to Workers and Businesses

Though the Bill clearly generates some important benefits to workers and their families, there will likely be hidden costs imposed on them as well, and also on employers.

While the Bill is financed by a tax directly paid by employers, economists for generations have argued that the true *incidence* of any such tax can be shifted onto workers, through lower wages/benefits paid or less hiring. The evidence from many studies strongly suggests that payroll taxes on employers are mostly shifted to their workers (e.g., Gruber, 2013).[3]

Low-wage workers in the District might be much less enthusiastic about such a policy if they were informed that it would mostly be financed out of their own paychecks. And employers hiring workers at or near the minimum wage – such as smaller employers in the retail and service sectors – may be unable to finance the benefits out of already low wages near the market floor, and hence might cut back a bit on hiring instead.

[3] Though Colla et al. (2014) generally find employer support for paid sick leave policy in San Francisco, they note that 39 percent of firms in their survey reduced other benefits, 32 percent reported worse profitability, and 18 percent raised prices in response.

In addition, some categories of workers might face additional discrimination by employers, because they are now relatively more expensive than before. For instance, female employees in the child-bearing years are more likely than males to take such leave, so they might now face lower market demand (though such a response would be illegal). More subtly, employers in Maryland and Virginia might now view DC residents as being relatively more costly or less reliable than before, and could curtail their hiring as well to some extent. These employer responses are by no means certain, but they are very possible and perhaps even likely. [4]

And, even if employers shift most of the fiscal burden for financing paid leave onto workers, they still face some additional costs. For one thing, many will need to hire replacement workers for lengthy durations of time. Since the Bill makes it hard for employers to permanently replace workers taking leave, they will instead have to hire less-trained or less-experienced "temps" for this work. When employees can take frequent and lengthy leaves, the potential disruption of work effort to employers could be significant, and add to the cost of hiring labor in the District.[5]

Cumulative Effects of Labor Market Regulations and Mandates

If implemented, the Bill would constitute just the latest in a series of extra costs and mandates recently imposed on employers in Washington DC. The costs include much higher minimum wages, paid sick leave and several prohibitions on types of employee screening.[6] Individually,

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[4] Along these lines, the passage of the Americans with Disabilities Act (ADA) has apparently reduced employment and earnings among workers with disabilities (Acemoglu and Angrist, 2001).

[5] Employers in the District who already provide paid leave will likely now have workers draw benefits from the public fund, since they will be required to pay the new payroll tax. For them, the burden of providing paid leave on their own likely diminishes, and they might even give their current workers wage or salary increases as a result. But this is much more likely to benefit highly paid workers than those who are low-paid, who rarely have paid leave now.

[6] These costs and mandates include a statutory minimum wage of $11.50 beginning next year, possibly rising to $15 per hour; as well as "Ban the Box" legislation that prohibits firms to inquire about criminal records early in

each additional cost or mandate might not be severe, though some (like the minimum wage increases) will almost certainly reduce employment here already.[7]

But, *collectively*, they impose fairly large costs on those seeking to open a business in the District and hire workers here. Talking to local employers, I have little doubt that they honestly *perceive* the costs of hiring in Washington DC to be high and growing because of imposed regulations and mandates; and, in the end, it is their perceptions of costs, relative to benefits, that will drive their hiring decisions.

This is especially true since nearby jurisdictions like Arlington, Virginia have imposed few such costs and mandates.[8] In such a circumstance, the higher *relative* costs of labor facing current or future employers in Washington DC might create increasingly large incentives to relocate elsewhere – even if the DC market is where much demand for their services is located and they most prefer to be here for now.

The effects of such incentives on hiring or locations might not be obvious for a number of years, but might be significant over longer periods of time. The effects of one or more substantial new taxes and regulations on employers could thus generate "tipping points" for many, inducing some to reduce their hiring in the district, or to relocate to other lower-cost jurisdictions. Even

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hiring, a prohibition of pre-employment marijuana screening, and paid sick leave. The City Council will also consider new regulation of firm's choices of hours and scheduling of work and credit history screening.

[7] For instance, the Congressional Budget Office (2014) reviewed the entire body of research on how the minimum wage affects employment. The best summary estimate suggests that a $10 minimum wage nationwide would modestly reduce employment, especially for teens. A statutory minimum of $11.50 and especially $15 would do so to a larger extent nationally, and even more so in a specific region if other nearby localities maintain a much lower level, as I note below.

[8] The minimum wage in Virginia remains at $7.25, though Montgomery and Prince George's Counties in Maryland have also implemented similar minimum wage hikes to $11.50 to date.

if such effects are modest for employers already located here, research suggests they will likely affect future locational decisions substantially.[9]

Conclusion

I strongly encourage the Council to reconsider the Bill, and generate one with much more modest costs that are likely fully funded by the revenue mechanisms specified. A scaled-back bill could still provide the significant benefits of paid leave to workers and firms, without the large costs that this bill would likely impose on them. If a scaled-back version of the Bill is implemented, the Council should still consider the cumulative effects of their decisions on the costs of hiring in the District, and should perhaps limit a range of other existing or new costs they have recently imposed on employers located here.

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[9] For evidence showing that state and local taxes affect locational decisions of businesses see Bartik (1985) and Papke (1991). More recent evidence can be found in Rohlin et al. (2014) and Giroud and Rauh (2015).

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Technical Appendix: Calculation of Fiscal Costs of Providing Paid Leave and Revenues Generated from New Employer Tax

As I noted in the text of my comments, to estimate the costs to the District of providing paid leave benefits and the revenues the new tax will generate, we need the following:

- Take-up rates, given the generosity of the benefit;
- Likely durations of leaves;
- Different wage replacement rates among workers at different earnings levels; and
- Differential tax rates facing employers at different worker earnings levels.

I estimate data on take-up rates and duration of leaves from Klerman et al. (2012), which was a report by Abt Associates for the U5 Department of Labor on the Family and Medical Leave Act (FMLA). Though FMLA provides only unpaid leave at qualifying workplaces, in their survey they asked questions of respondents that enable us to estimate likely take-up rates and durations for paid leave as well.

Specifically, 13 percent of respondents reported taking unpaid leave in the previous year, while another 5 percent of workers claimed that they needed leave but couldn't take it – mostly commonly because they couldn't afford it. I therefore use 18 percent as my initial estimate of take-up rates in my calculations.

Klerman et al. report 35 days, or 7 weeks, as their preferred estimate of average durations of leave. They report that most leave-takers were able to receive pay for some part of their leave, mostly through accrual of unused paid vacation or other time off, though receipt of full pay fell off quite dramatically after the first two weeks. They also report that 40 percent of those who took leave returned to work primarily because of lost earnings, though they could have used more time.

I therefore initially estimate that 40 percent of those taking leave would now choose longer durations, while the remaining 60 percent would continue to take 7 weeks. For those taking longer leaves, it is likely that the very generous provision of paid leave in the Bill would encourage substantially longer durations. I therefore estimate that the durations of leaves for the 40 percent now choosing longer ones would be 50 percent higher than before (or 10.5 weeks instead of 7). Though these are substantial increases, assuming somewhat smaller increases do not substantially lower estimates of the cost.

Furthermore, take-up rates on allowable paid leave would also likely increase with the generosity of the benefits provided. It is likely that more than 18 percent of respondents would claim paid leave now, given the generosity of the benefits. I estimate the effects of a 50 percent increase in take-up rates, from 18 to 27 percent, in another set of calculations, with either 40 or 60 percent taking longer leaves in each scenario, and 50 percent longer leaves for those individuals.

These calculations generate the following estimates of the percent of workers residing or working in the district who would take paid leaves of absence under the proposed rules, and the amounts of their working time that would now need to be covered by the fund:

18 percent take leaves, 40 percent take longer leaves than earlier: .030

18 percent take leaves, 60 percent take longer leaves: .033

27 percent take leaves, 40 percent take longer leaves: .045

27 percent take leaves, 60 percent take longer leaves: .049

The estimates suggest that about 3-5 percent of total hours of work by this group would now be taken as paid leave.

Of course, full pay coverage is capped at various levels: full coverage is provided for up to $1000 per week, and pay above that level is covered at 50 percent, up to $3000 per week. Thus, the above calculations need to be revised according to the distribution of DC workers at different levels of weekly pay to calculate share of total payrolls for these groups that must be covered.

Furthermore, to account for the progressive structure of the tax, which reaches 1 percent of annual earnings but starts considerably lower, we needed estimates of the distribution of annual earnings among DC workers.

I used estimates from the Bureau of Labor Statistics (BLS) for the distribution of hourly wages (at the 10th, 25th, 50th, 75th and 90th percentiles) among workers in the Washington DC metropolitan area:

http://www.bls.gov/oes/current/oes_dc.htm

The BLS provides estimates of both hourly and annual earnings, but the latter are based only on the former multiplied by 2080 (40 hours a week * 52 weeks). Since the average weekly workweek is 35 hours per week, but since hours worked are unevenly distributed across earners (with low-wage workers working less than high-wage workers), I assumed 30 hours per week for those below the median and 50 hours for those at the 90th percentile. For taxes paid, where we need estimates of annual earnings (and therefore of weeks worked), I assume 50 weeks for most workers but just 40 for the lowest categories.

Using these estimates of the distribution of weekly earnings, I calculated that the estimates provided above of overall time at work that need to be covered must be reduced by about 20 percent to estimates percentages of payroll covered (since the highest coverage rates go to those whose earnings are sometimes quite low). And, because of the progressive nature of the tax schedule, the amount of revenue generated would be somewhat higher than a strict weighted average of the statutory tax rates.

Thus I conclude the following:

- Fiscal Costs of Providing Paid Leave: 2.4 - 3.9 percent of payroll (Midpoint estimate: 3.15 percent)
- Revenue Generated by the New Tax on Employers: 0.85 percent of payroll
- Expected Fiscal Shortfall: Over 2 percent of payroll per year

URBAN
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Testimony before the District of Columbia Council

Committee of the Whole

January 14, 2016

Norton Francis

Urban Institute State and Local Finance Initiative

Chairman Mendelson and councilmembers, thank you for inviting me to testify on the Universal Paid Leave Act (B21-0415) as introduced (the "Bill").[1]

My name is Norton Francis and I am a Senior Research Associate at the Urban Institute and the Urban-Brookings Tax Policy Center where I focus on state and local tax and budget issues. Because of this my testimony will largely focus on the fiscal side of the Bill. What I am presenting today is my opinion and not the opinion of the Urban Institute or our funders.

This is a bold proposal to provide an important benefit to people who live or work in the District. Parents need time to care for and bond with new children, family members need time to care for ailing relatives, and workers need time to recover from illnesses and injuries that temporarily take them out of the workplace.

Given that importance, getting the details right is critical. Unfortunately, I believe the Bill has two significant challenges. First, cross-state flows of employees and residents will make administering the program difficult.

Second, it would be very expensive. I estimate that the program, as currently designed, would cost around $1 billion annually. That figure can be brought down significantly, however, by more closely modeling the program on similar ones already in place in other states. Reducing the number of weeks of coverage from 16 to 12 weeks, for example, could reduce costs by about 20 percent. Narrowing eligibility to non-government District employers would ease administration and reduce the cost by about 30 percent. Such changes would increase the probability of successful implementation.

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[1] Full text of legislation can be found on the D.C. Council website: http://lims.dccouncil.us/Legislation/B21-0415?FromSearchResults=true

Let me start out by saying what the program is and is not. It is not a paid sick leave program nor is it a requirement for employers to purchase a new type of insurance policy. The plan is funded by an across the board payroll tax and administered by a public agency. DC already requires certain employers to provide paid sick leave but that leave is limited and could run out quickly when faced with a serious health event. Unpaid family and medical leave is also required for certain employers but leaves out a large group of employees.

As currently written, the Bill is a hybrid of family leave insurance and temporary disability insurance. It will provide up to 16 weeks of paid leave for District employees and residents for their own serious health problems, for the care of family members, and for bonding with a new child, whether by birth, adoption, or foster. There is a five-day waiting period before benefits are paid. If the leave lasts longer than five days, the waiting period days are reimbursed. The weekly benefit is full wage replacement on the first $1,000 per week and 50 percent thereafter up to a maximum $3,000.

Two types of employees are listed. "Covered employees" are employees that work for an employer in the District except for federal or DC government. "Eligible employees" are self-employed and District residents that do not work for a District employer. Based on my interpretation of the introduced version, I've prepared the table below to show how different employees are treated.

Eligible beneficiaries by workplace and residence

		Residence		
		DC	MD	VA
District Employer	Federal	Covered as "eligible employees"	Not covered	Not covered
	DC Government	Not covered	Not covered	Not covered
	Nonprofit	Covered	Covered	Covered
	Private	Covered	Covered	Covered
	Self-employed	Covered as "eligible employees"	Not covered	Not covered
	Non District employer	Covered as "eligible employees"	Not covered	Not covered

To pay for the benefit, covered employers will contribute up to 1 percent of their payroll to the Family and Medical Leave Fund. Eligible employees (those not working for covered employers) will have to contribute to the fund "in a similar manner" but how this will work is unclear in the Bill. Self-employed District residents will be able to participate but be able to opt-out as well.

D.C. government employees are ineligible for the program as they receive paid family and medical leave benefits under a different program.[2] Federal employees are exempt from the payroll tax but are considered "eligible employees" if they reside in the District.

Finally, the Bill includes funding for outreach by D.C. government and nonprofit social service groups. This is an important feature of the Bill and will boost participation.

Comparing with other states: California, New Jersey, Rhode Island

Although the issue is being debated nationally and in state houses across the country, only three states currently have a paid family and medical leave program similar to the one proposed- California, New Jersey, and Rhode Island.[3] All three states fund their programs with a payroll tax levied on the employee as a deduction from wages.

The state funded programs for family leave and short term disability in California, New Jersey, and Rhode Island are similar to each other but are very different than the plan in front of you today. All three states have long histories of short-term disability programs financed by payroll taxes withheld from employee paychecks. The history is shorter for paid family leave for bonding with a new child or caring for a family member with a serious health condition. California's plan for paid family leave has been existence for over 10 years; New Jersey adopted theirs in 2009 and Rhode Island in 2014. California's size and relative lack of cross state mobility make it a less appropriate model for the DC effort. Rhode Island and New Jersey have significant economic activity that spills over into other states, similar to the District, making them more comparable. A detailed comparison table is at the end of this testimony (Table 1).

Estimating the Cost

One way to estimate the cost of the Bill is by looking at the experience of these three states where there is a track record developing. There are three primary factors to determining cost: average benefit, average duration of benefits, and participation rate.

- Average benefit: the average benefit is similar in all three comparison states at around $500 per week. But each state has different maximum benefits. In 2014, the maximum in California was $1,075, in New Jersey $595, and in Rhode Island $795.
    - *DC Bill: maximum weekly benefit $3,000.*
- Average duration of benefits: California and New Jersey claims last about five weeks of the maximum 6 weeks of paid family leave while Rhode Island's maximum is four weeks but

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[2] See D.C. Department of Human Resources "Paid Family Leave" personnel bulletin: http://dchr.dc.gov/sites/default/files/dc/sites/dchr/publication/attachments/edpm_12_302_paid_family_leave_0.pdf

[3] Hawai'i and New York require employers to buy short term disability insurance for employees. Washington State has a family leave plan but has not funded it, delaying its effective date.

data on average duration is not yet available. The duration is longer for temporary disability: 16 weeks in California and 10 weeks in New Jersey and Rhode Island but the maximum durations for disability are longer: 52 weeks in California, 26 weeks in New Jersey, and 30 weeks in Rhode Island.

- *DC Bill: maximum number of weeks 16.*

By far, the largest use of paid family leave in the states that have it is for bonding with a new child. Both New Jersey and California report 80 to 90 percent of their claims for paid family leave are for bonding and the other 10-20 percent for care of a family member. It is reasonable to expect beneficiaries will take the maximum amount of time to bond with a new child particularly when paid leave is available.

- Participation: California has about a 4.1 percent participation rate (number of claims divided by total employment) for its disability program and 1.5 percent for its paid family leave program. This has increased from 1 percent since the program began. New Jersey's rates are 2.4 percent and 0.8 percent respectively and Rhode Island's are 7.5 percent and 0.8 percent respectively.
    - *DC Bill: Because of the difference in benefits and the broader coverage in DC, the participation rate will be higher than those reported for the other states. Also, there is dedicated funding for outreach from the beginning which will also increase participation.*

There are two wage measures that can be used to estimate the average weekly benefit of the bill. The average weekly wage in the District in 2014, according to the Bureau of Labor Statistics, was $1,407 which would yield an average benefit of $1,203.[4] Using Census data from the American Community Suvey, the median earnings for workers 16 and older in the District, which may be more comparable to the target population, is $865 and would be fully replaced under the Bill. Both measures yield weekly benefits that exceed the average weekly benefit experienced in the other states.

The next variable we need is the number of weeks. The average length of time in the three states was about 85-90 percent of the maximum number of weeks allowed. For paid family leave, beneficiaries take all of the benefit available. For the District, then, I assume the maximum time is

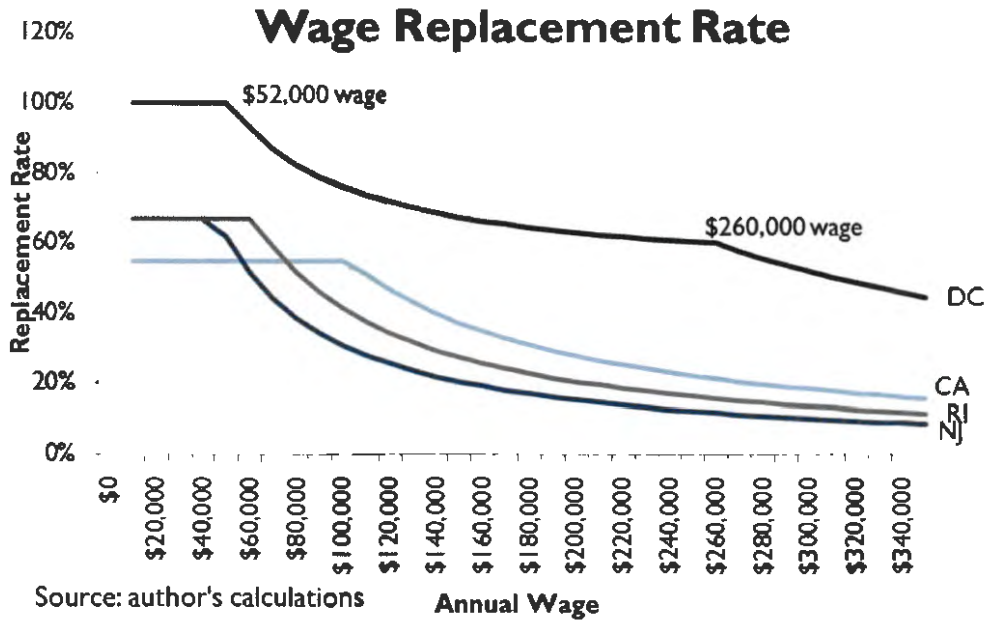
[4] The Bill calculates weekly benefit as 100% of weekly wages up to $1,000 and 50% of weekly wages above $1,000 up to a maximum weekly benefit of $3,000. A wage of $1,407 would yield a benefit of $1,000 plus half of the remainder, $407, for a total benefit of $1,203.

85% of 16 weeks for family leave and 10 weeks for disability, similar to New Jersey and Rhode Island's experience.[5]

The final factor is participation rate. The participation rate is going to be higher than it is for the three states that provide benefits because of the higher benefit levels. This is particularly true for the family leave where the duration of benefits is much longer in the District. In each of the other states, the participation rate was higher for disability than for family leave.

DC's benefit is full wage replacement up to $52,000. None of the other states offer full replacement. New Jersey's replacement factor is 67% but the maximum benefit is about $600 per week. After $52,000, the replacement rate declines in DC but is still over 50 percent for earners with $300,000 in wages. That compares to 19 percent replacement for California and 10 percent for New Jersey.

The wage replacement rate is important because market research in California has shown that usage increases with income and with access to employer sponsored leave.[6] That means that participation rates are likely to be higher in the District, particularly for higher income beneficiaries.



Source: author's calculations

[5] The maximum benefit period is assumed to be 16 weeks. For new mothers, this may be split between bonding under family leave and health issue but it is assumed to not be cumulative or 32 weeks based on my interpretation of the Bill's language.

[6] "Paid Family Leave Market Research," California Economic Development Department (Sacramento, CA: Andrew Chang & Co, December 14, 2015).

To recognize the impact on participation rates due to differences in benefit levels, I have prepared estimates using a range of participation rates and the midpoint between the average wage and the median wage for the average weekly benefit. In round numbers, the program as proposed will likely cost almost $1 billion. Modifications reduce the cost and the participation rate. Limiting the number of weeks to 12 reduces the cost by $210 million. Reducing the weekly benefit to 67%, similar to New Jersey, reduces the cost by $380 million. And limiting coverage to DC non-government employees reduces the cost by $320 million.

Cost Estimate

	Low participation	High Participation
Current proposal	$758	$1,271
12 week duration	586	1025
Two-thirds benefit	458	808
Reduced coverage	504	889

Note: See appendix for detailed tables

Administrative Issues Related to the Bill

For most District employers, the increased administrative burden will be small assuming the Bill's rules and procedures closely track existing law (the DC Family Medical Leave Act and DC Unemployment Insurance). There will be additional record-keeping and reporting requirements but the systems and procedures required for this type of program are known by business and government.

The District is hard to compare with other areas because two-thirds of DC employees live outside the District. That means the beneficiaries under the Bill will mostly be residents in Maryland or Virginia. And about 90,000 District residents work in Maryland or Virginia.[7]

Administrative difficulties come from the exclusion of the federal government and the eligible employees who are not working for a covered employer. According to D.C. CFO Office of Revenue and Analysis (ORA), there are 198,000 federal workers in the District that won't be paying into the system through payroll taxes. About 75 percent of them live outside the District. This means a separate financing mechanism has to be set up for these roughly 138,000 residents composed of the

[7] See ORA blog District, Measured: http://districtmeasured.com/2015/12/02/districts-labor-market-and-workforce-are-intertwined-with-maryland-and-virginia/ and http://districtmeasured.com/2015/02/25/reverse-commuters-now-hold-higher-paying-jobs/

49,000 federal employees that are District residents and the 89,000 District residents that work outside the District.[8]

Currently, federal employees accrue sick leave that they can use for family care and are able to get advanced leave for up to 30 days for employee health condition (including new child) and up to 13 days for caring for a family member.[9] Those federal employees that live outside of the District will not have the same level of benefits as those who live in the District, creating an inequity. This may be fodder for a legal challenge. And there also may be a legal challenge to employer tax if construed to be a tax on the income of out of state residents.[10]

Will employers outside the District be less likely to hire District residents? This is an interesting question and it depends on job protection enforceability. The District residents will be responsible for making the contribution to the plan as eligible employees and will get the benefits of paid leave but they may be reluctant to take advantage of it if they think their job status will be affected. Employees working more than half of their time in the District are also covered which will be another difficult challenge for administering the program.

How will the Universal paid leave act affect employers, employees, and the District's competitive position?

There are both costs and benefits to employers. Employers will have additional record keeping responsibilities and have to remit the payroll tax, presumably under an existing reporting system. The employer will also have to manage work schedules around employees taking leave but who will be allowed to come back after that leave. The more varied the schedule and the more immediate the work, the more this will be a burden. A fast-food restaurant needs a person at the counter so anyone going on leave has to be replaced. A think tank, for example, may not need to fill the position immediately and can shift deadlines to accommodate a short term absence.

A survey of California employers showed minimal operational impact due to the paid family leave program.[11] Keep in mind, however, that the maximum leave is six weeks in California and the payroll tax for paid family leave was added to an existing payroll tax for disability. So employers were already accustomed to the disability program. Given the larger benefit value of this Bill, particularly the number of weeks, employers will likely see operational impacts.

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[8] See District, Measured blog post: http://districtmeasured.com/2015/12/02/districts-labor-market-and-workforce-are-intertwined-with-maryland-and-virginia/

[9] See U.S. Office of Personnel Management Fact Sheet: https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/advanced-sick-leave/

[10] The DC Tax Revision Commission cites DC Home Rule (DC Code § 1-206.02): The DC Council cannot "impose any tax on the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District.

[11] See Paid Family Leave Market Research (2015)

To pay for the program as envisioned, all wages are subject to the 1 percent tax without a cap even though the benefits are capped at $3,000. The other states that have paid family or disability leave cap the wage level for the tax. California taxes payroll up to about $100,000 while New Jersey only applies it to the first $32,600, and the base for Rhode Island is $64,200.

The 1 percent payroll tax comes immediately before wage adjustments for other tax-exempt benefits are made. It is likely that the tax will eventually be paid by employees through lower wages but if the tax is administratively levied on the employer, as it appears to be here, the employer cannot deduct it from the employee's wages. Reducing the nominal wages on current employees is hard to do, which could lead to the tax being paid through lower profits, higher prices, and/or reduced hours.

In industries with lower wage workers, this could mean fewer jobs or hours and a reduction in future raises. Survey research has shown that even with job protection, low income workers have low participation rates in these programs so the benefits to these individuals may not be realized. Also, given the increase in the minimum wage on July 1, 2016, this could be an additional defacto increase in wage bills. Because the tax is levied on the employer, the employer will have to absorb the tax for those employees earning the minimum wage, possibly reacting by reducing hours, raising prices, or reducing the earnings of higher paid employees.[12]

In industries with higher wage workers, about 54 percent of management, professional, and related occupations have access to short-term disability now, according to the Bureau of Labor Statistics National Compensation Survey. This drops to 20 percent for service occupations. The employers that currently offer some type of short-term disability will most likely discontinue their policies. They may also modify coverage to offer full wage replacement policies to higher income earners.[13]

Conclusion

In closing, I want to reiterate that there are substantial benefits from paid family leave and short-term disability. There are significant benefits to children who get early attention and bonding from parents and to seniors who may get better care from a focused family member. The ability to recover fully from a serious health event or to realistically manage a chronic condition promotes the health of everybody. These quality of life issues can lead to better social outcomes which may make the District a more attractive as a place to live and work.

However, I believe given the District's unique status and its interdependence with surrounding states makes the Bill difficult to implement if it covers both residents and employees. Limiting it to DC employers and excluding federal workers would make the program easier to administer, in the

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[12] District residents that work outside the District will have to pay the equivalent tax and so will experience a direct reduction in wages due to the tax.

[13] See Albelda, Randy, and Alan Clayton-Matthews. "Sharing the Costs, Reaping the Benefits: Paid Family and Medical Leave in Massachusetts," 2006.

beginning, and reduce the cost of the program. This is the way Rhode Island and New Jersey, both states with significant cross border employment spillover, define their beneficiaries.

Second, reducing the duration of and level of benefits would decrease the cost. Scaling back the benefits to those similar to New Jersey or Rhode Island would make the Bill sustainable. Otherwise, a higher payroll tax may need to be considered and there is increased uncertainty due to the optional participation for self-employed residents and about how to collect from residents who work for employers outside the District or for the federal government.

Table 1: Comparison of Existing Programs

Family Leave

	DC	CA	NJ	RI
% Replacement of wage	100% first $52,000	55% on first $101,000	66% on first $32,600	60% on first $64,000
# of Weeks	16	6	6	4
Max Benefit	$3,000	$1,075	615	795
Job Protection	Yes	No		
Waiting period	5 days	7 days	7 days	7 days
Participation rate (claims/total employment)	n.a.	1.5%	0.8%	0.8%

Temporary Disability

	DC	CA	NJ	RI
% Replacement of wage	100% first $52,000	55% on first $101,000	66% on first $32,600	60% on first $64,000
# of Weeks	16	52	26	30
Max Benefit	$3,000	$1,075	615	795
Job Protection	Yes			Yes
Waiting period	5 days	7 days	7 days	7 days
Participation rate (claims/total employment)	n.a.	4.1%	2.1%	7.5%

Sources:
California Employment Development Department:
http://edd.ca.gov/About_EDD/pdf/edddiforecastoct15.pdf
New Jersey Department of Labor:
http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/FLI%20Summary%20Report%20for%202014.pdf;
http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/TDI%20Report%20for%202014.pdf
Rhode Island Department of Labor and Training: http://www.dlt.ri.gov/lmi/pdf/tdi/2014.pdf

Table 2: Cost Estimate Details – Universal Paid Leave Act (Introduced Version)

		Low participation	High participation
Employees		713,500	713,500
Paid Family Leave	Participation Rate	4.0%	7.0%
	# of Weeks (85% of max)	13.6	13.6
Serious Health Condition	Participation Rate	5.0%	8.0%
	# of Weeks	10	10
Weekly Benefit		1,017	1,017
Cost ($ millions)		$758	$1,271

notes:
Employees includes DC covered employees, federal employees that are DC residents, and residents who work outside DC

Weekly benefit is midpoint between median earnings and average weekly wage.

Table 3: Cost Estimate - Reduce Number of weeks to 12 weeks

		Low participation	High participation
Employees		713,500	713,500
Paid Family Leave	Participation Rate	3.5%	6.5%
	# of Weeks (85% of max)	10.2	10.2
Serious Health Condition	Participation Rate	4.5%	7.5%
	# of Weeks	10	10
Weekly Benefit		1,017	1,017
Cost ($ millions)		$586	$1,025

notes:
Employees includes DC covered employees, federal employees that are DC residents, and residents who work outside DC

Weekly benefit is midpoint between median earnings and average weekly wage.

Table 4: Cost Estimate - Reduce Weekly Benefit to 67% of wage ($3,000 max)

		Low participation	High participation
Employees		713,500	713,500
Paid Family Leave	Participation Rate	3.5%	6.5%
	# of Weeks (85% of max)	13.6	13.6
Serious Health Condition	Participation Rate	4.5%	7.5%
	# of Weeks	10	10
Weekly Benefit		693	693
Cost ($ millions)		$457	$808

notes:
Employees includes DC covered employees, federal employees that are DC residents, and residents who work outside DC

Weekly benefit is midpoint between median earnings and average weekly wage.

Table 5: Cost Estimate - Limit Coverage to DC Employers and exclude Federal employees

		Low participation	High participation
Employees		535,000	535,000
Paid Family Leave	Participation Rate	4.5%	6.5%
	# of Weeks (85% of max)	13.6	13.6
Serious Health Condition	Participation Rate	5.5%	7.5%
	# of Weeks	10	10
Weekly Benefit		1,017	1,017
Cost ($ millions)		$504	$890

notes:

Employees are covered employees under unemployment insurance (source: DOL)

Weekly benefit is midpoint between median earnings and average weekly wage.

Table 6: Current Access to Short Term Disability, National

Occupation group	Short-term disability insurance
	Percent with Access
All workers	40
Management, professional, and related	54
Service	20
Sales and office	38
Natural resources, construction, and maintenance	40
Production, transportation, and material moving	47

Note: Costs calculated from Employer Cost for Employee Compensation (ECEC) published estimates. Dash indicates data not available or applicable.

Source: National Compensation Survey, U.S. Bureau of Labor Statistics.

Testimony of Jodie Levin-Epstein, Deputy Director, Center for Law and Social Policy

Committee of the Whole Public Hearing

Bill 21-415, the Universal Paid Leave Act of 2015

January 14, 2016

Chairman Mendelson and members of the Committee of the Whole, my name is Jodie Levin-Epstein, and I am the Deputy Director of the Center for Law and Social Policy (CLASP). CLASP is a national, non-profit organization that promotes policy solutions that work for low income people. CLASP works at all levels of government and builds bridges between research, advocacy, and policy.

I thank you for the opportunity to speak both for CLASP and as a Ward 4 resident in support of the Universal Paid Leave Act, Bill 21-415, which would create a universal paid family leave insurance program in the District. It is noteworthy that the majority of members of the Committee of the Whole are original co-sponsors of the Universal Paid Leave Act. The measure would provide all employees with up to 16 weeks of paid leave to care for a loved one, address an illness, or bond with a new child. It would be accomplished through a self-sustaining pool of funds supported by employers with certain employees (e.g. reverse commuters) making contributions as well. Paid leave makes it feasible for employees to care for their family or themselves without losing all income when they cannot work; this, research shows, benefits businesses too by helping them to retain employees and avoid the costs of turnover.

The Council's leadership in this arena is part and parcel of growing policymaker attention to paid family leave around the nation and overwhelming public support. Policies have been established for municipal employees in 17 local jurisdictions including DC; virtually all these public policies have occurred in just the last couple of years. Rhode Island recently joined California and New Jersey as states that added paid family leave to their temporary disability insurance programs.

Public opinion is clear: there is keen, bi-partisan interest in public policy action on family leave. Nationally, 80% favor requiring employers to offer paid leave to parents of new children and employees caring for sick family members; notably this includes a clear majority across the political spectrum.[i] In DC, two separate polls also confirm at least 80% support for the Universal Paid Leave Act.[ii]

Nationally, presidential candidates on both sides of the aisle already raised the importance of paid family leave; this focus is not expected to abate in 2016.

With interest peaked around the country, eyes are on the D.C. Council since a number of jurisdictions are actively considering paid family leave measures. A question is: who will get to the finish line first...will it be D.C? Or will it be New York or Connecticut or maybe Massachusetts?

My testimony will focus on the importance of a universal paid family leave insurance program for those who live on low incomes. A paid leave insurance program would help ameliorate D.C.'s dramatic inequities, foster employment, bolster preventive health care, and improve family well-being. I will also speak to the business case, including the case for employers with lower wage employees.

Before focusing on the important question of how paid family leave helps address inequities, I want to flag the issue of the length of leave. What considerations underscore the reasonableness of the proposed 16 weeks?

- Research includes findings that 40 weeks of paid leave saves the most infant lives (in a study of European programs); for each week of paid leave, maternal depression decreases; and, that 24 weeks of exclusive breastfeeding maximizes infant health. With regard to child development, a study of Norwegian children found that children had lower high school dropout rates if they were born after the nation established a four month paid leave program and extended unpaid leave to 12 months.[iii]
- The ILO, of which the United States is a member, calls for "not less than 14 weeks" of maternity leave[iv].
- All "developed economies" except the United States (41 of 42 nations) provide maternity leave according to the ILO. Fully 32 of these nations – nearly 80 percent- provide at least 16 weeks of paid maternity leave. Canada, our neighbor to the north, for example, offers a total of about 50 weeks of paid leave (15 weeks maternity leave plus 35 parental leave).[v]
- The three states with paid family leave programs also provide paid disability leave of between 26-52 weeks. California illustrates how this can play out for maternity leave which can total between 16-18 weeks; in addition to 6 weeks paid family leave, 10-12 weeks can be available through pregnancy disability.[vi] Notably, pending legislation would expand the length of paid family leave by 2 weeks so that 8 weeks would be available.
- D.C. law already provides 16 weeks of *unpaid* family and medical leave for employees in firms with 20 or more employees. Aligning the number of weeks between the current unpaid and the proposed paid leave would achieve an often overlooked but fundamental virtue – simplicity. Provisions that align are simpler to communicate and understand. More fundamentally, the District has established that it supports 16 weeks for family and medical leave purposes. Since this leave is unpaid, only those who can afford to go without any income are able to afford those 16 weeks. The proposed Act

would make it possible for more people, particularly low income people, to actually take up to 16 weeks. Which brings us right to the role paid leave can fill in tackling inequity.

1. **Universal Paid Family Leave Would Ameliorate the District's Dramatic Inequities**

In the vast majority of cases, employees in low- wage jobs have no or little economic cushion when they confront the costs of big events like the birth of child or a serious illness. All families will face such events at some point but for those at the lower end of the wage scale, lack of paid leave can be especially destabilizing. This further entrenches inequality, making it more and more onerous for hard-working Americans to get by, let alone rise up.[vii]

According to the D.C. Fiscal Policy Institute's (DCFPI) analysis, income inequality is pervasive in D.C. The District is the fourth most unequal major U.S. city. In DC, in the top 5 percent of households, average income is over a $0.5 million annually, while it is just $10,000 for those in the bottom fifth. The disparity in the growth of wages over the last decades is a key part of the problem. For those at the top fifth, wages have grown by 50 percent over the last 35 years, but for the bottom fifth the growth has been just 2 cents an hour.[viii]

Many of D.C.'s struggling families are working yet still can't make ends meet; paid family leave would provide stability that is essential for maintaining a toehold in the job market while keeping their families' heads above water. The numbers are striking. D.C. Fiscal Policy Institute's (DCFPI) finds that fully, 68% of the District's low-income children (defined as income under half the area median) live in a household with at least one working member and 44% live in a household where at least one person works full-time.[ix] Despite this considerable work effort, without strong policy guarantees such as family and medical leave, too many parents are just one serious illness, new child, or sick family member away from no longer being able to sustain their families and hang on to their jobs.

Few employees have access to designated paid family leave but those on the lower end of the wage scale have not only the least designated leave but also little to no paid time off for any reason. Nationally, about 13 percent of employees have paid family leave but only 5 percent of low wage employees (those in the lowest 25 percent of wage earners) have access.[x] In fact, many low income employees have no access to any type of paid leave – no paid personal time, sick time, family leave, or vacation – no paid time off at all. Nearly half of all employees in the lowest 25 percent of wage earners confront this daily reality. The disproportionate effect on low wage employees is apparent when we consider higher wage employees: among all employees, more than 80 percent have at least one type of paid leave and among the highest 25 percent of wage earners, the figure rises to 94 percent nationally.[xi]

In recent years, some employers have voluntarily afforded their employees paid leave of various kinds; however, they often have done so only for their higher-wage, white-collar employees, leaving low-wage hourly employees behind. This increases the disparity. The impact is particularly notable when we look at changes in access to maternity leave over time. In the 1960's access to pay while on maternity leave was more equitable among women employees with differing degrees of educational attainment (a proxy for income). However, by 2006-2008, access diverged dramatically: 66 percent of employed mothers with a bachelor's degree

compared to only 19 percent of employed women with less than a high school degree were able to cobble together some paid maternity leave (including vacation, sick time, etc.) before or after their first birth.[xii]

Access to paid family leave is marked not only by wage disparity but also by racial disparity. Half of all white employees have access to some paid parental leave (which may include short-term disability insurance), while 43 percent of Black employees and just 25 percent of Latino employees have access.[xiii]

Government action to provide universal paid leave is essential now so that inequities will not persist or grow for decades to come. In today's economy, low-wage and low-quality jobs are not just a temporary stop in many employees' career trajectories; mobility is very limited and few move up to higher-wage jobs. A significant contributing factor is that job growth today and for the coming decade, is concentrated at low wage levels, jobs with median wages that run between about $18,300 and $28,600.[xiv]

Provisions in the Universal Paid Leave Act would address these inequities:

The fact that the Act would apply to all firms means that low wage employees – whether employed by small or large firms -- would have access to at least the standard established in the law (larger firms are more likely to "top up" beyond the legislated standard). A wise but little noticed provision provides for outreach and education which would help ensure that low wage employees, including those where English is a second language, understand when they can access the program and how to go about applying. Most central to equity, however, is the wage replacement level which determines whether or not a low income person can actually afford to use the program.

The proposed wage replacement level recognizes that those at the lower end of the wage scale can least afford to lose any income. Under the Act, following a 5 day waiting period-- which can be tough at very low wages-- employees would receive 100 percent of average weekly wages up to $1,000 weekly. Some express concern that the three implementing states use lower wage replacement levels; however, D.C.'s proposal is more aligned with newer proposals and newer findings.

California, which enacted its law nearly 15 years ago, is considering modernizing its wage replacement. Why? In California, employees earning under $20,000 represent almost half of eligible employees yet they account for only about 12 percent of paid family leave claims in 2014. One reason lower wage employees are left out is that few of them can afford to use the program given that the current wage replacement rate amounts to a big pay cut -- along with the added costs of having a child or caring for a relative.[xv] Proposed legislation, Assembly Bill 908, would raise the wage replacement rate significantly -- from 55 percent to 60 or 80 percent with the higher rate aimed at those with lower income (and applied to a state average weekly wage).[xvi] Another illustration is a bill just introduced last week in Nebraska. It features a tiered wage replacement rate starting at 95 percent for those with annual earnings below 20 percent of state median.[xvii]

Outside of the U.S., other developed countries have longer appreciated and acted upon the principle that employees cannot afford to lose income while on leave. In these nations, 100 percent wage replacement is quite common.

All developed nations except the US offer paid maternity leave. Notably, half (19 of 41) provide 100% wage replacement and another 10 countries, including Latvia and Romania, provide at least 80% wage replacement. [xviii]

2. **Employment: universal paid family leave would increase workforce participation and wages especially among women**

Despite new mother's interest in staying the labor market, many, particularly those with low incomes are let go or forced to quit their jobs after the birth of their first child. Research shows that among women with less than a high school education, more than 10 percent were let go from their jobs after the birth of their first child. In addition, many women, particularly lower-wage employees, "quit" their jobs in order to bond with new babies. This is the case for half of women with less than a high school education and 13 percent of women with a college degree. Many of these women may have "quit" because they felt that they had no other choice.[xix]

The challenges low-income working women face are not just related to child birth. Almost one in five low-wage working mothers has lost a job due to sickness or caring for a family member in the course of four years.[xx] Though D.C. employees have access to earned sick days for short-term illness, employees who need to take longer leaves to recover from their own or a family member's serious illnesses would benefit from the medical leave provisions in the Universal Paid Leave Act.

Paid leave will increase women's workforce participation in D.C. According to DCFPI, an estimated 6,500 more women would be working in DC as a result of paid family leave.[xxi] This is because economic stability is a key factor in workforce attachment. Paid leave provides such stability as women face the challenges of caring for an ailing family member, their own ill health, or the challenges of parenting. Moreover, paid parental leave helps the household contend with new costs and provides time to seek and arrange child care for a smooth return to work.

Research in Europe and North America establishes a clear association between parental leave policies and higher employment-to-population ratios. One analysis found that leaves between 10 to 25 weeks are associated with higher labor-force participation rates for women.[xxii] In the U.S., California's program resulted in an estimated 10 percentage point increase in the probability of a mother working a year after a birth.[xxiii]In addition, California's program also increases the likelihood that women will work more hours.[xxiv] A study of New Jersey's program found paid leave resulted in both higher rates of labor force attachment and better wages. The analysis concludes that for the typical woman the likelihood of a return to work nine to twelve months after a birth is 63% if she takes no leave yet climbs to 76.6% if she takes paid leave. Wage impacts are also significant. Those who took some paid leave are 54% more likely to report wage increases in the year following the child's birth than are women who take no family leave.[xxv]

In addition to immediate workforce and wage improvements, paid family leave also helps ameliorate the well- known gender pay gap. Women generally take on more caring responsibilities then men. A career disruption can cause a reduced or slower earnings trajectory over time and paid leave can minimize this disruption. Mothers face a particular hurdle sometimes called the "family gap" when they leave the workforce to care for new children. Universal paid family leave, by enhancing women's workforce participation and wages, helps tackle the gap.[xxvi]

3. Universal paid family leave would improve access to preventive health care

While it is commonly understood that paid family leave can provide health benefits for both caregivers and those in need of care, what is less appreciated is how paid leave plays an important role in improving access to preventive care and treatment. The Affordable Care Act (ACA) appropriately places an emphasis on preventative health care; it covers 100 percent of such costs for children and women's health, with no cost-sharing allowed. While there are now a wide variety of preventive services available, ACA insurance is no guarantee of access to the preventive care. Paid leave (both family leave and sick days) are key to realizing the potential of preventive health care.[xxvii] Paid family leave helps to accomplish this by:

- Lowering infant mortality and child mortality rates and raising rates of immunization result when mothers have access to paid family leave [xxviii];
- Improving mental health outcomes for adult caregivers and health outcomes for the recipients of care, including faster recovery time by children[xxix];
- Increasing rates of breastfeeding, which directly supports infant and maternal health[xxx];
- Allowing employees to seek medical care instead of deferring it, which may translate into longer recovery times or worsening medical conditions. [xxxi]

4. Universal Paid Leave Would Reduce Household and Community Economic Hardship

Paid family leave helps all families meet the challenges of caring for sick family member or a new child, but those with little economic cushion face particular hardships without paid family leave.

Income loss due to lack of paid leave often plays a role in medical bankruptcies. In 2007, 38 percent of people who declared bankruptcy for medical reasons cited income loss due to illness as a contributing factor. Medical reasons are a factor in more than 60 percent of bankruptcies.[xxxii]

As the U.S. Department of Labor notes in its review of the research, "The Cost of Doing Nothing: The Price We All Pay Without Paid Leave Policies to Support America's 21st Century Working Families," there are costs not just to families but to our communities. Employees whose loss of wages leaves them on the brink too often need support through public assistance in order to weather an illness or take care of loved one or infant. In fact, fifteen percent of the employees in the Department of Labor's FMLA survey who received partial or no pay reported going on public assistance. Women who have access to and take paid parental leave are 39 percent less likely to receive public assistance, such as food stamps, in the year following a

child's birth than those who cannot or do not take leave. Men who take parental leave also have a reduced chance of relying on public assistance. Finally, women in states with paid family or temporary disability leave programs are less likely to rely on public assistance following the birth of a child than women in states without these programs, particularly if they use the paid leave programs." [xxxiii]

In D.C., The Fiscal Policy Institute estimates that as many as 2,400 fewer families would receive food stamps (SNAP) and/or cash assistance during a leave[xxxiv]

Child care is a challenge for all families, but especially for lower income families. For these families, paid leave helps the family both as it provides care and in the ability to find child care. Findings from California's program shows that employees who took paid leave found the program helped them to care for their own child (or family member) – 87 percent -- and to arrange child care – 70 percent.[xxxv] And, each week a parent can stay afford to stay home to provide care to an infant, is a week that the family can avoid expensive infant care or a patch work of care.

The Universal Paid Family Leave Act would also lend economic stability to employees who are not employed by "covered employers": employees of the federal government or Maryland/Virginia employers. These employees would make their own contributions to the fund, instead of their employers doing so. The self-employed can opt-out. Contributions for employees in this situation would be extremely modest. For someone earning the minimum wage, the contribution would be 6 cents per hour. For someone earning $25 per hour, the cost would be 15 cents per hour. This amounts to a small payroll deduction that in return guarantees income when it is needed the most.[xxxvi] With these figures in mind, the real question is who can afford not to contribute to a universal paid family leave program?

5. The Business Case for All Employers of All Sizes

Recently, major corporations, many in the technology sector, have expanded or established their own paid family leave programs for some or all of their employees. Netflix, Facebook and Microsoft along with other brand name businesses have received media attention for taking this step. (Netflix, after receiving negative media attention for failing to include its lower-wage employees reversed course to include them.[xxxvii]) While this is a welcome development and good for the companies and for their employees, without a minimum standard established by government, many firms, even large companies that can afford to cover paid family leave will not follow suit. For small businesses, the costs of paid family leave are harder, sometimes impossible to cover. Yet many of these small businesses would like to provide paid family leave and reap the benefits for both their employees and their business. For them, a government managed, pooled source of funds that covers all employees and employers is welcome.

Employers in states already implementing paid family leave programs report positive experiences.[xxxviii] A study of California's program shows that nine out of ten employers report either positive or no noticeable effects on productivity, profitability, turnover, and employee morale.[xxxix]

Paid family leave enhances employee retention, which is vital for the business bottom line. Employee turnover carries a high cost. While the cost varies, typically, replacing an employee costs about one fifth of a person's wages and is much higher for such positions as doctors and CEOs. While some hold the view that low wage employees are not costly to replace, the data tell another story: for jobs under $50,000, turnover costs 19.7 percent, and for jobs under $30,000, it's 16.1 percent of wages.[xl] In California, 83 percent of low-paid employees who participated in the state's paid family leave program, returned to the same employer, compared to 74 percent of those who took leave but did not receive paid family leave. In DC, access to paid family leave would increase the number of all employees returning to the same employer after leave by 7,200 according to Fiscal Policy Institute analysis.[xli]

If retention is in employers' self-interest why do some oppose a policy that would help them reduce this cost? Turnover costs, while large and real, often remain "hidden" – they are typically not an explicit line in a business budget. Unfortunately, individual employers do not always understand the link between family leave and retention.

In addition to a failure to fully appreciate the hidden costs of turnover that paid family leave prevents, some business associations object for ideological rather than practical reasons, including a belief that a City Council should not create a minimum labor standard. These business associations, upon implementation of D.C.'s Act may change their tune and attitude. A recent media interview with trade association leaders in California and New Jersey is more than encouraging. Michael Egenton, senior vice president of government relations at the New Jersey Chamber of Commerce said, "Obviously, the law was put in place for a good reason. [...] The employer wants to be sympathetic to the needs of the employee, when they need time off to care for themselves or a loved one. We know our best asset is our employee." His counterpart at the California Chamber of Commerce, Jennifer Barrera, said her group hadn't heard from employers that the law is a burden – despite the fact that the group staunchly opposed the paid leave law passed in 2002. [xlii]

Business support within D.C. for the Universal Paid Family Leave Act is impressive. A list of supporters, available on the D.C. Paid Family Leave website, already stands at nearly 40 individual businesses. The number is notable because many employers are reluctant to stake a position on public policy, no matter what the subject matter, and because most of the businesses are smaller enterprises, including those in retail and food service.

A key question is how employers will manage leave, particularly smaller employers. Insights have been pulled together from surveys and interviews with employers in California and in New Jersey. Ruth Milkman and Eileen Appelbaum describe different approaches in their publication 'Unfinished Business: Employer and Employee Experiences with Paid Family Leave and the Future of Work-Family Policy in the U.S.' In California, a common response was temporary reassignments to cover employees on leave.[xliii] In New Jersey, 18 qualitative interviews explicitly sought insights into how employers (most with fewer than 500 employees) handled the workload of staff on leave. The employers deployed different strategies with some key considerations including the length of leave as well as whether other staff had the same skill set. A bank with 80 employees anticipates leave will be taken at some point by somebody and

has two employees who are full-time "floaters" between locations; one floater is trained in all aspects of bank work while the other fills in specifically for bank teller tasks. [xliv]

Appelbaum, in her written testimony to the Council notes alternative approaches taken in two setting where full coverage is essential:

> "In some settings, like a factory assembly line or a hospital, full coverage for all positions is needed 100 percent of the time. A hospital we visited provides one example where coverage is imperative, and work is highly skilled. The hospital maintains a "voluntary extra shift list" of nurses and nursing assistants, who indicate the days they are available to work overtime. The hospital encourages this by paying well above the legally mandated rate for overtime. In one manufacturing firm we visited, by contrast, machine operators' work in teams and co-employees cover the work of absent team members."

Importantly, she also notes that whether or not there is a paid family leave public policy, in these kinds of operations, systems for filling in for those who quit, get injured, are in military service or are not available for other reason are essential.

Employers, even those operating identical businesses, will take different approaches to managing employee leave. I had the opportunity to interview two owners of McDonald's franchises both of whom had 35 employees. While the owners operated in New Zealand, it is fair to say that a McDonalds is a McDonalds is a McDonalds. Each of the two franchisees faced the same challenge—parental leave by managers—but took two different approaches to the re-distribution of their work. One distributed the work of the absent employee among existing staff while the other "transferred-in" a manager. [xlv]

More recently, I spoke with some smaller D.C. businesses about how they would manage an employee absence under the Act. I spoke with Mike Visser, the owner of Flying Fish Coffee and Tea in Ward 1, who is among the many small businesses listed on the Campaign for D.C. Paid Family site in support of the Universal Paid Leave Act. His posted statement underscores his philosophy[xlvi]:

> "I support the bill because being a part of a community means that we are all responsible to each other, and healthcare and parental leave should not be reserved only for some. I don't have the revenue to offer paid parental leave out of pocket to my six employees, but I can do it as a contributor to a citywide pool. And I know my contributions are helping everyone in the city access paid parental leave. It's a great deal for my business and for the District."

When asked how he would manage to implement the Act, Visser was candid:

> "I don't know yet how I would manage. Potentially we would all pick up an extra shift. A restaurant knows how to do this; we have experience with picking up for each other. I realize that 16 weeks is a long time, and, in fact, it may cost me if my employees wind up working overtime to cover for someone on leave. But, I don't want my employees to face what had happened to one of my first hires. When I first opened, I hired a

employee who had just lost her job because she had a baby; her former employer told her that if she took any leave she could not come back. That's not good business; what's good business is healthy and happy employees. While I have not decided how to handle 16 weeks of leave, I can say as a small business owner, I will figure it out."

And Jonas Singer, of Union Kitchen in Ward 5, another supporter of the bill had this to say about how he would get the work covered if an employee took leave:

> "We have almost 50 employees and right now we have someone out on paternity leave. We are actively thinking about different strategies to cover for employees under the Universal Paid Family Leave Act which would provide up to 16 weeks. One step we already take is to be proactive with our staff; we have explicit conversations to share manage expectations about the leave -- including the intention to return to the job. More broadly, Union Kitchen is developing a professional employment organization (PEO) so that employers in our industry can have an easier time finding employees to fill in when someone is on leave. In our industry, businesses do not use temp employees and the PEO would make it easier to find regular staff. That's a private sector solution. The government could do the same thing. For example, when someone applies for family leave that information could show up in D.C.'s employment agency so that there could be a skills match between someone in need of work and an employer in need of staff. A longish leave is a staffing storm; employers will weather it because our companies depend on our employees."

CLASP, itself, is a small business employer, and this law would apply to us. We join with the other businesses in D.C. in support of the Act. For our 35 employees, we currently provide six weeks of paid leave at full salary for the birth, adoption, or foster care of a child or for permanent placement or for the care of a family member who has a serious health condition. We also offer some short term disability insurance. A paid family leave insurance program would help our employees at a relatively modest cost to us. CLASP has expenses of about $7 million, of which roughly $2.7 million is for salaries. A DC paid family leave insurance program requiring a contribution of up to one percent of payroll would cost CLASP about $27,000, or about .03 percent of overall expenses. This is a relatively modest cost that would help us to continue to retain employees and help our employees have even more security. While some employers who now spend their own resources on family leave might choose to cut back, many other employers could choose to "top up" their leave policy.

In closing, let me offer a personal observation. I have lived in the District of Columbia for my adult life. I have seen D.C. morph from a sleepy town to a vibrant urban center. The Council has enacted some important legislation related to employees such as earned sick days and family leave for municipal employees. The Universal Paid Leave Act is an important opportunity to demonstrate to the nation that the District walks the walk when it comes to valuing employees and valuing families. Thank you for your time and consideration.

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[iii] Sharon Lerner, "Is 40 Weeks the Ideal Maternity Leave Length?" *Slate,* December 22, 2011, http://www.demos.org/news/40-weeks-ideal-maternity-leave-length.

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[v] *Employment Insurance Maternity and Parental Benefits,* Service Canada, 2012, http://www.servicecanada.gc.ca/eng/ei/publications/maternity_parental.pdf.

[vi] "Taking Leave From Work: Pregnancy/Prenatal Care/Bonding with a New Child," *Legal Aid Society – Employment Law Center,* http://las-elc.org/fact-sheets/taking-leave-from-work-pregnancy-prenatal-care-bonding-with-new-child.

[vii] Liz Ben-Ishai, *Access to Paid Leave: An Overlooked Aspect of Economic &Social Inequality,* CLASP, April 2014, http://www.clasp.org/resources-and-publications/publication-1/2014-04-09-Inequities-and-Paid-Leave-Brief_FINAL.pdf

[viii] Ed Lazere, D.C. Fiscal Policy Institute,"Testimony at the Public Hearing on Bill 21-415, the Universal Paid Leave Act of 2015 for the District of Columbia Committee of the Whole," December 2, 2015, http://www.dcfpi.org/testimony-of-ed-lazere-at-the-public-hearing-on-bill-21-415-the-universal-paid-leave-act-of-2015-for-the-district-of-columbia-committee-of-the-whole-december-2-2015

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policy solutions that work for low-income people

Access to Paid Leave: An Overlooked Aspect of Economic & Social Inequality

April 14, 2014

by Liz Ben-Ishai

Rising economic inequality is a growing concern for many Americans. The widening gap between those at the top and bottom of the income scale is pushing decision makers to consider policy solutions that can begin to address these inequities. Wages are often the focal point in debates about income inequality. Often overlooked, however, is a key aspect of compensation: paid leave. Lack of paid leave, which is concentrated among low-wage jobs, exacerbates the inequalities that come with the wage gap. For those at the bottom, this further contributes to economic instability because lack of paid leave frequently leads to lost wages and job loss. In fact, one in seven workers reports having lost a job to recover from illness or care for a family member.[1]

No national law sets a minimum standard for private sector employees to earn paid leave, including paid sick days, paid family and medical leave, paid vacation, and personal days. Absent federal standards, workers at all wage levels can be denied these vital protections unless an employer offers paid leave voluntarily. But employers tend to offer leave to higher-wage workers. Further, some employers even provide disparate benefits of all types to workers at different wage levels within the same company, leaving those at the bottom even further behind. As a result, low-wage workers shoulder most of the negative consequences of the lack of public policies guaranteeing workers paid leave.

> "We are rightfully troubled that many of our people are still caught in what seems to be a pervasive, unending financial struggle. It bothers us because we are a people united by the belief that every American deserves an equal opportunity to achieve success."[3]
>
> **Sen. Marco Rubio (R-FL)**

In this economy, the majority of job growth is taking place at the lowest wage levels—a trend projected to continue for the foreseeable future.[2] Low-wage and low-quality jobs are not just a temporary stop in many workers' career trajectories; mobility is very limited and few move up to higher-wage jobs.[4] This means that ensuring workers in low-wage jobs receive paid leave is a crucial part of making lasting changes that address inequality. Lack of paid leave and other aspects of low-quality jobs hinder family and economic stability.[5] Without such stability, inequality becomes further entrenched as it becomes harder and harder for many hard-working Americans to get by, let alone rise up.

Low-wage, Latino, and part-time workers are least likely to have paid sick days

- Among private sector workers, 61 percent have access to paid sick days. But only 30 percent of low-wage workers (those in the bottom 25 percent of average wages) have access to paid sick days, compared to 84 percent of the top quartile of wage earners.[6]

- Less than a quarter of part-time workers have paid sick days compared to nearly three-quarters of full-time workers.[7]
- While 64 percent of white workers have access to paid sick days, 62 percent of Black workers and only 47 percent of Latino workers have paid sick days.[8]
- Workers in certain occupations, such as farming, fishing, and forestry; food preparation and service; and personal care and service are much less likely to have access to paid sick days. Workers of color and low-wage workers are disproportionately represented in these occupational categories.[9]

Low-wage workers, workers of color, less-educated workers, and part-timers often lack access to paid family leave

- Few workers have designated paid family leave, but low-wage workers fare particularly badly. While 12 percent of all private sector workers have access to paid family leave, only 5 percent of low-wage workers (those in the lowest 25 percent of wage earners) have paid family leave. Just five percent of part-time workers have access to paid family leave.[10]
- According to a Census Bureau report, in 2008, only 19 percent of first-time moms with less than a high school education reported having paid maternity leave. Two-thirds of first-time moms with a college degree had paid leave.[12]
- Half of all white workers have access to some paid parental leave (which may include short-term disability insurance), while 43 percent of Black workers and just 25 percent of Latino workers have access.[13]

"The rich are getting richer, the poor are getting poorer, and the middle class is being squeezed out of existence."[11]

Senate Majority Leader Harry Reid (D-NV)

- Lack of paid leave results in many women leaving the labor force after the birth of a child, including those who want to stay working. Among women with less than a high school education more than 10 percent were let go from their jobs after the birth of their first child; in contrast, among those with a college degree, three percent were let go. In addition, many women, particularly lower-wage workers, "quit" their jobs in order to bond with new babies. This is the case for half of women with less than a high school education and 13 percent of women with a college degree. Many of these women may have "quit" because they felt that they had no other choice.[14]
- Taking unpaid leave, which some workers can access under the Family and Medical Leave Act (FMLA), is often very costly for low-wage workers. According to the 2012 FMLA survey, more than half (54 percent) of workers earning less than the median family income (in this survey, $62,500 per year) reported losing **all** income while on leave. Eighteen percent of those above the median family income lost all income while on leave.[15] The survey found that nearly a quarter of women take less than 10 days of leave for parental reasons.[16]

- Workers with less education and lower incomes are less likely to even have unpaid leave under FMLA. While 56 percent of those with some college or college degrees are eligible for FMLA, just 49 percent of those with a high school diploma or less can access FMLA leave. Fewer than half of workers with family incomes of less than $40,000 per year are eligible, compared to 60 percent of those with family incomes of more than $40,000.[17]

Many low-wage workers have no paid time off at all

- Nearly half of all workers in the lowest 25 percent of wage earners have no paid personal time, sick time, family leave, or vacation – no paid time off at all. Among all workers, more than 80 percent have at least one type of paid leave, and among the highest 25 percent of wage earners, the figure rises to 94 percent.[18]
- Lack of paid leave is accompanied by lack of other benefits for many low-wage workers. Nearly one-third of low-wage workers who have neither paid sick days nor paid vacation also lack health insurance and retirement plans.[19]
- According to a 2004 study, nearly two in five low wage working parents receive no paid time off at all.[20] For them, child care emergencies or routine teacher work days at children's schools can be a major hardship.

> "Right now, America's engines of upward mobility aren't working as they should…The question before us today—and it demands a serious answer—is how do we get the engines of upward mobility turned back on, so that no one is left out from the promise of America?"[22]
>
> **Rep. Paul Ryan (R-WI)**

Employers too often treat those at the top differently than those on the bottom rungs

- Many employers offer benefits only to *some* of their employees—usually those who are already better compensated. According to one study, about half of employers offer paid sick leave, but just 21 percent provide it to their low-wage workers after a probationary period.[21]
- Those who are most significantly affected by a day without pay—or the risk of job loss—are most likely to lack paid time away from work.

Lack of access to paid leave creates serious risk of job and wage loss for low-wage workers

- One in seven low-wage workers reports losing a job in the past four years because they were sick or needed to care for a family member.[23]
- Even more low-wage working moms experience such insecurity; almost one in five have lost a job due to sickness or caring for a family member.[24]

Lack of parental access to paid leave negatively affects children, hampering their health and development

- Research points to a correlation between paid family leave and children's health. Without leave, parents risk losing wages or jobs when it's time for well-baby doctor visits and immunizations. This leads many parents to miss appointments that are critical to preventive health care. Longer leaves are also linked to lower mortality rates and higher birth weights. Parents who are able to take paid leave to care for children with special health care needs report better outcomes for their kids.[25]
- Leave time is a major factor in duration of breastfeeding. Research shows a relationship between breastfeeding and numerous health benefits for both mothers and babies. [26]
- A growing body of evidence shows that children's cognitive and social development may be enhanced when parents have paid leave. As a result, already disadvantaged children whose parents are unable to take leave see their mobility constrained by lost opportunities for developmental growth.[27]
- Disparities in access to paid leave mean that children with low-income parents face even greater obstacles to escaping poverty right from the very beginning.

"The test of our time is inequality. It's not too much to say that inequality threatens the continued existence of the middle class is America and even the American Dream itself."[28]

Rep. Rosa DeLauro (D-CT)

Voters and policymakers are calling for action on inequality, including paid leave

Lack of paid leave can make even the best paying jobs unstable, and for those in low-wage jobs, it can exacerbate an already tenuous employment situation. If a worker risks losing her job when she needs to care for a sick child or catches the flu, she is forced to endanger her family's health or imperil her economic stability. If parents are forced to go back to work just days after childbirth or leave a job behind, parents, children, and employers lose out. And for workers with not even one form of paid leave available (sick, personal, vacation, or family leave), dealing with unexpected emergencies, which are inevitable, can mean sacrificing a job that is crucial to making ends meet.

Policies that ensure universal access to paid leave push back against growing inequality—and reflect Americans' values. According to a 2014 Pew poll, 65 percent of Americans believe the gap between the rich and everyone else has increased in the last 10 years. Only 36 percent believe our economic system is generally fair to most Americans.[29]

As they condemn inequality, clear majorities of all political stripes are supporting policies that ensure *all* workers can access paid leave. For example, a national survey found that 75 percent of respondents support a

law guaranteeing all workers sick days, with support crossing party lines. Nationally, 89 percent of "strong Democrats," 59 percent of "strong Republicans," and 77 percent of Independents said they support universal access to a minimum number of paid sick days.[30] State-level polling results reinforce this finding. In Denver, 73 percent of Democrats, 58 percent of Republicans, and 65 percent of Independents supported sick days legislation. In Philadelphia, 72 percent of Democrats and 64 percent of Republicans supported paid sick days legislation.[31] And in a 2014 Maryland poll, 91 percent of Democrats, 59 percent of Republicans, and 82 percent of Independents supported paid sick days.[32]

As policymakers increasingly confront growing inequality in the United States, ensuring that workers have paid leave is an important piece of any comprehensive policy response. Across the country, at the state and local level, more and more jurisdictions are passing legislation enabling workers to earn paid sick days and creating family leave insurance systems.[33] These laws are helping to protect millions of workers and address inequality. Additionally, this movement should tip the scales in favor of national laws that will ensure hard work in a decent job is compatible with caring for of oneself and one's family. A federal minimum standard should extend to all workers, regardless of their zip code and whether they work in the C-Suite or on the factory floor.

Proposed Federal Paid Leave Legislation and Existing Federal Leave Laws

In addition to numerous laws and proposed legislation for paid leave at the state and local levels, there are several pieces of federal legislation that have been introduced in Congress.[34] The unpaid Family Medical Leave Act, which passed over twenty years ago, is the only existing federal family and medical leave law.

Family and Medical Insurance Leave (FAMILY) Act (H.R.3712/S.1810)

The FAMILY Act would provide up to 12 weeks of paid leave per year for employees to use to care for their own health, for a seriously ill family member, or for a newly born or adopted child. The program would be funded by modest employee and employer payroll contributions administered through an independent trust within the Social Security Administration. Workers would be eligible to collect benefits equal to 66 percent of their monthly wages, capped at a maximum amount.

The Healthy Families Act (H.R.1286/S.631)

The Healthy Families Act would create a national paid sick days standard. The law would allow employees to accrue up to seven paid sick days per year to address their own medical needs, care for an ill family member, or tend to issues related to domestic violence, sexual assault, or stalking.

Paid Vacation Act (H.R. 2096)

The Paid Vacation Act would amend the Fair Labor Standards Act to mandate that companies with more than 100 employees provide at least one week of paid leave annually to their employees. Three years after enactment, employers with 100 or more employees would be required to provide two weeks of paid leave annually, while companies with 50 or more employees would be required to provide one week of paid leave.

Family and Medical Leave Act (FMLA)

The FMLA requires certain employers to provide up to 12 weeks of *unpaid*, job-protected leave annually for enumerated family and medical reasons, including the serious health condition of the employee or immediate family member, or for the birth or adoption of a child. Coverage of the Act is limited to companies with 50 or more employees and to employees who have been employed by the same company for at least a year.

The Family and Medical Leave Enhancement Act (H.R. 3999)

The Family and Medical Leave Enhancement Act would amend the FMLA to cover employees in worksites with more than 25 employees. It would allow employees to take parental involvement leave to attend children's and grandchildren's educational and extracurricular activities, and to meet family medical care needs.

Leave Glossary

There are many terms used to refer to time away from work to care for one's own health or that of family members. Here are a few commonly used terms and their usual meanings.

Earned Sick Days	Paid time away from work to recover from a short-term illness (e.g., the flu) or care for a family member recovering from a short-term illness. Specifics vary by jurisdiction, but in all cases workers earn sick time based on the number of hours they have worked. Earned sick days are paid for by the employer.
Paid Family Leave	Fully or partially paid time away from work to care for a sick family member or bond with a new baby. "Family member" is defined differently under different laws and policies.
Paid Maternity Leave	Fully or partially paid time away from work specifically for use by mothers of new children. May include short-term disability programs, usually employer-provided, which birth mothers can use to recover from childbirth.
Paid Parental Leave	Fully or partially paid time away from work to care for a new child, available to both parents. For birth mothers, this may include short term disability programs for recovery from childbirth.
Paid Family and Medical Leave	Fully or partially paid time away from work to care for a sick family member, bond with a new baby, *or* recover from one's own serious illness.
Family and Medical Leave Insurance	A publically administered insurance system for providing paid family and medical leave that is funded by contributions from employers and employees, or by employees only.

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Paid Leave Necessary for an Ounce of Prevention

May 12, 2015

Paid Leave and Access to Preventive Health Care

By Liz Ben-Ishai and Alex Wang

With the passage and implementation of the Affordable Care Act (ACA), the United States is on the cusp of a new era of broader access to health care – especially preventive health care. The law is already affecting millions of people's lives; according to most recent data from the U.S. Department of Health and Human Services (HHS), 16.4 million Americans who were previously uninsured have gained coverage since provisions of the ACA began to take effect in 2010.[i] As the number of uninsured Americans accessing health care continues to increase in the coming years, the ACA will help millions of Americans overcome economic barriers to obtaining health care. One particularly welcome aspect of this health care reform law is that it covers 100 percent of the costs of preventive care for children and women's health, with no cost-sharing allowed.[ii] People are now entitled to a wide variety of preventive services, ranging from mammograms and well-woman visits to contraception, without any out-of-pocket expenses. Early evidence suggests that some groups have already increased use of preventive care following the implementation of the ACA.[iii]

Although preventive care use under ACA is improving, for the many U.S. workers who lack access to paid leave, improved health insurance coverage may not be enough. Because American labor standards are out of date and out of touch with the current realities of the workforce, far too many workers cannot take the time away from work they need in order to make use of their newfound right to access care. Nearly one in five women report that they have delayed or gone without care because they could not take time away from work. One in four women, across all income levels, report that lack of time is the primary reason they do not get medical care.[iv] Public policies that guarantee workers paid sick days and paid family and medical leave would provide that time to America's workforce, allowing them to obtain crucial preventive health care without risking job or wage loss.[v]

Paid sick days and paid family and medical leave are crucial to ensuring that Americans can lead productive and healthy lives. Unless laws guaranteeing access to paid leave are enacted, the full impact of the ACA will not be realized; the many benefits of preventive health care will be lost for those who aren't "lucky" enough to have employers who voluntarily provide paid leave in the absence of law. Necessary paid leaves include paid sick days – which are used for one's own or a family members' short-term illness, like the flu, or for short-term preventive care like regular checkups – and paid family and medical leave – which is used for longer term leaves to recover from one's own or a family members' serious illness, like cancer, or longer lasting medical treatments. Having a doctor to go to and the insurance to pay for the visit is meaningless if one does not have the time or resources to leave work for an appointment or take time to receive appropriate care. It's time to prioritize paid sick days and paid family and medical leave on the list of criteria necessary for healthy families.

Why Preventive Health Care Matters

Research shows that preventive health services have the potential to reduce unnecessary illness and death, improve quality of life, and produce cost savings over the long term.[vi] Historically, preventive care has been underutilized in the United States, contributing to rising rates of chronic disease that impose significant long-term costs on our health care system.[vii] One recent study estimates that preventive care provided through public health programs would slow the rise of chronic diseases and associated health care costs. Cutting the rate of chronic disease growth by even 5 percent would save Medicare and Medicaid $5.5 billion per year by 2030.[viii]

Access to preventive care leads to healthier families. For children in particular, preventive health care can help avert the onset and development of conditions that may impede them from leading full, productive lives. Well-baby and well-child visits, fully covered under the ACA until age 21, are a critical component of preventive health care for children. These appointments are opportunities for physicians to communicate essential information about important aspects of child well-being and development, such as nutrition, sleep, and safety.[ix] According to a recent study, children who regularly attended well-child visits were half as likely to be hospitalized as those who did not.[x]

Key Perspectives on Prevention

"If we had a system that could care for people better, that was actually more focused on prevention than our current system [...] we may be able to prevent a lot of the illness, the suffering and the health care costs that we see in our current world [...] A prevention-based society is one in which every institution, whether they're a hospital or a clinic, or a school, an employer or a faith-based organization, recognizes and embraces the role that it can play in improving health."

– **Vivek Murthy, U.S. Surgeon General,** U.S. Surgeon General

"Our country will never contain health care costs until we place a higher priority on public health and prevention programs."

– **Congresswoman Kay Granger** (R-TX), Member, Caucus on Prevention [xi]

Earned Sick Days Help Workers Access Preventive Care

While the ACA is expanding access to health insurance coverage and, in turn, preventive care, too many workers may be forced to forgo these benefits if they cannot take time away from work to seek care. A growing body of research indicates that access to earned sick days plays a pivotal role in access to preventive care.

- **Lack of sick days forces parents to make choices that are bad for kids' health – and everyone else's.** One small study conducted with working parents in California found that 44 percent of working parents who did not have access to paid sick days sent their kids to school sick.[xii] Not only does this impede children's recovery, it increases the likelihood that contagious diseases will spread. In families with parents who have sporadic access to sick days, mothers often skip or delay their own care, saving their only available sick days to tend to their children.[xiii]

- **With paid leave, more flu shots and less flu.** In one study, workers with access to paid leave (defined in this study as paid sick days, vacation, or time to visit the doctor) were 13 percent more likely to have received the flu vaccine. The authors estimate that universal access to paid leave would avert 63,800 workdays lost to the flu each year, which amounts to $10.3 million in wages. In addition, by preventing the flu, paid leave would eliminate 18,200 health care visits, saving over $4 million annually.[xiv]

Workers Speak

"I was working that day at the pizzeria and I felt like I was losing my breath and didn't have enough oxygen. During the whole day I kept saying to my boss that I should go to the doctor, that I wasn't feeling good. Finally at 5pm, when a replacement came in, I went to the doctor's office and they sent me to the emergency room. They said I was having an asthma attack. I think that if I could have had it addressed sooner, I could have gotten it under control without going to the emergency room."

– New Jersey Worker [xv]

- **Pregnant women are unable to access vital prenatal care.** Healthy pregnancies require ongoing care. However, more than 17 percent of mothers report delaying prenatal care; these numbers rise significantly for women of color and young mothers. Nearly 10 percent of women who delayed care cited inability to take time away from work or school as a barrier to access.[xvi]
- **Workers with sick days are more likely to receive regular well-care, cancer screenings, and attend prenatal appointments.** Such care helps to stave off illness and to detect health conditions that may become more serious later.[xvii] A health impact assessment of proposed paid sick days legislation in California found that workers with paid sick leave were 12 percent more likely to have routine checkups within the last 2 years, versus those without paid sick leave.[xviii]
- **Key screenings for women's health are more likely among workers with sick days.** One analysis shows that among women 40 years of age and older, those with paid sick days were almost 12 percent more likely to have had a mammogram in the past 2 years. Working women were also more likely to undergo Pap tests and endoscopy when they had sick days.[xix] Another study found that nearly 72 percent of women with paid sick leave received breast cancer screenings, while only 60 percent of those without sick leave accessed this testing.[xx] Breast cancer affects one in eight women during their lives.[xxi] Early detection is critical to prevention.
- **Workers with sick days are able to care for their children when they are ill.** Researchers found that, in 1 study, 42 percent of parents stayed home to care for their children when they were sick. Parents who had either paid sick or vacation time were more than five times as likely to care for children when they were sick than those without paid leave.[xxii] When parents can care for their sick children, recovery times diminish.
- **When workers have earned sick days, they use outpatient care instead of expensive emergency care.** One study found that among workers with health insurance, the odds of using less expensive outpatient care were about 15 percent higher by those with sick days compared to those without it. Insured workers with sick days were also less likely to use the emergency department.[xxiii] Emergency department visits are much more costly than outpatient care.[xxiv]

Paid Family and Medical Leave Is Critical For Access to Preventive Care and Treatment

Workers use family and medical leave when they need to bond with a new child, care for a seriously ill family member, or recover from their own serious illness. Typically, these leaves are longer than those covered by paid sick days. Without paid family or medical leave, workers are forced to choose between their own health or that of their loved ones, and their wages or jobs.[xxv] These impossible choices are wrenching for those workers who lack leave. And the choices are also challenging for workers whose leave is insufficient or unpaid, forcing them to return to work too soon, before they have had sufficient time to bond with new babies, recover from illness, or care for loved ones.

- **Workers with access to paid family leave are better able to take care of their loved ones.** A variety of international studies looking at the benefits of paid family leave suggest that mothers with access to this critical labor standard are more able to take advantage of preventive health care for their children, including recommended child immunizations.[xxvi] Further, in nations with guaranteed access to paid leave, more generous paid family leave policies are associated with lower infant and child mortality.[xxvii]
- **Research suggests that paid family leave can improve the health and well-being of both sick family members and their caregivers.** A 2011 study finds that access to paid leave is associated with better mental health for adult caregivers and better health outcomes for the recipients of this care.[xxx] Studies also show that children recover from illness and injury more quickly when their parents are able to care for them.[xxxi]
- **Paid maternity leave leads to higher rates of breastfeeding.**[xxxii] For new mothers, access to paid maternity leave following the birth of a newborn can lead to higher success in establishing breastfeeding, which has important health benefits for both mothers and their children.[xxxiii], and lower probability of breastfeeding cessation.[xxxiv] One study concluded that every additional week of maternity leave translated into almost a half week of additional breastfeeding. [xxxv] A study conducted in California after the implementation of the state's paid family leave found that mothers who took paid leave had median breastfeeding durations that were double the rates among mothers who did not.[xxxvi]

Workers Speak

"We are trying to pay down debts and make our family financially stable, but it's a hard road. And it's made harder because whenever we get sick or our children get sick, we have to decide whether to stay home without pay, or to disregard doctor's orders and risk getting sicker and infecting others by going to work or school."

– Desiree, MomsRising member [xxviii]

"I would send [my daughter] to daycare sick and I felt bad because I knew it was going to get other kids sick. If another kid was sick at daycare I would just hold my breath and pray that she wouldn't get it, 'cause if she does then I'm gonna get sick."

– Focus group participant [xxix]

- **Among workers who needed - but did not take - unpaid medical leave more than half decided to defer or forgo medical care.** While some workers are provided *unpaid* leave through the Family and Medical Leave Act, 46 percent of those workers who needed to take leave did not because they could not afford to do so, or were fearful of losing their job.[xxxvii] As a result, fully 52 percent of workers deferred medical care, and more than 50 percent stayed on the job instead of getting needed care .[xxxviii] These workers likely face a longer recovery time period or worsening medical conditions, putting them at greater health risk.
- **Even among those who get medical care, many workers may return to work prematurely because they cannot afford unpaid medical leave.** Nearly 50 percent of workers report returning to work prematurely because they cannot afford to remain unpaid. [xxxix] Despite the fact that many of these workers may suffer from ongoing conditions that require further treatment, the absence of labor standards guaranteeing economic security forces workers to return to their jobs with medical issues not fully resolved.

By the Numbers: Access to Paid Leave

No Leave

- Almost half of all workers in the lowest 25 percent of wage earners have no paid time off at all—no sick days, no family leave, no personal days, no vacation.[xl]

Paid Sick Days[xli]

- Among workers age 18 and older, 39 percent lack access to paid sick days.
- Hispanic men (53 percent) and women (49 percent) are more likely than White men (37 percent) and women (35 percent) to not have access to paid sick days.
- Part-time workers have very limited access to paid sick days. Nearly 80 percent of those working fewer than 20 hours per week and more than 70 percent of those working 20 to 34 hours per week lack access to paid sick days.
- Nearly 80 percent of workers earning less than $15,000 per year do not have access to sick days, compared to about 10 percent of workers earning more than $65,000 per year.
- Among fast-growing occupations, such as food preparation and service and personal care and service, nearly 70 percent of workers lack access to sick days.

Paid Family Leave

- Few workers have designated paid family leave, but low-wage workers fare particularly badly. While 87 percent of all workers lack access to paid family leave, as many as 95 percent of low-wage workers (those in the lowest 25 percent of wage earners) have no paid family leave. Similarly, 95 percent of part-time workers have no paid family leave.[xlii]

Preventive Health Care Access and Fair Labor Standards: An Essential Match

To maximize the benefits of expanded access to preventive health care, workers need paid family and sick leave, including paid sick days. Because many workplaces do not provide such leaves, millions of Americans cannot benefit from comprehensive health care reform designed to guarantee access to preventive care that could produce cost savings and better public health outcomes over the long term. This highlights the need to synchronize policies in the workplace with health care reform in order to ensure that all workers can benefit from critical health services.

Public Policies to Make a Difference
Proposed Federal Paid Leave Legislation

Currently, there is no federal law that guarantees workers access to paid leave. States and localities are leading the way: 3 states have paid family leave insurance programs and 20 local jurisdictions have passed paid sick days laws. Yet far too many workers are excluded. Around the country, campaigns to pass such laws at the state and local level are rapidly gaining momentum.[xliii] At the federal level, two pieces of federal legislation would extend paid sick days and paid family and medical leave to millions more workers:

The Healthy Families Act
(H.R.932/S.497)

The Healthy Families Act would create a national paid sick days standard. The law would allow employees of firms with more than 15 staff to accrue up to 7 paid sick days per year to address their own medical needs, care for an ill family member, or address issues related to domestic violence, sexual assault, or stalking. Workers in firms with less than 15 employees would accrue up to 15 job-protected, unpaid sick days to be used for the same purposes.

Family and Medical Insurance Leave (FAMILY) Act
(H.R.1439/S.786)

The FAMILY Act would provide up to 12 weeks of paid leave per year for employees to use in caring for their own health problems, for a seriously ill family member, or for a child who is newly born or adopted. The program would be funded by modest employee and employer payroll contributions administered through an independent trust within the Social Security Administration. Workers would be eligible to collect benefits equal to 66 percent of their monthly wages, capped at a maximum amount.

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Wages Lost, Jobs at Risk

February 5, 2015

The Serious Consequences of Lack of Paid Leave

By Liz Ben-Ishai

Lack of paid leave threatens workers' jobs and financial stability. More than 40 million workers have no access to paid sick days. Even worse, nearly 95 million workers—the vast majority—have no paid family leave. As a consequence, many workers are losing wages——or even their jobs. To build a strong economy with family-sustaining jobs, policymakers must make minimum paid leave standards a top priority for legislation. At present, there is no federal law guaranteeing workers the ability to earn paid sick days or paid family and medical leave. A growing number of states and municipalities have passed their own paid leave laws, but millions are left behind.[1]

While the economy is recovering, 9 million Americans are still unemployed, with communities of color and other vulnerable groups disproportionately affected.[2] Long-term unemployment rates also remain high; nearly 3 million people have been out of work for more than six months.[3] An additional 6.8 million people are working fewer hours than they would like. Many more are forced to take on multiple jobs in order to make ends meet.[4]

The economic recovery is not addressing employment challenges evenly. In fact, job growth during the recovery has been concentrated in low-paying occupations that offer few worker protections and benefits.[5] With more and more jobs paying poverty-level wages, many working families are barely scraping by.

In this climate, losing a job can mean descending into poverty—and staying there for a significant amount of time. Yet millions of people must risk their wages and jobs when they need to take a day off to care for a sick child or recover from the flu. Without access to earned sick days, these workers must make impossible choices between health and employment. Longer leaves also present significant problems; many workers must quit their jobs to care for a new baby, recover from a serious illness, or care for a seriously ill family member. Without paid family and medical leave, workers have few options.

For many workers, a sick day is disastrous

- **A majority of low-income mothers lose wages when they must care for a sick child.** Two-thirds of women with family incomes below 200 percent of the federal poverty level and three-quarters of women living below the poverty line do not get paid when they need to miss work to care for a sick child.[6]
- **Parents worry about losing pay to care for a sick child.** One-third of parents with young children are concerned about losing pay when they need to care for their sick children; nearly two-thirds said their children could not attend child care because of illness in the past year.[7]
- **For single parents, lost wages quickly wreak havoc.** Assuming she earns the average wage for workers without paid sick time, a single working parent of two children cannot miss more than three days of work in a month without falling below the federal poverty line.[8]

- **Many low-wage workers, especially mothers, lose their jobs due to lack of paid sick days.** One in seven low-wage workers reports losing a job in the past four years because they were sick or needed to care for a family member.[9] Almost one in five low-wage working mothers has lost a job due to sickness or caring for a family member.[10]
- **Income loss due to lack of paid leave often plays a role in medical bankruptcies.** In 2007, 38 percent of people who declared bankruptcy for medical reasons cited income loss due to illness as a contributing factor. Medical reasons are a factor in more than 60 percent of bankruptcies.[11]

Without paid leave, caring for a loved one can cause financial hardship

- **Women with less education often quit their jobs, lacking alternative leave arrangements**. According to one study, half of women with less than high school education quit their jobs in order to take leave after the birth of a first child; more than 10 percent were let go from their jobs. By contrast, just 13 percent of women with a college degree quit their jobs to take leave, and only 3 percent were let go.[12]
- **Many low-wage workers lose all income while on family or medical leave.** According to the 2012 FMLA survey, more than half (54 percent) of workers earning less than the median family income (in this survey, $62,500/yr) reported losing all income while on leave. Eighteen percent of those above the median family income lost all income while on leave.[13]
- **When mothers must change jobs after giving birth, their wages often drop.** One study found that 30.6 percent of mothers who had to find new jobs after a birth experienced a drop in wages.[14]

Paid leave makes a difference for family economic security

- **When workers have paid sick days, they are better able to keep their jobs.** The probability of a worker with paid sick days hanging on to their jobs for five months is nearly 8 percent higher than that of a worker without sick leave.[15]
- **Paid maternity leave boosts job retention and wage levels.** Mothers who have access to paid maternity leave are more likely to return to their previous employer, and 97.6 percent of those who return do so at the same wage rate or higher.[16]
- **California's Paid Family Leave Insurance Program is helping mothers work more and make more**. The state's decade old program has led to increased weekly work hours and wages for mothers.[17]

By the Numbers: Access to Paid Leave

No Leave

- Almost half of all workers in the lowest 25 percent of wage earners have no paid time off at all—no sick days, no family leave, no personal days, no vacation.[18]

Paid Sick Days[19]

- Among workers age 18 and older, 39 percent lack access to paid sick days.
- Hispanic men (53 percent) and women (49 percent) are more likely than White men (37 percent) and women (35 percent) to lack access to paid sick days.
- Part-time workers have very limited access to paid sick days. Nearly 80 percent of those working fewer than 20 hours per week and more than 70 percent of those working 20 to 34 hours per week lack access to paid sick days.
- Nearly 80 percent of workers earning less than $15,000 per year lack access to sick days, compared to about 10 percent of workers earning more than $65,000 per year.
- Among fast-growing occupations, such as food preparation and service and personal care and service, nearly 70 percent of workers lack access to sick days.

Paid Family Leave

- Few workers have designated paid family leave, but low-wage workers fare particularly badly. While 87 percent of all workers lack access to paid family leave, as many as 95 percent of low-wage workers (those in the lowest 25 percent of wage earners) have no paid family leave. Similarly, 95 percent of part-time workers have no paid family leave.[20]

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New and Expanded Employer Paid Family Leave Policies (2015)

CLASP and the National Partnership relied on company news releases or documentation for information about the duration or parameters of companies' leave policies except where alternative sources are cited.

Company Announcement	Family Leave Policy	Noteworthy Aspects of Policy	Company Rationale
Vodafone March 6, 2015	**Maternity Leave**: 16 weeks paid leave	Full pay for a 30-hour week for up to 6 months after an employee's return Introduces a minimum maternity leave standard that will be implemented at Vodafone worldwide	"Too many talented women leave working life because they face a difficult choice between either caring for a newborn baby or maintaining their careers. Our new mandatory minimum global maternity policy will support over 1,000 Vodafone women employees every year in countries with little or no statutory maternity care." Vittorio Colao Vodafone Group Chief Executive
Accenture* March 12, 2015	**Maternity Leave**: 16 weeks paid leave **Parental and Adoptive Leave**: 8 weeks paid leave	Includes 40 hours of back-up child care per year, extensive library of community-based programs and resources Includes full- and part-time employees	"Providing our people with career opportunities that are unmatched in the industry means that we must help them navigate the choices and challenges of caring for a new child while they continue pursuing their careers. These expanded benefits will help us attract, retain and inspire the best people." Steve Rohleder Group Chief Executive – North America
Blackstone Group April 23, 2015	**Maternity Leave:** 16 weeks paid leave		"By having strong policies in place that support working mothers…we hope to help make asset management a more attractive industry for women." Stephen Schwarzman Chief Executive

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New and Expanded Employer Paid Family Leave Policies (2015)

Company Announcement	Family Leave Policy	Noteworthy Aspects of Policy	Company Rationale
Johnson & Johnson* April 29, 2015	**Maternity Leave**: 9 weeks paid leave plus 8 weeks parental leave (17 weeks paid leave in total) **Parental and Adoptive Leave**: 8 weeks paid leave	Leave does not need to be taken consecutively Leave is retroactive through May 2014	"We are especially proud of the changes instituted today because they underscore our strong support for the modern-day family, no matter what shape that family takes. In addition to the obvious benefits for mothers, our new policy is also a great stride forward in terms of fathers' and adoptive parents' leave." Peter M. Fasolo, Vice President Worldwide Human Resources Lisa Blair Davis, Vice President International Total Reward and Global Benefits
Nestlé June 26, 2015	**Maternity Leave**: 14 weeks paid leave and the right to extend leave for a total of 6 months	Establishes minimum standards to be implemented worldwide by 2018	"This policy will help us better support mothers and their families in our sites across the world and reinforces our support for exclusive breastfeeding during the first six months of a child's life." Peter Vogt Deputy Executive Vice President and Chief Human Resources Officer
Children's National Health System July 30, 2015	**Maternity Leave**: 6 to 8 weeks paid leave **Paternity and Adoptive Leave**: 2 weeks paid leave		"Retention and productivity. It's been proven that employees stay longer, and perform their jobs more efficiently, when they are supported by their place of work. We see this update as a great way to keep our employees happy!"[1] Carol Ann Parker Director of Compensation and Benefits

[1] Parker, C. A. (2015, September 30). "CLASP Interview with Children's National Health System." Retrieved 10 December 2015, from http://www.clasp.org/issues/work-life-and-job-quality/pages/clasp-interview-with-carol-ann-parker

New and Expanded Employer Paid Family Leave Policies (2015)

Company Announcement	Family Leave Policy	Noteworthy Aspects of Policy	Company Rationale
Netflix August 4, 2015 *Revised December 10, 2015*	**Parental and Adoptive Leave**: Salaried streaming employees receive "unlimited" paid leave during the first year after a child's birth or adoption; hourly streaming employees receive 16 weeks, customer-service employees receive 14 weeks and DVD employees receive 12 weeks paid leave[2]	Streaming employees can return full time or part time Streaming employees do not have to take leave consecutively	For streaming employees: "Experience shows people perform better at work when they're not worrying about home. This new policy, combined with our unlimited time off, allows employees to be supported during the changes in their lives and return to work more focused and dedicated." Tawni Cranz Chief Talent Officer
Microsoft* August 5, 2015	**Maternity Leave**: 8 weeks paid disability leave for birth mother plus 12 weeks paid parental leave (20 weeks paid leave in total) **Parental Leave**: 12 weeks paid leave	Leave can be taken in one continuous 12-week period or split into two periods Birth mothers can use short-term disability two weeks before baby is due Parents have the option of phasing into work on a half-time basis	"As we ask our employees to bring their 'A' game to work every day to achieve our mission, we believe it's our responsibility to create an environment where people can do their best work. A key component of this is supporting our employees with benefits that matter most to them." Kathleen Hogan Executive Vice President, Human Resources
Adobe* August 10, 2015	**Maternity Leave**: Up to 26 weeks for birth mothers (combination of medical and parental leave) **Medical Leave**: 10 weeks paid leave **Parental Leave**: 16 weeks paid leave for primary caregivers, also includes surrogacy, adoption and foster care	Also includes up to four weeks of paid family care leave to care for a sick family member	"Caring for yourself and your family at home helps you be your best at work. But in the U.S., government mandates for paid leave are currently slim to nonexistent. That means companies must navigate the tough balance between supporting employees during major life events and meeting business goals." Donna Morris Senior Vice President, Customer and Employee Experience

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New and Expanded Employer Paid Family Leave Policies (2015)

Company Announcement	Family Leave Policy	Noteworthy Aspects of Policy	Company Rationale
Hilton Worldwide* September 7, 2015	**Maternity Leave**: 8 weeks paid leave for birth mothers plus 2 weeks paid parental leave (10 weeks paid leave in total) **Parental & Adoptive Leave**: 2 weeks paid leave	Includes salaried and hourly employees, including part-time employees, as well as those in housekeeping and concierge roles[3]	"This is part of a series of actions that we are planning to implement in order to continue to recruit and retain the best talent and be a great place to work." Matt Schuyler Chief Human Resources Officer
M&T Bank* September 10, 2015	**Primary Caregiver Leave**: 12 weeks paid leave, includes adoption **Secondary Caregiver Leave**: 2 weeks paid leave, includes adoption		"We looked at this as a really good thing for the bank to do. It's something we felt was so necessary in order to be family-friendly and to make sure our employees have the resources they need to balance family, finances and coming back to work." Ann Marie Odrobina Group Vice President of Employee Benefits
The Honest Company* September 17, 2015	**Parental Leave**: 16 weeks paid leave		"You need to take that time also to bond with your baby; it's also important for men to bond with their babies." Jessica Alba Founder
Stonyfield Farm October 11, 2015	**Parental Leave**: 16 weeks paid leave to mother or primary caregiver of same-sex couple		"We've been able to see what a difference it makes for parents and for families and for children when the primary caregiver is able to spend a significant amount of time at home upon the arrival of a new child. Other countries all over the world offer this as a standard policy. It felt like it was time for us to catch up." Liza Dube Communications and Public Relations Director

[3] Vasel, K. (2015, September 4). "Hourly Workers Here Can Get 10 Weeks of Paid Maternity Leave." *CNN Money*. Retrieved 10 December 2015, from http://money.cnn.com/2015/09/04/pf/jobs/hilton-expanded-parental-leave-policy/

New and Expanded Employer Paid Family Leave Policies (2015)

Company Announcement	Family Leave Policy	Noteworthy Aspects of Policy	Company Rationale
Amazon November 2, 2015	**Maternity Leave**: 20 weeks paid leave, including 4 weeks paid leave prior to birth **Paternity Leave**: 6 weeks paid leave	Applies to all full-time hourly and salaried employees, including customer service and fulfillment center workers Includes a "leave-share" program Primary caregivers can work part-time for up to eight weeks after returning	
Zillow* November 10, 2015	**Maternity Leave**: 16 weeks paid leave **Parental Leave**: 8 weeks paid leave	Provides all expecting parents $1,000 in "Baby Bucks" to help buy essentials	"Our perks reflect what's most important to our employees and their families, and our commitment is to providing them with a benefits program that is both competitive and comprehensive with a primary focus on encouraging work-life balance." Camille Salama Manager, Corporate Communications and Public Affairs
Spotify November 19, 2015	**Parental Leave**: 6 months paid leave	Applies to all full-time employees worldwide Policy can be used retroactively through 2013 and can be used up to the child's third birthday "Welcome back" program to allow employees to transition into part-time work initially Employees can split their leave into separate periods	"This policy best defines who we are as a company, born out of a Swedish culture that places an emphasis on a healthy work/family balance, gender equality and the ability for every parent to spend quality time with the people that matter most in their lives." Katarina Berg Chief Human Resources Officer

New and Expanded Employer Paid Family Leave Policies (2015)

Company Announcement	Family Leave Policy	Noteworthy Aspects of Policy	Company Rationale
Facebook* November 25, 2015	**Parental Leave**: 4 months paid leave for all new parents		"In reviewing our parental leave policies, we have decided to make this change because it's the right thing to do for our people and their families… For too long, paid baby leave has been granted only to a mother who is giving birth. We believe that fathers and mothers alike deserve the same level of support when they are starting and growing a family, regardless of how they define family." Lori Matloff Goler Head of Facebook Human Resources
Credit Suisse Group* November 30, 2015	**Primary Caregiver Leave**: 20 weeks paid leave for birth or adoption of a child **Secondary Caregiver Leave**: 1 week paid leave and 19 weeks of unpaid leave for birth or adoption of a child	Includes employees working at least 20 hours a week Credit Suisse will be studying whether the new policies reduce the rate of new mothers who leave the company among its 8,500 U.S. staff, and whether it is able to attract more women hires	"We certainly see this as a competitive program, and I think one of the things we are recognizing is that our competition is not just financial services. When you look at talent coming out of the big schools they are looking at firms that offer flexibility." Elizabeth Donnelly Head of Benefits for the Americas
eBay* December 4, 2015	**Maternity Leave**: 24 weeks paid leave **Paternity Leave**: 12 weeks paid leave	Includes hourly and salaried employees working at least 20 hours a week Increases the amount of pay for people on disability or family care leave	"These updates underscore our deep commitment to our community of employees and their ability to take the time they need with their families when it matters the most." Kristin Yetto Chief People Officer[4]

[4] Lee, W. (2015, December 4). "EBay becomes latest tech firm to boost parental leave policy." *San Francisco Chronicle*. Retrieved 10 December 2015, from http://www.sfchronicle.com/business/article/EBay-becomes-latest-tech-firm-to-boost-parental-6674220.php

New and Expanded Employer Paid Family Leave Policies (2015)

Company Announcement	Family Leave Policy	Noteworthy Aspects of Policy	Company Rationale
PayPal* December 17, 2015	**Maternity Leave**: 8 weeks paid leave for birth mother plus 8 weeks paid parental leave (16 weeks paid leave in total) **Parental & Adoptive Leave**: 8 weeks paid leave	Also includes 8 weeks of paid family care leave to care for a spouse, child or ill parent and 40 hours of paid sick time	"Supporting our employees as they raise their families, care for their aging parents, or volunteer in their communities is one of the most important things we can do to build a work culture at PayPal that aligns how we work with what we aspire to achieve on behalf of our customers." Marcia Morales-Jaffe Senior Vice President, Chief People Officer
The Nation* December 16, 2015	**Parental & Adoptive Leave:** 4 months paid leave		"Parental leave is a critical benefit for both women and men at our growing company." Emily Douglas Senior Editor
KEEN Footwear* December 21, 2015	**Parental & Adoptive Leave**: 4 weeks paid leave		

*Company has indicated that this new policy is an expansion of its previous paid leave policy, meaning more employees will be covered, more weeks of paid leave will be provided, and/or the pay for leave taken will be a greater percentage of the employee's salary.

Note: This version of the chart has been updated since the original release on December 11, 2015.

Testimony before the Council of the District of Columbia Committee of the Whole regarding Bill 21-415, Universal Paid Leave Act of 2015

Dr. Heidi Hartmann and Dr. Jeffrey Hayes

Thursday, January 14, 2016

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Introduction

Chairman Mendelson and members of the Council of the District of Columbia, good day.

My name is Heidi Hartmann, President and founder of the Institute for Women's Policy Research (IWPR). The Institute is approaching a 30 year record and is well known throughout the United States for its work on paid sick days and paid family leave, as well as many other topics such as equal pay and the status of women. I am a labor economist and attended Swarthmore College in Swarthmore, Pennsylvania, where I earned the BA degree in economics, and Yale University in New Haven, Connecticut, where I earned M. Phil. and Ph.D. degrees, also in economics. When I completed my graduate studies, I taught graduate students at the New School in New York City, and then moved to Washington, DC, where I worked for the U.S. Commission on Civil Rights and then the National Academy of Sciences, before establishing IWPR. I have received several awards, such as the MacArthur Fellowship, the Wilbur Cross Medal for distinguished alumni of the graduate school of Yale University, a statistical fellowship from the American Statistical Association and the National Science Foundation, and the Charlotte Perkins Gilman fellowship from the American Academy of Political and Social Science. I am also a member of the National Academy of Social Insurance.

I am testifying here today with my colleague, Dr. Jeffrey Hayes, Program Director, Job Quality and Income Security, at IWPR, who is available to help answer any questions you may have. Dr. Hayes earned his Ph.D. in Sociology at the University of Wisconsin, Madison, and has held positions at McGill University, the Harvard School of Public Health, and the University of Colorado at Boulder before joining the Research Department at the Institute for Women's Policy Research. He has also been elected to membership in the National Academy of Social Insurance.

The Institute for Women's Policy Research has been working in the area of paid family and medical leave since 1990 and we have been helping policymakers and advocates develop legislation through providing technical information for many years. In the area of paid sick days, the Institute calculates which workers will benefit from a policy change such as a requirement that all employers of a certain size provide up to a certain number of paid sick days, as well as costs and benefits to workers and businesses of such a change (benefits usually outweigh costs of these short term programs).

In the area of paid family leave, we focus on which workers could potentially benefit from a proposed new policy, how many of those eligible will take up this new benefit, how much income they will receive from the proposed new program, and also calculate benefits and costs to society (costs are typically more than benefits because longer benefits are more expensive and because the research is such that not all the benefits of these longer leaves have been identified

and tallied), as well as estimate start up costs, since many of the new programs are potentially starting in states or jurisdictions that do not already have temporary disability insurance (TDI). TDI is a social insurance model in which contributions (taxes) based on earnings are mandatory and benefits are paid out to workers who qualify. The cost is spread across all workers and employers while only some workers benefit each year. This type of system prevents any employee or employer from suffering unusual costs while ensuring that each needy worker receives the appropriate benefit. California, Hawaii, New Jersey, New York, and Rhode Island are the 5 states with TDI systems; these systems cover medical leaves. So far three states (CA, NJ, and RI) have extended their TDI systems to include paid family care leaves. In these states, elected representatives have voted for these systems because they believe the benefits outweigh the costs.

We are here today to share with you some of the findings from our Paid Family and Medical Leave Model. The model was originally developed by the Institute for Women's Policy Research and the Labor Resource Center at the University of Massachusetts in the early 2000s to provide a tool that could be used in a variety of jurisdictions seeking to provide paid leave to their residents. IWPR staff used the earlier model in several jurisdictions. However, the model became outdated since it used the 2000 FMLA survey from the US Department of Labor and the federal Current Population Survey. By 2015, the 2012 FMLA Survey had become available as well as the American Community Survey (ACS), which provides a much larger population sample, especially important for smaller jurisdictions like the District of Columbia. It also provides data on place of work as well as place of residence. The new model has been developed with the support of two grants from the U.S. Department of Labor, one from the Women's Bureau of the US Department of Labor to the State of Massachusetts and one to IMPAQ, which subcontracted to IWPR, from the Office of the Chief Evaluator. The same two experts who helped IWPR develop the original model, Dr. Randy Albelda, Professor of Economics and Senior Research Fellow at the Center for Social Policy, still at the University of Massachusetts, and Dr. Alan Clayton-Matthews, Associate Professor of Economics and Public Policy, the Director of PhD Program in Law and Public Policy and Senior Research Associate at Dukakis Center at Northeastern University, were available to assist both entities. A technical working group of experts from the University of Virginia, City University of New York Graduate Center, Georgia State University, the University of Iowa, and the Society for Human Resource Management, was assembled by the Office of the Chief Evaluator of the USDOL to advise the development of the model. The new model uses data from the 2012 FMLA Survey and five years of data from the ACS (2009-2013).

Background

Almost every employee at some point in his or her work life experiences a temporary but extended own illnesses, the serious illness of a loved one, or the birth and/or adoption of a child. The United States is one of the few countries in the world that does not offer employees paid leaves for own health or the birth of a child. Many other countries also offer paid family leave, sometimes very long by US standards, even up to a year for mother-child bonding with smaller amounts available to men and care of family members or loved ones.

As noted above, of the five states with mandatory Temporary Disability Insurance (TDI) programs, three have adopted paid family leave. California was the first state to expand its TDI program to implement paid family leave in 2004, by extending paid leaves up to six weeks to all new parents as well as caretakers of a sick relative. New Jersey began its family leave insurance program in 2009, and last year Rhode Island implemented paid leaves (up to four weeks) for bonding and caring. Outside of these TDI and family care leave jurisdictions, and the several states and cities that have passed paid sick day laws for a specified number of days (typically up to 5 to 7 days but stretching from 3 to 9 days), there is a voluntary system of paid family and medical leave in the United States. Employers may elect to provide workers with paid leave for family or medical reasons through benefits such as sick leave, vacation time, and parental leave, or they may have purchased short-or long-term disability insurance, which typically replaces a share of regular earnings for several months. In addition, employers may have negotiated collective bargaining agreements that contain such plans, but they are not legally required to do so. Some employees choose to purchase short- or long-term disability insurance coverage.

Our simulation model estimates the number of family and medical leaves needed and taken in a jurisdiction as well as the current employer and employee wage costs associated with those leaves (In other words, in a jurisdiction without a leave program the model measures how much of the cost of leaves employers are voluntarily paying and how much of the leaves taken receive no pay so that workers are bearing the cost of those unpaid leaves). The model has the capacity to estimate the new pattern of leaves taken as well as the redistributed wage-replacement costs due to any new proposed program (typically, a proposed program will shift costs to the program, and voluntary payments by employers are estimated to fall, while unpaid leaves incurred by employees also fall because some of their costs shift to the program). The simulation model relies on information collected from a survey on employees' leave taking behavior conducted by the US Department of Labor in 2012 (the FMLA Survey). Using this information, we are able to estimate the probability of who takes a leave, what type, for how long, and whether and how much they use a paid leave program (based on whether they receive employer pay without the program, their own income level, and their gain from the use of a paid leave program described by certain parameters that we have entered into the model for the program being estimated—how

long, how generous the benefit levels, and so on). We use these probability estimates to simulate leave taking in DC, using data about individuals from the American Community Survey which allows us to also estimate a host of geographic, demographic, and employer characteristics specific to DC. For estimated leave needers and leave takers, we simulate the decision to use a program versus not to use a program based on several knowable aspects that might go into this decision. These include the generosity of the program compared to employer benefits, length of leave needed for different types of leave, length of leave covered by the program, eligibility requirements, job protection, and individual demographics. But there are decisions to use a program that we cannot model, because these are unknown at this point. These include ease of use, knowledge of the program, and workplace culture in the jurisdiction. These latter aspects will affect the take-up of the program, but we have not estimated by how much. The estimation of these factors can become known after the program has been in operation and surveys before and after operation have been taken.

The estimates we present today are based on the program proposed in the bill sponsored by Councilmembers Silverman, Grosso, Allen, Nadeau, May, McDuffie, and Cheh using take-up rates we have selected that will best reflect probable use. The District of Columbia Universal Paid Leave Act of 2015 would provide individuals living or working in D.C. up to 16 weeks of paid time away from their jobs for their own serious health condition; to care for a family member with a serious health condition; to care for a newly born or adopted child; and for leave related to having a family member who serves in the military. Individuals who qualify for leave receive 100 percent of their average weekly wages up to $1,000 per week, plus 50 percent of their average weekly wages in excess of $1,000, up to a maximum weekly benefit of $3,000.

Current Leave Use in the District of Columbia

The recent FMLA survey found an annual leave rate (percent of leaves taken per worker) of 13.1 percent in the United States and we estimate a leave rate of 15.3 percent in DC. Because people take multiple leaves in a year, we estimate that currently, in a single year, 11.1 percent of all District workers take a leave for medical or family reasons (without a public paid leave program but including the legislated paid sick days law providing up to 7 days of paid leave for most DC workers). That is, employees are already engaged in the practice of taking time off from work to tend to a serious health condition they or a relative may have or to give birth to and bond with a new child, and employers are, one way or other, dealing with these absences, both by paying workers and not paying them. We estimate the average length of leave is currently 5.7 weeks (28.5 workdays), with a median leave length of 3 weeks (15 workdays). That means that half of all leaves for any type of family and medical leave consist of 15 workdays or less.

In DC, using our model, we estimate that 76.1 percent of leave takers receive some pay from their employer for some period of their leave. The 23.9 percent of workers who do not receive

any pay while absent from work are disproportionately low-wage workers – the workers least able to afford such a leave. Of workers earning less than $15.00 per hour, only 53 percent receive any employer pay for time off for a family or medical leave.

There are already significant costs borne by employers and employees of family and medical leave taking. In DC, 72,095 of 659,407 employees take 100,925 leaves (some workers take more than one leave annually) and forego $253.2 million in annual wages. Employers provide $632.8 million in wage replacement. The average cost to the worker of foregone wages for each leave he or she takes is just over $3,500 annually, while the average cost to his or her employer in wages paid is close to $8,800.

We estimate about 62.5 percent of current leaves in DC are for own-health reasons, 13.4 percent are for parental leave (including maternity disability), and 24.1 percent of leaves are for tending to an ill relative.

Assumptions of Simulation Modeling

We have applied our simulation model using the provisions of the paid family and medical leave program proposed in Bill 21-415. Eligible individuals can take up to 16 weeks of paid time away from their jobs in a 12-month period for: their own serious health condition, including in some cases pregnancy or childbirth; the serious health condition of a family member; the birth, adoption, or placement of a child; the injury of a family member who is in the military; or certain needs arising from a family member's military deployment. Individuals who qualify for leave receive 100 percent of their average weekly wages up to $1,000 per week, plus 50 percent of their average weekly wages in excess of $1,000, up to a maximum weekly benefit of $3,000. The proposal covers individuals who work for private employers in D.C., as well as D.C. residents who: work for the federal government; work for employers located outside of D.C.; or are self-employed. There is a one-week waiting period.

Our model estimates the number of DC workers that would use a paid leave program based on these parameters assuming that they behave similarly to a nationally representative sample of workers. We assume they know and understand the program and that it is seamlessly easy to apply and receive these benefits. Clearly these are unrealistic assumptions, so another parameter we must impose on the model is take-up rates -- the percentages of estimated workers that would actually use a program if one existed among workers experiencing a qualifying event and deciding to take an employment leave. The simulation model already adjusts program usage for short leaves and for use of an employer benefit if it is greater than that of the program. Because the 2012 FMLA survey that we base our estimate on looks at those persons already taking a leave, to some extent the national workplace culture of taking leaves is taken into account, as long as the FMLA sample surveyed is an accurate reflection of all leave takers and needers.

We ultimately decided to adjust take-up rates for different types of leaves that best approximate the number, cost, and distribution of paid leaves we estimated in New Jersey and California, using the simulation model with their program parameters as compared to actual use in those states. There are two reasons we do this. The first is that the FMLA survey, which we base our model on, has a small sample of some type of leaves and like most phone surveys had a very low response rate. This leads us to suspect that the sample may not always be representative of those that take or need leaves. The second reason is that these other state's experiences would help guide us on the unknowable factors that might lead someone to use a program. For example we do not know what percentage of people would be aware of a program or the administrative ease or difficulty associated with applying and using the program. We also have no idea how many self-employed DC residents might opt out of a benefit program. We used 55 percent for leaves taken for the worker's own health, 99 percent for leaves due to maternity-related disability, 80 percent for bonding with a new child, 12 percent for caring for children, 15 percent for caring for spouses, and 10 percent for caring for parents. For the program cost estimates, an option in the simulation model was applied that allows these take up rates to be modified according to the proposed benefit level so that higher wage replacement will increase the probability that program benefits will be claimed. This is also important given the relatively generous benefits proposed relative to existing state programs. These are preliminary estimates that will reflect usage of the DC program after it has been in operation for several years. Total program cost estimates include the costs of administration calculated at 5 percent of benefits paid.

Costs of the Universal Paid Leave Act of 2015

The Universal Paid Leave Act aims to cover most workers employed by DC businesses as well as employed DC residents working outside the District, for the Federal government, or who are self-employed. Using the ACS to measure DC's local labor force characteristics allows us to calculate the simulated costs for workers in these groups. Seventy-one percent are workers employed by private employers in DC, 16 percent are DC residents working for private employers outside the District, 10 percent are DC residents working for the Federal government, and 4 percent are self-employed DC residents. Over half have at least a Bachelor's degree, overall, but educational attainment is highest for the Federal workers (74 percent with a Bachelor's or higher) and lowest for DC residents employed by private employers outside the District (46 percent). Among the DC private sector workers, nearly half (48 percent) have earnings over $52,000 and might receive less than full wage replacement even under DC's generous proposal.

Table 1: Workers Covered by Universal Paid Leave Act of 2015

	Number of Workers	Percent with Bachelors or Higher	Percent with Annual Earnings* Over $52,000
DC Wage & Salary workers**	466,713	56.4	48.0
DC residents, Federal workers	62,734	74.3	65.9
DC residents, Wage and salary workers outside District	104,028	46.3	29.8
DC residents, Self-employed	25,932	67.7	36.6
Total	659,407	57.0	

* Total earnings from self-employment for self-employed DC residents and total wage and salary earnings for all other groups.
** Approximately one-third (151,910) live in DC and two-thirds (314,803) commute in.
Source: IWPR analysis of 2009-2013 American Community Survey data.

Using these population numbers for coverage and the take up rates found above, we estimate:

- The total number of family and medical leaves taken increases by just about 10,000 to a total of just under 111,000, a 9.8 percent increase compared with before the program was implemented.
- Using the previously described take-up rates, the total number of leaves using the proposed program will be just under 40,000, which represents 6 percent of all covered workers.
- The amount of covered employee wages foregone rises to 13 percent, as more workers are taking leave, but not all their leave is covered. The cost of employer benefits paid directly to employees increases less, by about 2 percent, with the proposed program.
- The proposed program would provide $267.4 in benefits paid directly to covered workers at a total cost of $280.8 million when including 5 percent ($13.4 million) for program administration.
- The total cost of the proposed program is $280.8 million or 0.63 percent of total earnings for covered workers.
- The average length of leave increases by about 6 days from 5.4 weeks (based on a five-day week) to 6.6 weeks and to a median of 4 weeks from 3.0 weeks. That is, half of workers taking leave will take less than 20 workdays, the other half of workers taking leave will take more than 20 workdays.
- The average weekly program replacement wage is $1,065.
- The percentage of leaves with no wage replacement falls by almost ten percentage points from 23.9 percent to 14.3 percent. The percentage of unpaid leaves taken by workers earning less than $25,000 annually falls by half -- from 53.6 percent to 26.7 percent.

- While the percentage of all leaves without pay decreases for all workers, the proposed program will disproportionately decrease the percentage without pay for leaves taken by workers in low-income households, and by non-white, younger, and less educated workers, helping to level an unlevel employment playing field.

The estimates presented indicate that there is already a cost born by individual workers and employers for family and medical leaves. With a DC-wide program, individuals taking leave and employers will still bear these costs, but they will be spread out more evenly across all employees and all employers. These estimates are in line with program benefits paid in other states with TDI and family care leaves.

The estimates should dispel fears about very large increases in the number of leave takers or lengthy extensions of leave-taking due to a paid leave program. We are able to estimate only the *costs* of lost wages, employer benefits, and program benefits paid. But from other research, we know that there are benefits for employees and employers with paid family and medical leave. Individual employers benefit by reduced use of employer-sponsored time off and reduced turnover. Furthermore, a universal paid leave program will provide some workers who currently do not have paid leave – typically those with the lowest wages and least able to afford it – some form of wage replacement. In addition to keeping these families afloat it could reduce use of other benefits such as unemployment insurance or means-tested government assistance programs. A paid leave program such as the Council has proposed will allow workers who need a leave or need a longer leave to heal from a serious illness or accident or to bond with a new child or take care of an ill relative the time to do so. Research indicates that this improves health and child outcomes, reducing costs to families and society down the road.

Table 2: Cost of Current Annual Leaves in DC by Type of Leave and Type of Workers

	DC Wage & Salary workers	DC residents, Federal workers	DC residents, Wage and salary workers outside District	DC residents, Self-employed	Total
Total Leaves Taken in Calendar Year					
Own Health	44,086	6,763	9,361	2,876	63,086
Maternity & Bonding	10,057	1,118	1,927	373	13,475
Family Care	17,846	2,384	3,167	967	24,364
Total	71,989	10,265	14,455	4,216	100,925
Annual Leave Rate	15.4%	16.4%	13.9%	16.3%	15.3%
Employer Compensation Received (millions)					
Own Health	$315.5	$43.3	$29.1	$42.8	$430.6
Maternity & Bonding	$79.4	$10.7	$6.1	$3.7	$99.8
Family Care	$72.6	$10.4	$13.9	$5.4	$102.3
Total Employer Compensation (millions)	$467.4	$64.4	$49.0	$51.9	$632.8
Uncompensated Leave Taken (millions)					
Own Health	$129.8	$14.6	$22.8	$22.5	$189.6
Maternity & Bonding	$32.1	$7.2	$4.9	$2.1	$46.4
Family Care	$11.9	$2.9	$1.9	$0.5	$17.2
Total Uncompensated Leave (millions)	$173.8	$24.6	$29.7	$25.1	$253.2

* Total earnings from self-employment for self-employed DC residents and total wage and salary earnings for all other groups.

Source: IWPR estimates based on IWPR-ACM FML2 Simulation Model.

Table 3: Cost of Annual Leaves in DC under Universal Paid Leave Act of 2015 by Type of Leave and Type of Workers

	DC Wage & Salary workers	DC residents, Federal workers	DC residents, Wage and salary workers outside District	DC residents, Self-employed	Total
Total Leaves Taken in Calendar Year					
Own Health	49,627	6,836	9,130	3,306	68,899
Maternity & Bonding	12,595	888	1,643	548	15,674
Family Care	19,614	2,617	3,269	781	26,281
Total	81,836	10,341	14,042	4,635	110,854
Number Receiving Program Benefits in Calendar Year					
Own Health	21,505	2,580	4,277	1,285	29,647
Maternity & Bonding	6,399	523	998	189	8,109
Family Care	1,271	127	323	53	1,774
Total	29,175	3,230	5,598	1,527	39,530
Benefit Cost (millions)					
Own Health	$160.4	$25.5	$23.5	$7.8	$217.2
Maternity & Bonding	$37.6	$4.1	$3.6	$1.2	$46.6
Family Care	$2.2	$0.3	$1.0	$0.1	$3.7
Total Benefit Cost (millions)	$200.1	$30.0	$28.1	$9.1	$267.4
Administrative (5 percent, millions)	$10.0	$1.5	$1.4	$0.5	$13.4
Total Cost (millions)	$210.1	$31.5	$29.6	$9.6	$280.8
Total Earnings (millions)*	$33,520.0	$5,091.5	$4,792.4	$1,133.6	$44,537.5
Cost as a Percent of Total Earnings	0.63%	0.62%	0.62%	0.84%	0.63%
Employer Compensation Received (millions)					
Own Health	$313.8	$55.2	$45.0	$10.2	$424.2
Maternity & Bonding	$92.2	$5.1	$11.7	$7.3	$116.3
Family Care	$68.3	$19.0	$16.3	$2.4	$106.0
Total Employer Compensation (millions)	$474.3	$79.3	$72.9	$20.0	$646.5
Uncompensated Leave Taken (millions)					
Own Health	$186.7	$20.8	$17.5	$6.4	$231.5
Maternity & Bonding	$25.4	$1.8	$1.8	$3.5	$32.6
Family Care	$16.7	$3.2	$2.0	$0.9	$22.8
Total Uncompensated Leave (millions)	$228.8	$25.8	$21.4	$10.9	$286.9

* Total earnings from self-employment for self-employed DC residents and total wage and salary earnings for all other groups.

Source: IWPR estimates based on IWPR-ACM FML2 Simulation Model.

Table 4: Total Durations of Leaves Taken Under Current DC Policies, All Types of Workers Combined

	Own Health	Maternity & Bonding	Family Care	Total
Less than 1 Week (1-5 days)	24.3%	23.9%	39.8%	28.0%
1 to 4 Weeks (6-20 days)	32.9%	19.1%	40.7%	32.9%
5 to 12 Weeks (21-60 days)	30.9%	39.1%	16.5%	28.5%
13 to 16 Weeks (61-80 days)	4.3%	7.9%	0.4%	3.8%
More than 16 Weeks (81 days or more)	7.5%	10.0%	2.7%	6.7%
Total	100.0%	100.0%	100.0%	100.0%
Median (Weeks)	3.4	6.0	2.0	3.0
Mean (Weeks)	5.8	7.5	3.2	5.4

Source: IWPR estimates based on IWPR-ACM FML2 Simulation Model.

Table 5: Total Durations of Leaves and Duration for Benefit Receipt Taken Under DC Universal Paid Leave Act, All Types of Workers Combined

Total Leave Durations Among All Leaves Taken				
	Own Health	**Maternity & Bonding**	**Family Care**	**Total**
Less than 1 Week (1-5 days)	18.0%	11.0%	37.4%	21.6%
1 to 4 Weeks (6-20 days)	25.3%	28.1%	44.0%	30.1%
5 to 12 Weeks (21-60 days)	36.2%	40.9%	15.3%	31.9%
13 to 16 Weeks (61-80 days)	7.0%	9.3%	0.4%	5.8%
More than 16 Weeks (81 days or more)	13.4%	10.7%	2.9%	10.6%
Total	100.0%	100.0%	100.0%	100.0%
Median (Weeks)	5.0	6.0	2.0	4.0
Mean (Weeks)	7.6	7.7	3.3	6.6
Benefit Durations Among All Leaves Receiving Proposed Program Benefits				
	Own Health	**Maternity & Bonding**	**Family Care**	**Total**
Less than 1 Week (1-5 days)	11.2%	27.7%	64.8%	17.0%
1 to 4 Weeks (6-20 days)	24.8%	19.1%	24.2%	23.6%
5 to 12 Weeks (21-60 days)	45.8%	37.1%	5.4%	42.2%
More than 12 Weeks (61 days or more)	18.2%	16.1%	5.6%	17.2%
Total	100.0%	100.0%	100.0%	100.0%
Median (Weeks)	6.0	5.0	1.0	6.0
Mean (Weeks)	7.1	6.0	2.3	6.6

Source: IWPR estimates based on IWPR-ACM FML2 Simulation Model.

IHS ECONOMICS

The Impact of FMLA Expansion on the Greater Washington Economy

Fiscal Analysis

Consulting Report

ECR | January 2016

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IHS

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INTRODUCTION

Purpose

A bill in the Council of the District of Columbia, "The Universal Paid Leave Act of 2015", would establish a mandatory system of paid family and medical leave for employees and residents in the District of Columbia. The paid leave would be financed by a tax on employers and individuals of up to 1.0% of wages and salaries earned. Paid leave would be made available to employees for their own disability and for the purpose of caring for other family members who are in need, including newborn children and aging parents, amongst others. Paid leave would be available for up to 16 weeks in a year at rates as high as $3,000 per week depending upon income.

The purpose of this study is to estimate the fiscal impact of this program. The economic impacts are expected to be extensive as the program imposes a significant new tax on area businesses and workers as it provides a new benefit to workers and residents in the District.

In this report, we compare the program to other existing state programs, and calculate the fiscal impact on District revenues and expenses due to implementation of the Paid Leave Act.

COMPARATIVE ANALYSIS

Three other US states, California, New Jersey, and Rhode Island, have paid family leave policies, "paid FMLA", in place. In each of these cases the paid FMLA exists in conjunction with other state disability insurance programs, which only exist in a few other states, and not in the District of Columbia. Rhode Island's program is in its first year and we exclude it from the discussion as comparative data is not yet available.

In California, an employee's paid leave under its Disability Insurance program is funded by a tax on wages of 0.9% up to $939.40 (or an annual income level of $104,378). The weekly benefit amount varies from $50 to $1,104 depending upon income. There is no limit to the number of weeks of leave. The average weekly benefit amount in 2014 was $479 and California paid $4.515 billion for 633,586 claims.

In New Jersey, Temporary Disability is available for an injured employee for up to 26 weeks in any year, paid at 2/3rds the employee's average weekly wage up to a maximum of $604 per week ($615 in 2016). The average weekly benefit was $437 and 2014 payments totaled $422.7 million on 93,889 claims. The average duration per leave was 71 days. Also, New Jersey employers can alternatively provide a private plan.

In New Jersey eligible claims comprised 3.6 percent of covered employment in 2014, while the percentage in California was somewhat higher, near 4.0%. Both states disallow claims to workers also covered by unemployment compensation. In California, New Jersey, and Rhode Island the maximum length of family leave per year is six weeks. In California, the maximum weekly benefit is $1,075; it is $575 in New Jersey. Otherwise, the conditions on usage are similar as regards qualifying events, family eligibility, and administrative approval.

In California in 2014 there were 215,830 claims for paid family leave, with a total payout of $554.1 million. In New Jersey there were 31,715 claims totaling $83.8 million in payments. Filing information from the states indicates that 81% of the claims were for maternity care.

PAID FMLA IN DC

Generally, the bill establishes the program for all DC residents regardless of where they work, and for non-resident employees of firms in the District. The bill excludes employees of the District of Columbia government, who already have a paid leave with the government as their employer. In addition the bill excludes the US federal government as a covered employer, though under our interpretation the bill includes federal government employees as covered individuals. Self-employed individuals can opt-in to the program by making the necessary corresponding tax payments.

The payments under the leave would equal 100% of wages up to $1,000 per week. For higher wage-earners payments of an additional 50% of wages above $1,000 per week are available up

to a maximum weekly benefit of $3,000 per week. For example, a worker who earns $2,000 per week would receive leave benefits of $1,500 per week.

COMPARATIVE DEMOGRAPHICS

Due to the importance of maternity care as the leading driver of leaves and benefit utilization, it is important to understand the unique demographics of DC versus those of New Jersey and California. There were approximately 10,000 births in DC in 2014 versus 104,000 in NJ and 513,000 in CA. But as a percentage of the population, this birth rate was 13% higher than that in CA and 29% higher than that in NJ. This difference is not a function of the fertility rate of females, which is the fraction of births over the number of women of child-bearing age, but rather of the younger population, generally, in DC.

For similar reasons the elderly (65+) share of the population in DC is 12% less than in CA and 29% less than in NJ. These differences in demographics are expected to drive comparative differences in family leave utilization and will be used in the expected expenditure methodology.

TAX REVENUE METHODOLOGY

The Universal Paid Leave Act would impose a tax rate of from 0.5% to 1.0% on wage incomes above $10,000 annually. Wage income above $10,000 up to $20,000 is taxed at 0.5%, then up to $50,000 at 0.6%, to $150,000 at 0.8%, and at 1.0% for higher income. Using published statistics of income from the Internal Revenue Service or from the DC government, it is straightforward to calculate the following tax distribution for all DC residents (at 2013 income levels):

Taxpayer Wage Income	Returns	Wage Total	FMLA Tax	Revenue	Average Rate
$0.01 Under $10,000	32,121	373,224,642	0	0	0
$10,000 Under $20,000	40,327	782,285,562	0.005	1,895,078	0.24%
$20,000 Under $30,000	34,299	1,235,547,010	0.006	5,012,352	0.41%
$30,000 Under $50,000	56,817	2,444,220,452	0.006	10,688,133	0.44%
$50,000 Under $75,000	44,149	3,343,011,971	0.008	19,238,766	0.58%
$75,000 Under $100,000	26,105	2,262,515,018	0.008	13,662,270	0.60%
$100,000 Under $150,000	23,782	2,797,663,842	0.008	18,338,371	0.66%
$150,000 Under $200,000	11,227	1,785,293,299	0.01	12,576,243	0.70%
$200,000 Under $500,000	13,820	3,370,612,459	0.01	27,210,725	0.81%
$500,000 Under $1,000,000	1,661	776,104,776	0.01	6,980,378	0.90%
$1,000,000 and Over	583	769,124,208	0.01	7,417,232	0.96%
Total	284,891	19,939,603,239		123,019,547	0.62%

In this example 284,891 DC resident wage earners would pay $123.0 million into the FMLA fund, at an average tax rate of 0.62%, or $372 per employee.

Amongst DC residents, those who work for the DC government will be excluded under the Act. We need to add the non-residents employed in DC, and the self-employed who may opt-in. Employment and income data for these groups are available from the Census' American Community Survey, illustrated below.

Employed District of Columbia Residents by State of Job Location: 2014

		Private Sector				
	Total	Total	Employees	Self-Employed	Federal Government	State & Local Government
Total	344,490	263,565	240,294	23,271	54,060	26,865
District of Columbia	258,270	196,218	176,854	19,364	42,293	19,759
Maryland	43,038	32,575	30,714	1,861	6,707	3,756
Virginia	39,391	31,159	29,745	1,414	4,943	3,289
All Other Locations	3,791	3,613	2,981	632	117	61
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
District of Columbia	75.0%	74.4%	73.6%	83.2%	78.2%	73.5%
Maryland	12.5%	12.4%	12.8%	8.0%	12.4%	14.0%
Virginia	11.4%	11.8%	12.4%	6.1%	9.1%	12.2%
All Other Locations	1.1%	1.4%	1.2%	2.7%	0.2%	0.2%

Source: IHS tabulations of 2014 American Community Survey data

District of Columbia Employment by State of Residence of Workers: 2014

		Private Sector				
	Total	Total	Employees	Self-Employed	Federal Government	Local Govt
Total	811,535	542,049	498,219	43,830	217,384	52,102
Maryland	314,796	202,192	188,104	14,088	88,046	24,558
District of Columbia	258,270	196,218	176,854	19,364	42,293	19,759
Virginia	223,246	134,295	125,105	9,190	81,901	7,050
Pennsylvania	2,400	688	631	57	1,113	599
West Virginia	1,098	367	284	83	661	70
All other	11,725	8,289	7,241	1,048	3,370	66
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Maryland	38.8%	37.3%	37.8%	32.1%	40.5%	47.1%
District of Columbia	31.8%	36.2%	35.5%	44.2%	19.5%	37.9%
Virginia	27.5%	24.8%	25.1%	21.0%	37.7%	13.5%
Pennsylvania	0.3%	0.1%	0.1%	0.1%	0.5%	1.1%
West Virginia	0.1%	0.1%	0.1%	0.2%	0.3%	0.1%
All other	1.4%	1.5%	1.5%	2.4%	1.6%	0.1%

Source: IHS tabulations of 2014 American Community Survey data

Wage Distribution of Workers in the Covered Population, 2014

		Employed in DC			
	Total Covered	Total DC Jobs	DC Resident	Not DC Resident	DC Resident Working Outside DC
Persons with Wage & Salary Income					
Total	627,724	554,042	228,812	325,230	73,682
$1 - $9,999	46,587	41,478	23,079	18,399	5,109
$10,000 - $19,999	47,685	41,859	17,545	24,314	5,826
$20,000 - $49,999	182,891	162,656	67,250	95,406	20,235
$50,000 - $149,999	284,804	248,722	96,887	151,835	36,082
$150,000 or more	65,757	59,327	24,051	35,276	6,430
Distribution of Persons with Wage & Salary Income					
Total	100.0%	100.0%	100.0%	100.0%	100.0%
$1 - $9,999	7.4%	7.5%	10.1%	5.7%	6.9%
$10,000 - $19,999	7.6%	7.6%	7.7%	7.5%	7.9%
$20,000 - $49,999	29.1%	29.4%	29.4%	29.3%	27.5%
$50,000 - $149,999	45.4%	44.9%	42.3%	46.7%	49.0%
$150,000 or more	10.5%	10.7%	10.5%	10.8%	8.7%
Average Wages & Salary by Income Category					
$1 - $9,999	$4,522	$4,493	$4,249	$4,798	$4,761
$10,000 - $19,999	$13,976	$13,987	$14,095	$13,910	$13,896
$20,000 - $49,999	$34,216	$34,210	$33,945	$34,397	$34,258
$50,000 - $149,999	$83,950	$84,034	$86,276	$82,604	$83,367
$150,000 or more	$255,575	$261,153	$240,749	$275,064	$204,113

Source: IHS tabulations of 2014 American Community Survey data.

TAX REVENUE

The graduated tax rate schedule applied to DC residents 2013 income yielded revenues of $123 million. Using IHS economic forecasts for DC employment and income, we calculate that the tax revenue from DC residents for 2016 income would be $145.7 million. This estimate also includes the participation of self-employed residents. In that case we assume that those with incomes of less than $100,000 per year will be motivated to opt-in individuals, otherwise the tax rate is seen to be too high for participation.

Further adjustments are necessary to derive the ultimate expected revenue for 2016; the tax rate schedule is applied to the distributions in the tables above:

- Subtract DC government employees -$7.1 million
- Add non-resident employees +199.6 million

This yields total projected 2016 revenue of $338.3 million.

EXPENDITURE METHODOLOGY

The Universal Paid Leave Act would allow employees to take up to 16 weeks of paid leave to take care of an employee or family medical issue. Unlike the revenue analysis, there is much uncertainty as to how much leave would actually be claimed and taken. For this reason we will provide different scenarios of the 'uptake' under different assumptions.

First, the Labor Departments of California and New Jersey do provide significant data on their uptake rates. One notable piece of experience is that maternity leave accounts for slightly more than one-quarter of individual disability and approximately 80% of the paid family leave cases.

The tables below describe the covered female population under the Act. Here you see 8,800 covered births in 2014. At 16 weeks of maternity leave per birth at average weekly benefit of $1173 (derived from ACS data on female wages) implies $165.2 million in costs. If this is 80% of the total paid leave this implies total costs of $206.4 million. IHS expects the number of births to increase to 10,000 in 2016, and with wage growth total costs would equal $278.0 million.

Among Female Workers in the Covered Population, 2014

		Employed in DC			
	Total Covered	Total DC Jobs	DC Resident	Not DC Resident	DC Resident Working Outside DC
Gave birth to a child within the past 12 months	8,849	8,115	4,679	3,436	734
Share of all female workers	2.8%	2.9%	3.8%	2.2%	1.9%

Source: IHS tabulations of 2014 American Community Survey data.

Female Workers in the Covered Population, 2014

		Employed in DC			
	Total Covered	Total DC Jobs	DC Resident	Not DC Resident	DC Resident Working Outside DC
Females with own children under 6 years only	21,629	19,214	8,183	11,031	2,415
Females with own children 6 to 17 years only	41,977	38,801	12,537	26,264	3,176
Females with own children under 6 years and 6 to 17 years	13,270	12,555	3,821	8,734	715
Females with no own children	238,296	206,349	99,552	106,797	31,947
Share of all female workers	100.0%	100.0%	100.0%	100.0%	100.0%
Females with own children under 6 years only	6.9%	6.9%	6.6%	7.2%	6.3%
Females with own children 6 to 17 years only	13.3%	14.0%	10.1%	17.2%	8.3%
Females with own children under 6 years and 6-17 years	4.2%	4.5%	3.1%	5.7%	1.9%
Females with no own children	75.6%	74.5%	80.2%	69.9%	83.5%

Source: IHS tabulations of 2014 American Community Survey data.

Family Leave

An alternative methodology is to directly use reported claims data from New Jersey, adjusting it for the size of the covered population and for the benefit differences. Covered employees in DC are 19% of the NJ base. All things equal, DC benefits would be expected to be 19% of that in New Jersey. But the DC Act will allow longer leaves, at higher levels of benefits, and we know that DC has a higher effective birth rate.

Applying each of these factors to the 2014 NJ expenditure of $83.8 million results in projected 2016 expenditures in DC of $227.8 million.

Similarly, adjusting California's reported payments of $554.1 million results in DC projections for 2016 of $310.1 million. This estimate, reflecting the California experience, is close to that derived from DC data above. As a result we conclude that it is the best projection of the Plan costs for prudent planning purposes.

Individual Disability

As noted above, covered employees in DC are 19% of the NJ base. All things equal, DC benefits would be expected to be 19% of that in New Jersey. Unlike the case of family leave, the DC Act allows for shorter leaves, but at higher levels of benefits. The same is true of California state disability.

Adjusting for the higher expected weekly benefits under the DC Act, and assuming comparable lengths of leaves to the 2014 NJ expenditure of $423 million, results in projected 2016 expenditures in DC of at least $233 million. Note, however, that strict enforcement in NJ results in 28% of claims being rejected. Without an administrative commitment to discipline false claims and to limit leave times to less than 16 weeks where appropriate, the annual cost to DC could soar to $391 million. Similarly adjusting California's reported payments of $4,515 million results in DC projections for 2016 of $719 million.

California has higher costs per capita than New Jersey for two reasons. First, its monthly payment is higher as described above. Second, the allowed length of time is longer. California reports an average leave length of over 15 weeks, which implies that a large fraction of leaves extend beyond the 16 week limit that DC would allow. We assume that even though the number of exercised leaves exceeding 16 weeks in California is much less than half, the number of weeks of leave that generate payments is very near half. For that reason, the simulated usage in DC derived from the California experience would be conservatively one-half of $719 million, or $360 million. Moreover, the existence of the individual leave program is likely to increase labor force participation in the area, by as much as 5% according to some estimates. In that case, the total cost to the District could reasonably be anticipated to be $411 million in 2016.

FISCAL CONCLUSIONS

The Universal Paid Leave Act would impose taxes which we estimate with high degree of confidence to be near $338 million in 2016. There is considerably more uncertainty surrounding the projection of costs under the Act. The utilization of paid leave under similar programs in New Jersey and California serves as a reasonable and appropriate proxy upon which to derive an estimate, but the proposed DC benefits are considerably more generous than those of the other states, leaving no direct experience to rely upon in estimating the use of leave under these conditions. We have estimated 2016 family leave expenditures of $310 million and individual employee leave expenditures of $411 million. In this analysis we have made fiscally conservative assumptions to project expenses. We do conclude that the contributions, totaling $338 million, specified in the Act are not sufficient to meet expenses, projected in our estimate to be near $721 million, for a shortfall of $383 million. Contributions would need to be more than doubled, an increase of 113%, to meet this expenditure.

PUBLIC BRIEFING ON
Bill 21-415, Universal Paid Leave Act of 2015

Before the
Committee of the Whole
Council of the District of Columbia

The Honorable Phil Mendelson, Chairman

January 14, 2016 10:30 a.m.
John A. Wilson Building
Council Chambers

Testimony of
Jeffrey S. DeWitt
Chief Financial Officer
Government of the District of Columbia

Good afternoon Chairman Mendelson and Members of the Committee of the Whole. Thank you for the opportunity to testify on Bill 21-415, the "Universal Paid Leave Act of 2015." For the record, my name is Jeffrey DeWitt, Chief Financial Officer of the District of Columbia. With me today is Dr. Yesim Taylor, Director of Fiscal and Legislative Analysis in the Office of Revenue Analysis, and behind me is Dr. Fitzroy Lee, Chief Economist and head of the Office of Revenue Analysis and Mr. Stephen Cordi, Director of the Office of Tax and Revenue. They are here to assist with any questions you may have regarding this bill.

As you all know, and for the benefit of those who may be watching, the Office of the Chief Financial Officer (OCFO) is responsible for reviewing the fiscal impact of all bills brought to a vote by the District Council. This is a legislative requirement of the CFO under the Home Rule Act to ensure that any new laws have the required funding to be implemented and do not have a negative fiscal impact on the District's budget and financial plan. My direction to all OCFO staff is that all bills are to be analyzed based on the information and facts available. We take no policy position on any bill. We provide full and fair fiscal review to assure the Mayor and Council that no approved bill will place the District at financial risk. The presentation I am about to take you through regarding the Universal Leave Act is based on such an analysis.

Dr. Taylor and her staff have spent countless hours in discussions with government officials in California, New Jersey, and Rhode Island where similar programs have been implemented. Her team has reviewed extensively census data, tax information and other sources to determine the potential financial impacts of this program. I, too, have had extensive meetings with staff from across the OCFO to fully understand the financial and administrative requirements of the bill in order to give you the OCFO's review of the bill as it stands in its current form.

Let me begin by advising you that we have concluded that the cost of the bill, as currently drafted, will likely exceed the taxes collected due to the high level of benefits offered as compared to the other states. We believe the substantially higher benefits will drive higher participation rates and longer duration of benefits that will result in a disparity of revenues collected and benefits paid. Also, we expect there will be substantial administrative costs to establish the program relating to start-up, i.e. office space, technology, and new and ongoing staffing needs that are not funded in the current legislation. What I would like to do at this time is to take you through the analysis that led to our preliminary conclusions, including who is covered, the estimated taxes that will be collected, the benefits paid, and finally the current status of fiscal certification of this bill by the CFO. Later in the presentation, we also discuss what would be required to achieve fiscal certification in the event changes are made to this bill. Please turn to the

presentation handout, which is also provided on the screen. This presentation is also posted on our website at www.cfo.dc.gov. I ask your patience for the next several minutes as I outline our analysis, after which, I will be glad to answer any questions.

Universal Paid Leave Act of 2015

Coverage, Collections, Benefits, and Certification Issues

Jeffrey S. DeWitt
Chief Financial Officer

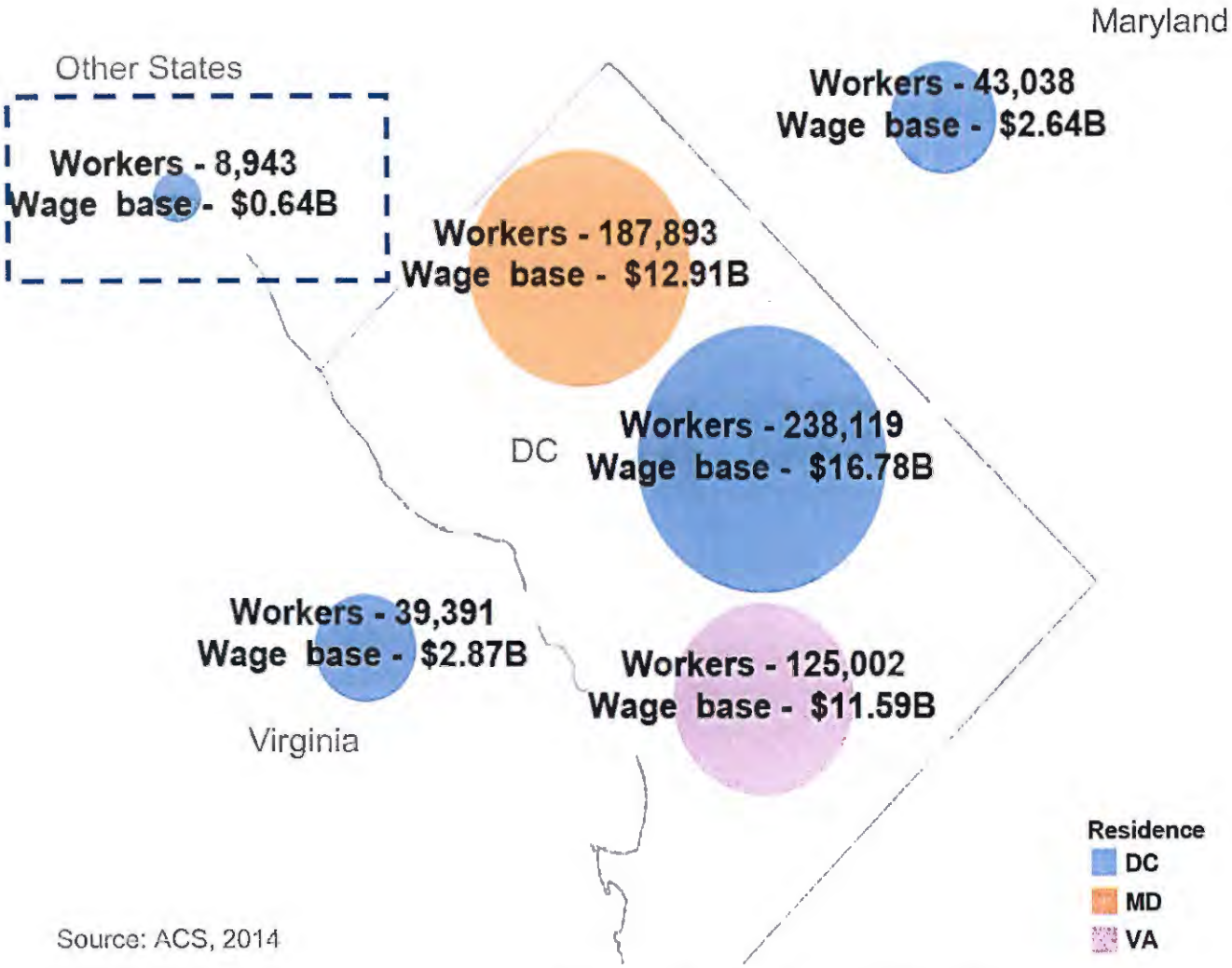
Government of the District of Columbia
Office of the Chief Financial Officer

Overview of the presentation

1. Who will be covered?
2. What benefits are offered under the program?
3. How much will the program collect?
4. How do other states' programs compare and perform?
5. Why could the District's program have higher participation?
6. What is necessary for certification?

Who will be covered?

Coverage by residence and place of work



Potential coverage:

- **642,000 workers**
- **$47.6 billion in wages**

Source: ACS, 2014

Three different types of coverage

Employer covered, Mandatory	**Self-covered, Mandatory**	**Self-covered, can opt-out**
Employees of District establishments—regardless of their residency.	District residents who work outside the District or who work for the federal government.	District residents who are self-employed.
489,357 workers $36.4 billion in wages	*129,100 workers $10 billion in wages*	*23,929 workers $1 billion in wages*

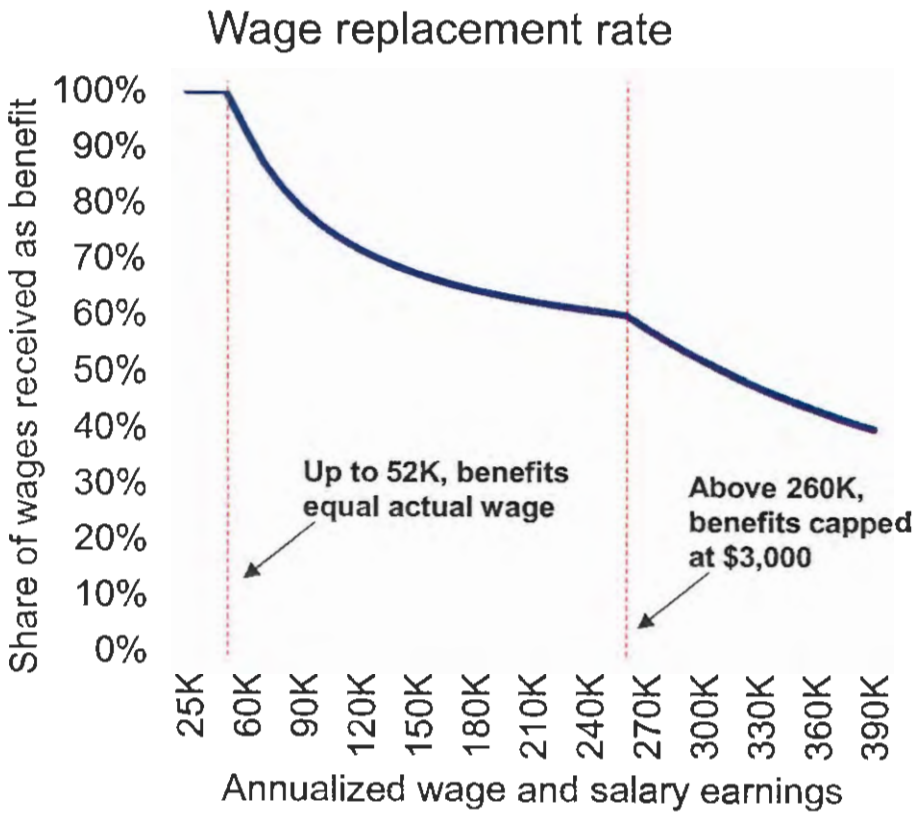
Source: ACS, 2014

What benefits are offered under the program?

Statutory benefits under the program

- **Duration:** Up to 16 weeks a year. TITLE I, SECTION 104(a)
- **Allowable use:** Bonding with a baby, taking care of a family member, or short-term disability. TITLE I, SECTION 101 (11)
- **No requirement to use other paid leave before using benefits**. TITLE I, SECTION 108
- **Replacement wage** (amount paid when on leave) TITLE I, SECTION 104(b)
  - Full pay for up to $1,000 in weekly earnings ($52,000 in annualized wage or salary earnings).
  - For weekly earnings greater than $1,000, replacement wage is $1,000 plus half the amount in weekly wages in excess of $1,000.
  - Maximum weekly benefit is $3,000 (reached at $260,000 in annualized wage or salary earnings).

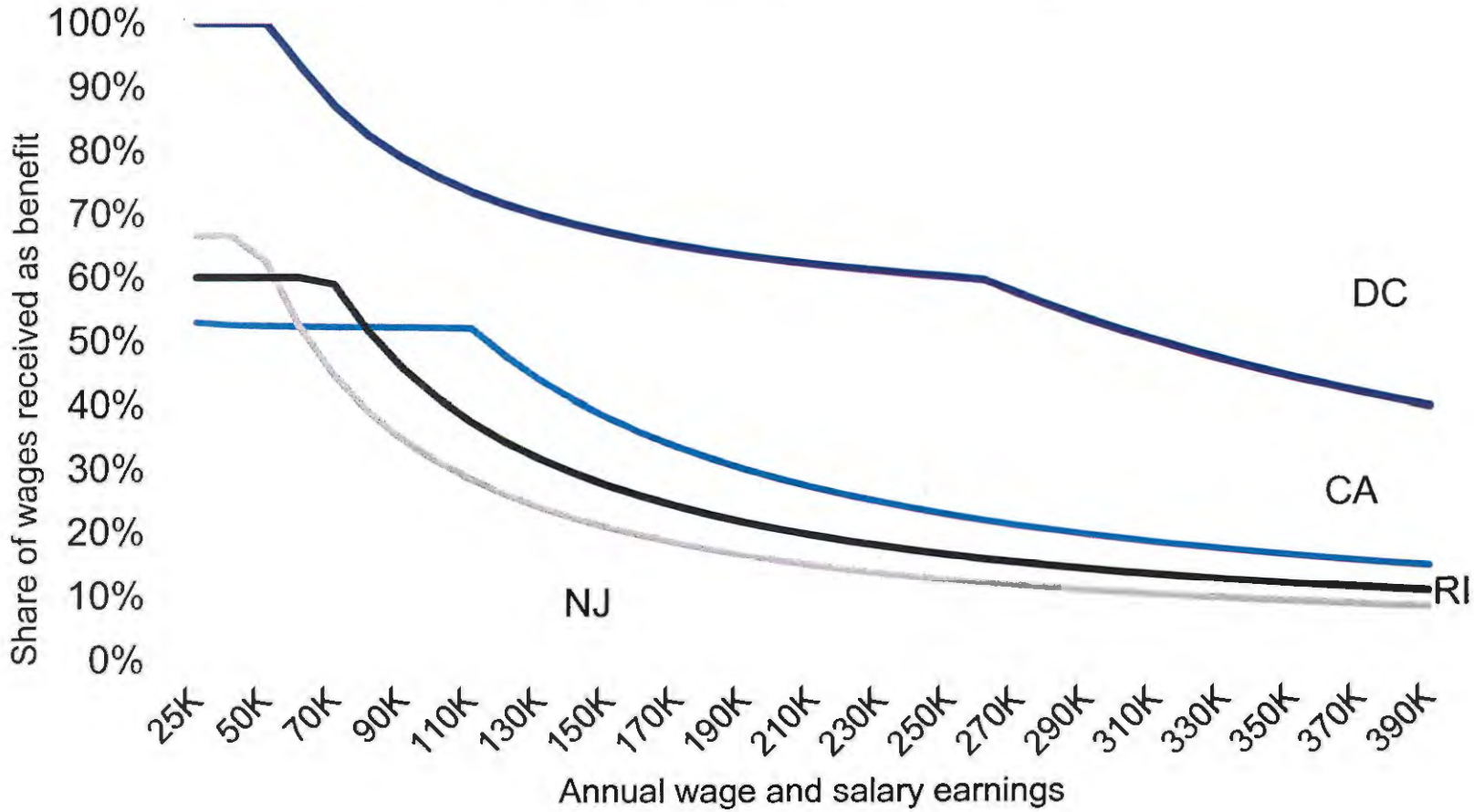
Replacement wage for different income levels



Wage replacement rate	Max annual income that qualifies	Weekly benefit under the program	Annual equivalent of the benefit
100%	$52,000	$1,000	$52,000
90%	$65,000	$1,125	$58,500
80%	$87,800	$1,337	$69,500
70%	$133,000	$1,779	$92,500
60%	$260,000	$3,000	$156,000
50%	$310,000	$3,000	$156,000
40%	$390,000	$3,000	$156,000

A median wage-earner in the District (approximately $55,000 per year) would receive 97 percent of pay.

Replacement wage higher than other states



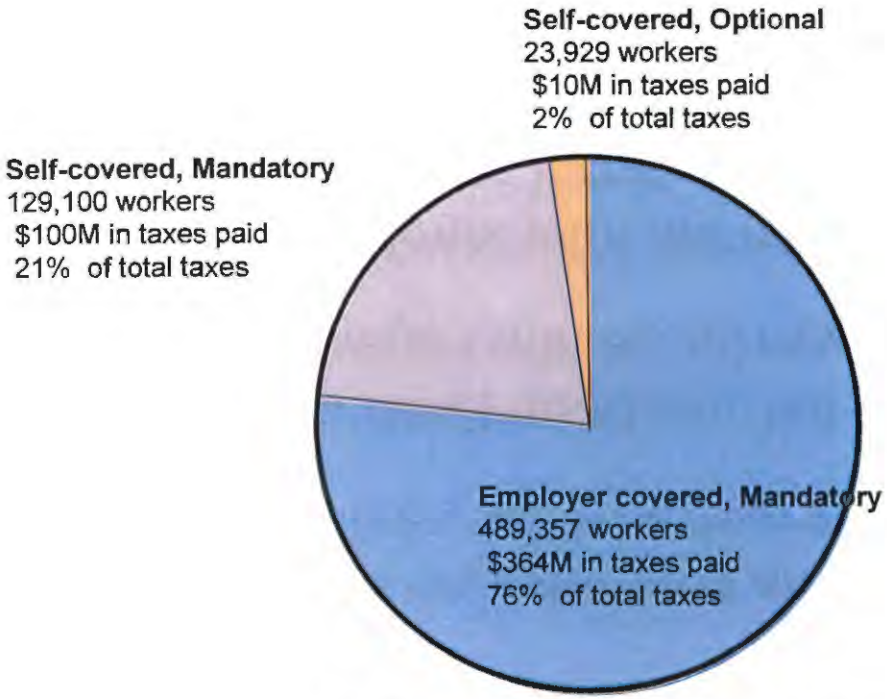
Source: CA: http://www.edd.ca.gov/
NJ: http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/WPR-119.pdf
RI: http://www.dlt.ri.gov/tdi/tdifaqs.htm

How much will the program collect?

Statutory tax rate under the proposal

- **1 percent tax on estimated gross annual wages** for each covered worker. TITLE I, SECTION 106(a)
- **Tax is based on estimated annual wages** of each covered worker, not the actual payroll. TITLE I, SECTION 106(b)
- **Employers remit quarterly,** but no way of reconciling estimated wages with actual payroll at the end of the year. TITLE I, SECTION 106(c)
- **District residents who are mandated to self-cover** will pay as if it were an income tax and will be subject to interest, penalties, and liens. TITLE I, SECTION 106(d)
- **Self-employed, who have the option to self-cover, remit monthly**. TITLE I, SECTION 107(b)

What are the potential tax contributions?



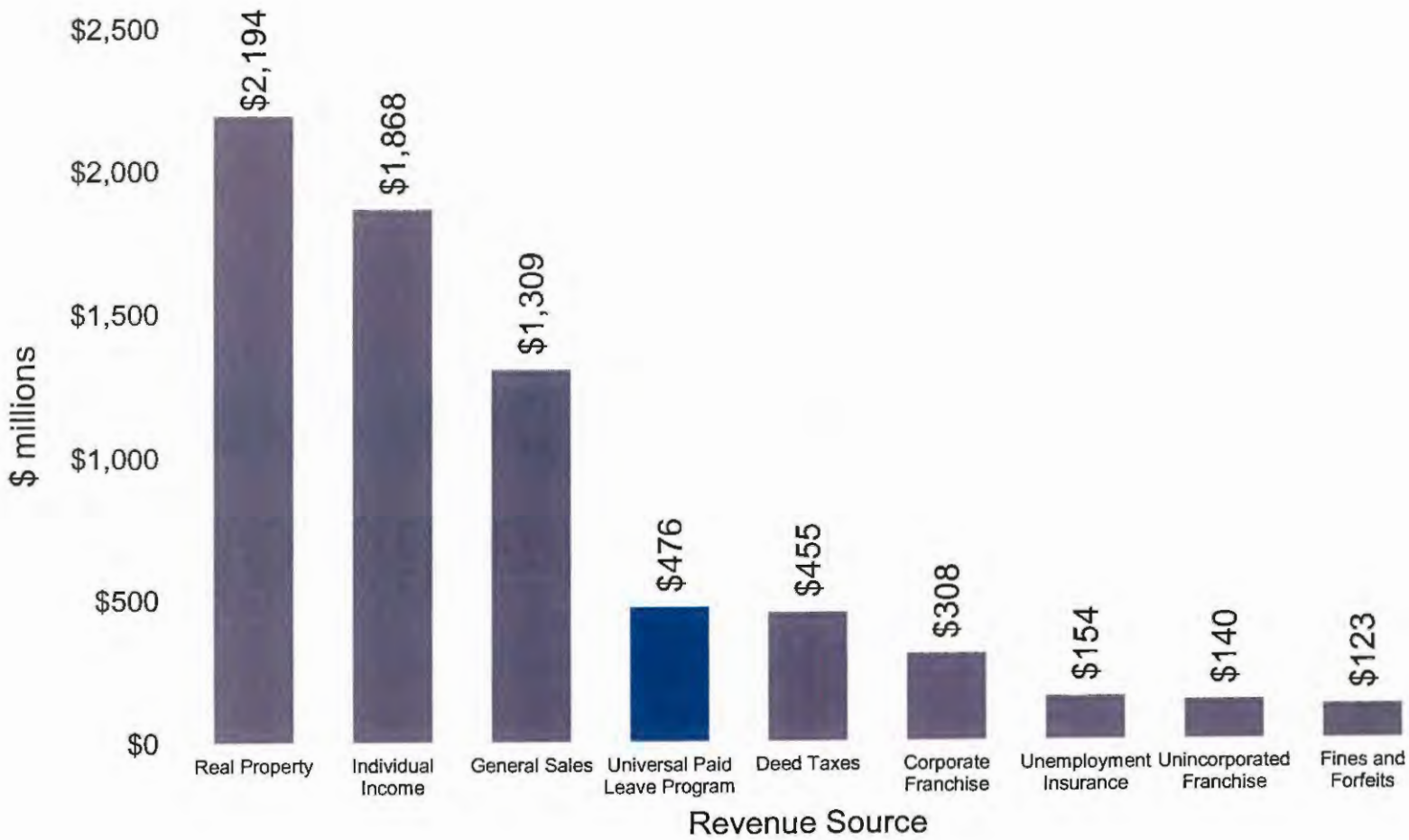
Estimated Total: $476M

1 percent tax on gross salaries would generate an estimated $476 million per year, assuming full compliance.

Employers will pay 76 percent of this amount.

Remainder paid by District residents who work for the federal government, outside the District, or are self-employed.

Comparison of collections to other taxes (2015) ($ millions)



Source: December 2015 Revenue Certification

How do other states' programs compare and perform?

How do other programs compare?

	California	New Jersey	Rhode Island	DC
Number of covered workers	17,259,000	3,709,000	408,000	**642,000**
Total taxes collected	$5,418 M (2015 estimate)	$458 M (2012 actuals)	$173 M (2014 estimate)	**$476 M (estimate)**
Max. Length of Leave (Average taken)	Family – 6 weeks (5.3) Disability – 52 weeks (16)	Family – 6 weeks (5.3) Disability – 26 weeks (10)	Family – 4 weeks (3.1) Disability – 30 weeks (12)	**Family or Disability – 16 weeks**
Max Weekly Benefit	$1,104	$572	$795	**$3,000**
Maximum wage replacement*	55%	66%	60%	**100%**
Maximum taxable wage	$104,378	$32,000	$62,700	**No Maximum**
Average tax contribution per covered employee	$444	$123	$426	**$723**
Effective tax rate	**0.55 percent**	**0.20 percent**	**0.68 percent**	**1 percent**

*California has a minimum benefit of $50 per week

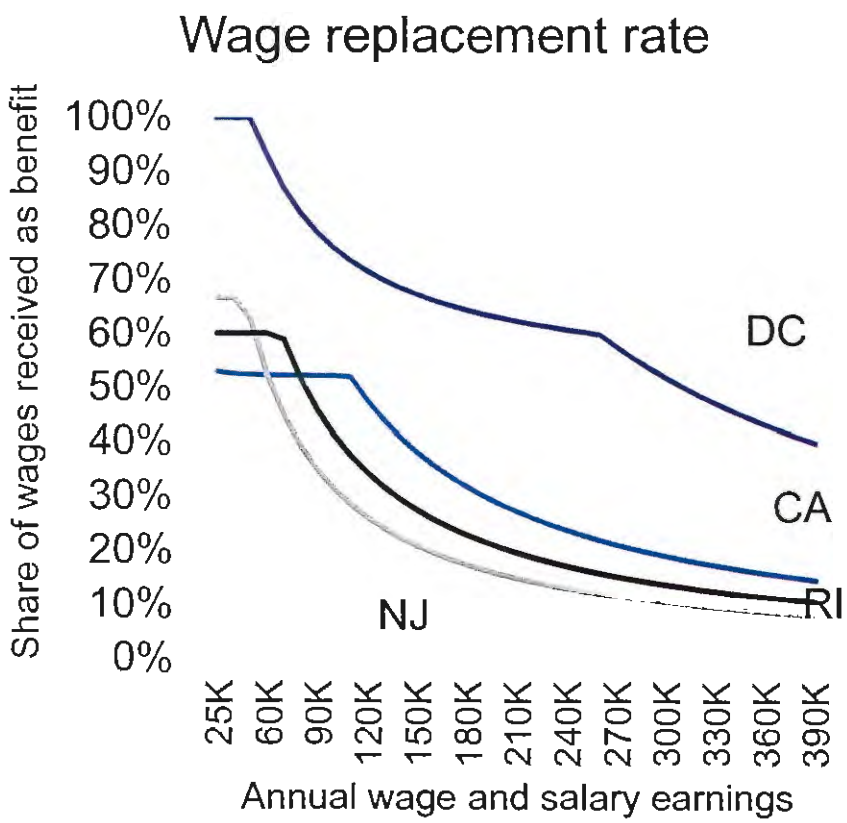
How did other programs perform?

FAMILY LEAVE				
	CA (2015)	NJ (2012)	RI (2014)	District Government Paid Leave (2014)
Average Benefit	$532	$482	$474	$1,625[i]
Weeks claimed	5.3	5	3.5	8
Number of claimants	232,000	30,701	3,870	2,677
Total benefits paid	$659.9M	$74.5M	$6.3M	$34.8M [ii]
Participation rate	1.3%	0.8%	1.0%	8.2%
SHORT TERM DISABILITY				
	CA (2015)	NJ (2012)	RI (2014)	District Government Short Term Disability (2014)
Average Benefit	$507	$425	$447	$564
Average duration	16	10.1	9.2	12
Number of claimants	664,000	100,888	39,863	408
Total benefits paid	$4,515m	$422m	$164m	$294K
Participation rate	3.8%	2.7%	8.8%	6.7%
COMBINED PARTICIPATION				
Participation rate	**5.19%**	**3.55%**	**9.8%**	

[i] DC Government Paid Leave program pays full salary for up to 8 weeks. The average weekly benefit is an estimate based on average salary of $84,500—the budgeted amount for FY 2015. [ii] The estimated value of benefits paid.

Why could the District's program have higher participation?

Replacement wage higher than other states

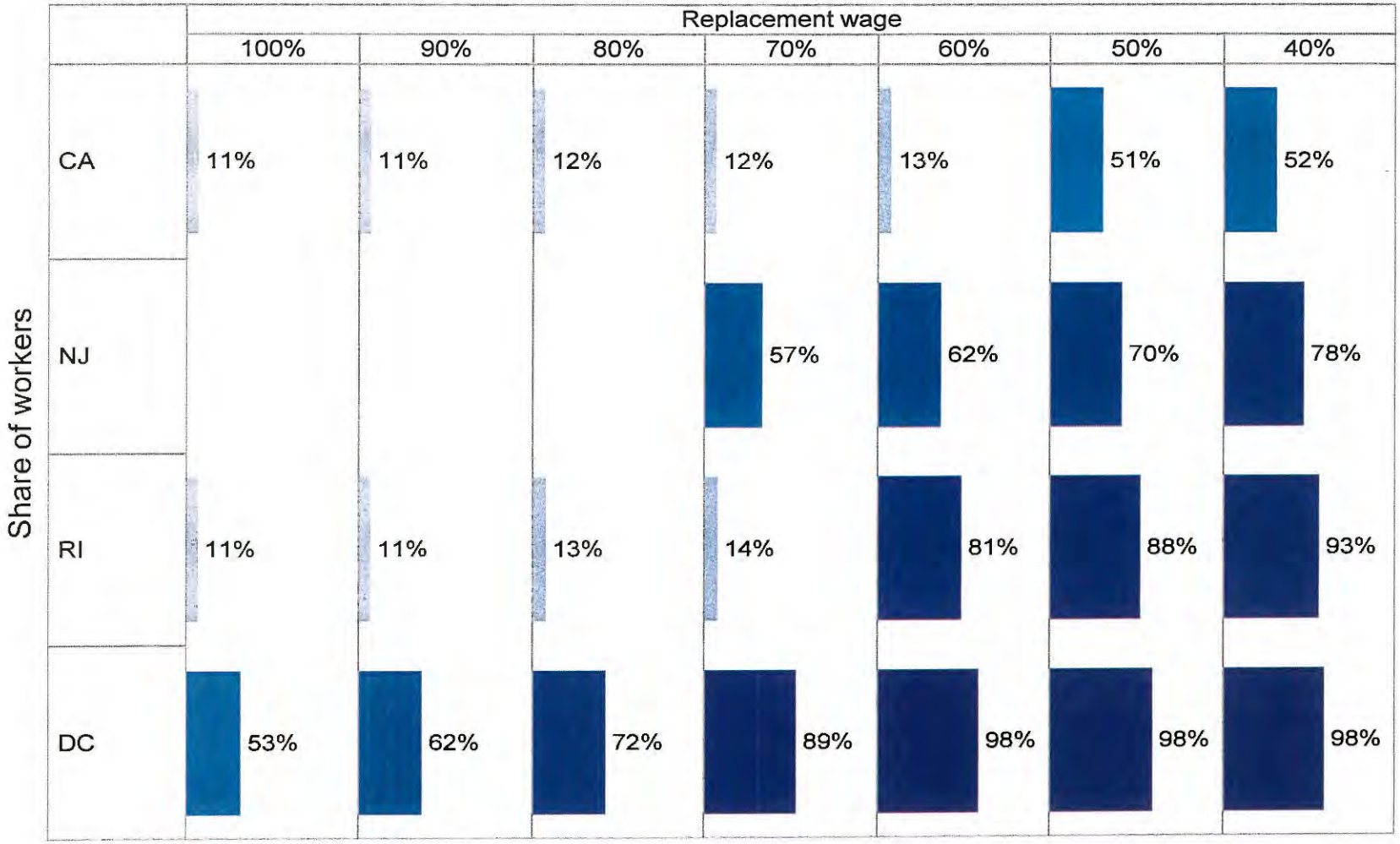


Annual Salary	Annualized Benefit (Replacement wage)			
	DC	CA	NJ	RI
$50,000	$50,000 (100%)	$26,260 (53%)	$31,408 (63%)	$30,054 (60%)
$100,000	$76,070 (76%)	$52,260 (52%)	$31,408 (31%)	$41,340 (41%)
$150,000	$66,050 (69%)	$57,408 (41%)	$31,408 (22%)	$41,340 (29%)
$250,000	$151,220 (60%)	$57,408 (23%)	$31,408 (13%)	$41,340 (17%)

Source: CA: http://www.edd.ca.gov/
NJ: http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/WPR-119.pdf
RI: http://www.dlt.ri.gov/tdi/tdifaqs.htm

A median wage-earner in the District (approximately $55,000 per year) would receive 97 percent of pay.

For a given benefit level, a larger share of workers qualify



Other notable differences that might affect participation

In addition to higher benefits, the District's proposed program has:

- **Broader definition of family** (any blood-relative)
- **Little wait time to receive benefits** (five days, payable retroactively if the leave five days or longer)
- **No requirement to use other paid leave** (paid sick or vacation days) before using family leave or short term disability insurance
- **Self-covered workers** (those who work for the federal government or outside the District) **are eligible for benefits even when they receive paid leave from their employers**

What is necessary for certification?

Certification issues to address

- Program contributions must cover projected benefits.
- The District cannot cover program shortfalls.
- No funds identified in the District budget and financial plan to administer the program.
- No funds identified in the District budget and financial plan to extend the current 8-week paid leave program to 16 weeks and include short term disability.

Next steps

- Review information presented by other witnesses and incorporate into our analysis.
- Work collaboratively with the Council to score any changes made to the bill.
- Prepare a formal fiscal impact statement for the bill, incorporating any revisions the Council makes to the bill's provisions.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Deparment of Human Resources

Public Hearing on

B21-415, Universal Paid Leave Act of 2015"

Testimony of
Ventris C. Gibson
Director, Department of Human Resources

Before the

Committee of the Whole
Chairman Phil Mendelson

January 14, 2016
Room 500
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Good morning Chairman Mendelson, and members of the Committee of the Whole. For the record, my name is Ventris C. Gibson, the Director for the Department of Human Resources. It is my honor and a privilege to appear before you today to discuss the "Universal Paid Leave Act of 2015."

Introduction

In order to attract and retain a highly talented, engaged, diverse and productive workforce, the District government provides its employees with workplace flexibilities that enable them to thrive – both at work and at home. We support, and are committed to, enabling employees to have the job security needed to raise a family, care for loved ones and meet their individual health care needs. For these reasons, I welcome this opportunity to briefly summarize the array of benefits we have in place for our workforce. These benefits are in addition to two different family medical leave programs and the District Government Paid Family Leave.

We continuously strive to make the District of Columbia the first-choice when seeking employment and to serve as an employment model for our private sector partners.

To this end, the District of Columbia provides its employees a rich assortment of benefit options, which are, of course, balanced against our responsibility to the public we serve. Some of these benefits include:

- 11 days of fully paid holidays each year;
- Up to 5 full weeks of paid vacation time, with the ability to carry-over 6 full weeks each year (for a total of 11 potential weeks of fully paid vacation time in a single year);
- Up to 2 ½ weeks of fully-paid sick leave, which can accumulate year-after-year without limit;
- Access to an annual leave bank through which employees may gain needed additional leave to augment his or her sick leave balance;

- Access to additional leave through an agency's leave transfer program, may be used to augment his or her sick leave balance; Up to 8 weeks of fully-paid family leave;
- Up to 30 days of advanced sick leave;
- Advanced annual leave based on the amount an employee can accumulate within the year; and
- Up to 1 year (in some cases longer) of leave without pay based the extenuating circumstances.

In addition to our leave programs, employees may also purchase additional protections through our short and long term disability programs. To translate these into financial terms, in Fiscal Year 2015, the District of Columbia paid out 7.6 million hours of leave, which, based on our average salary of ~ $60,000, translates to $218.5 million. This is a very generous benefits package, by any standard, to include more than what the Federal government offers its workforce and most private sector employers.

We support the principle of providing employees viable economic security so that they may take the leave they need to raise children and care for family members.

Over the years, several laws have been enacted in this regard. In 1990, the District enacted DCFMLA ensuring job protection for employees of up to 16 workweeks for both family and medical leave on a biennial basis. In 1993, Congress passed FMLA, ensuring job protection for employees of up to 12 workweeks on an annual basis for family and medical purposes. In 2014, the Council enacted the Government Paid Family Leave Act, providing District government employees with up to 8 weeks of paid family leave. Taken together, employees may use up to 32 weeks of family or medical leave per year.

We now have experience navigating these three overlapping, and sometimes conflicting, laws. Our experience highlights areas that could be improved to lessen the operational burden imposed on employers, while still reaching the vital goals of these

laws. These experiences can also provide insight into best practices for purposes of the bill currently under consideration.

Before this Council is the proposed Universal Paid Leave Act of 2015, which also proposes to amend the Government Paid Family Leave Act (PFL). If enacted, this bill would provide a paid family and medical leave insurance to private sector employees of up to 16 workweeks for both family and medical leave, with job protection measures equal to DCFMLA. As proposed, this insurance would be funded exclusively by employers that have chosen to do business in the District of Columbia or District residents who are Federal employees or employees outside of the District. The bill would also increase the government's paid family leave benefit to 16 workweeks per year, and would provide coverage for medical leave purposes.

DCFMLA, FMLA, PFL and the proposed Universal Paid Leave are all interconnected and have similarities and differences. I hope you will indulge me in a momentary review of the family leave laws that apply to the District government as an employer.

Family and Medical Leave Act of 1993

On February 5, 1993, the United States Congress passed Public Law 103-3 – the Family and Medical Leave Act. As a nation, we recognized the importance of fathers' and mothers' participation in early childrearing and caring for family members with serious health conditions. Yet, without protections in place, employees often faced the choice between family care and job security.

To address this problem, Congress fashioned a law "to balance the demands of the workplace with the needs of families;" to entitle employees to reasonable leave for medical reasons, for the birth or adoption of a child, and to care for an immediate family member suffering from a serious health condition. The Act was structured to accomplish these objectives "in a manner that accommodates the legitimate interests of the employer."

The Family and Medical Leave Act took nearly nine years to enact. Beginning in 1984, a Select Committee on Children, Youth, and Families conducted a comprehensive investigation into the issues involving families and child care. The first iteration, the "Parental and Disability Act" was introduced in 1985. The following years resulted in varying bills and eventually a Family and Medical Leave Act bill was introduced in 1989, which went before the House of Representatives for consideration in May 1990.

At the time, the Family and Medical Leave Act provided 15 weeks per year for medical leave and 10 weeks every two years for family leave. An amendment to the bill reduced the leave allowance to 12 weeks per year for both family and medical combined. The reduction in mandated leave time reflects a compromise. Employers argued that it was far easier to adjust schedules or find temporary replacements over shorter periods of time. Employee advocates naturally argued a need for additional coverage. However, following literally years of research and countless public hearings, a 12-week minimum represented a middle ground, which balances the family needs of workers and an employer's business needs.

D.C. Family and Medical Leave Act

On October 3, 1990, almost three years before FMLA was enacted at the Federal level, the District of Columbia Council passed the "District of Columbia Family and Medical Leave Act of 1990." At that time, the Council relied heavily on the research and evidence introduced to the United States Congress.

Under DCFMLA, an employee is entitled to 16 workweeks of medical leave and 16 workweeks of family leave over a 24 month period. The Council, in its June 28, 1990 Committee Report, was aware that the Federal model proposed 12-weeks of leave per year. However, the Council chose to adopt a 16 workweek leave period based on "what experts [had] testified in Congress as the minimum time needed for bonding between parents and children and to permit parents to locate a child care provider with whom the parents can feel comfortable." The committee report does not clearly establish the reasoning for spreading the 16 workweeks over 24 months, though we surmise the Council did not intend for employees to have 32 workweeks of leave in a single year.

The report also does not explain the reasoning for applying the 16 workweek model to medical leave. Nonetheless, between family and medical leave combined, employees are entitled to essentially 16 workweeks per year, under DCFMLA.

Paid Family Leave

On March 24, 2014, Councilmembers Grosso, Catania, Wells and McDuffie co-signed a "Fair Leave Act of 2014," which would have amended DCFMLA by providing District government employees "their entire wage compensation for up to 6 workweeks" under their family leave entitlement. According to the record, no action was taken on this bill.

On April 3, 2014, the Fiscal Year 2015 Budget Support Act was introduced at the request of the former Mayor. This budget support act included a "Family Bonding Amendment," which, as introduced, authorized paid leave of up to 6 workweeks to District employees for the birth, adoption or placement of a child, which could be used intermittently in increments of one week or more. As originally proposed, if two employees within the same agency shared the birth, adoption or placement, the two employees could collectively receive 8 workweeks divided as they deemed appropriate. The original bill also included language directing the Mayor to "issue rules to implement [the leave program] to promote the bonding between an eligible employee and the child and … to set appropriate limits to the family leave benefit."

The Council modified the proposed bill added "caring for a family member with a serious health condition," which is consistent with DCFMLA. Second, the Council increased the leave benefit from 6 workweeks to 8 workweeks for both parents, without restriction, even if they are in the same agency. Third, the minimum leave usage was reduced from one week to one day. Finally, the Council removed the language authorizing the Mayor to promulgate reasonable limits on the use of the benefit. Today, paid family leave gives an employee, on his or her very first day of employment, the right to take 8 weeks of paid leave, with job protection and with no requirement that he or she return to District government service after the benefit has been granted.

DCFMLA and Federal FMLA recognize the vital partnership that must exist between employers and employees, and provides protections for both. The very first paragraph of DCFMLA defines an "employee" as an individual committed to the employer-employee relationship, who has invested 1,000 hours and 1 year of service. This is a reasonable employer protection that is not included in the District's paid family leave.

Under paid family leave, one major struggle for the District has been last-minute call-outs under intermittent leave. Under DCFMLA, employees are required to provide reasonable notice of their need to take leave, and to make reasonable efforts to schedule medical treatment in a manner that is not unduly disruptive to business operations. These are important employer protections that are not included in the paid family leave program. For example, in one agency, the high rate of paid family leave usage resulted in the agency creating five full-time positions dedicated to covering those who are out on PFL.

We have also had situations when several family members, working in the same agency, take leave to care for a common family member. Under DCFMLA, the employer has the ability to limit the total leave time between the two family members, and to limit the duration when both family members may be absent from the agency. Paid family leave contains no such protections.

Finally, for our public safety agencies, DCFMLA provides the Mayor the authority to recall employees using family leave in times of a declared emergency. Under paid family leave, we do not have this ability.

Dueling FMLA Programs

Under the Federal Family and Medical Leave Act and DCFMLA, District employers, including the District government, are required to comply with two different FMLA programs. Thankfully, much of the criteria used for determining eligibility is the same. However, the differing time periods create challenges for data tracking purposes. The solution, if I were able to adjust the DCFMLA requirements would be to realign DCFMLA to be consistent with Federal FMLA. As employers, we are required to track individual

employee's usage of DCFMLA over a rolling 24-month period. We also must track Federal FMLA over a 12-month period. First, it has proven challenging, at least for the District government, to uniformly and accurately track FMLA usage. We have software designed for FMLA, but it is structured on a 12-month model – so, while we can track Federal FMLA, DCFMLA is decentralized and data is maintained manually by the agencies, resulting in numerous tracking and reporting challenges. This coupled with Paid Family Leave tracking and reporting has created a significant administrative burden.

The District's experience, as an employer, with Government Paid Family Leave has resulted in the need for us to revisit our training programs on family medical leave. The updated learning modules must be tailored to Federal FMLA, DCFMLA and PFL for employees, supervisors, and timekeepers. We are also looking at ensuring that managers, HR professionals, and FMLA Coordinators are fully aware of the process and procedures so as to ensure consistency in interpretation and application.

In Fiscal Year 2015, 2,677 employees utilized the Government PFL benefit. This translates into $34.8 million dollars paid out in PFL benefits to District government employees. Of the 2,677, 100 were new employees.

The Government PFL does not grant us the authority to have a minimum eligibility period. New employees to the District may utilize the 8 week benefit literally on the first day of employment. Under the District Personnel Manual, new employees must serve a one-year probationary period. The probationary period is designed for us, as an employer, to assess performance and conduct and determine if the new employee can successfully perform his or her responsibilities in a manner that reflects positively on the District and the services we provide. The PFL interrupts this assessment resulting in additional tracking of time periods.

In closing, the District government's current benefits package is a best practice. Thank you for this opportunity to provide this testimony and for permitting me to be transparent about the various family medical leave programs we have in place. I welcome your questions.

DEPARTMENT OF EMPLOYMENT SERVICES

Deborah A. Carroll
Director

Muriel E. Bowser
Mayor

Before the

COMMITTEE OF THE WHOLE
Honorable Councilmember Phil Mendelson, Chairman

Public Hearing

On

Universal Paid Leave Act of 2015
Bill 21-415

Thursday, January 14, 2016

10:00 am

Room 500
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Committee of the Whole
Bill 21-415, Universal Paid Leave Act of 2015

Good morning Chairman Mendelson and members of the Committee of the Whole. I am Deborah Carroll, Director of the Department of Employment Services (DOES) and I am honored to testify on paid family and medical leave policies, and on Bill 21-415, the Universal Paid Leave Act of 2015 (UPL).

The workplace is changing. Family dynamics are changing, and both men and women are seeking work-life balance. Women make up more than half of the workforce in the country and mothers are the primary provider in two-thirds of American families. The increasing demands of the workplace make it more difficult for families to juggle work and life responsibilities. And for these reasons, Mayor Bowser supports the principles of a paid family and medical leave program.

President Obama has been encouraging states and localities to provide access to paid, earned family and medical leave. In 2014, President Obama, with the support of the Secretary of Labor Thomas

Perez, launched a program to provide $500,000 for feasibility studies in three states and the District of Columbia to explore expanding paid leave programs.

DOES sub-granted to the Institute for Women's Policy Research to conduct the feasibility study. The purpose of the study was to explore the feasibility of establishing a paid leave program, and to gain an understanding of what was happening in other states. It was a starting point – a survey of other jurisdictions to understand the intricacies of a paid leave program and model a series of scenarios based on actual claims data from California and New Jersey. There is one caveat; this report was not commissioned to determine if any of these program models would be appropriate for the District. Moreover, the study does not include an analysis of the Universal Paid Leave program as proposed by the Council. With that in mind, I would like to share highlights from the research and the actuarial analysis.

Feasibility Study of Paid Leave Program

The sub-grant required:

1. An actuarial analyses employing statistical models to estimate future usage and durations of leave workers might take under selected policy plans;
2. An economic impact analyses that examined the effect of leave taking on employers, workers, workers' families, and the community; and
3. The costs and benefits of potential paid leave program designs within a given timeframe and using methods to render similar choices for comparative evaluation.

The report analyzes a baseline and five different policy scenarios of 8, 12, and 16-week leave-duration models. The different policy scenarios represent a range of eligibility criteria and benefit levels based on variations of existing leave policies. In estimating the amount of potential leave taken and the costs of each scenario, the research employs a simulation model developed by IWPR and the Research Center at University of Massachusetts in Boston. Leave costs are divided into three categories: costs of program benefits, wages paid by

employers to the workers out on leave, and the value of uncompensated `time for workers.

Policy scenarios are compared to a baseline model that is operative under the current national policy – the Family and Medical Leave Act. Presently, DC private employers are estimated to pay about $123.3 million per year in benefits for family and medical leave taken by their employees, but private employees working in the District take the equivalent of $415.2 million annually in uncompensated leave. Under the policy scenarios covered in this report, the cost for the new wage replacement benefits ranges from $30.8 million to $150.9 million per year. Based on the modeling, these new benefits reduce the amount of uncompensated time taken by workers by at least $10.6 million, up to $84.4 million.

The researcher evaluated the economic impact of the paid leave policies by conducting a distribution analysis of the impacts of a paid family and medical leave program on those working in DC by income and demographic characteristics. In addition, the cost and benefits of paid

leave programs were examined by comparing the societal costs in light of societal benefits and discusses how they might be distributed between stakeholders to maximize societal benefits.[1]

The report also includes financing and cost estimates for program start-up and administration of expanded paid family and medical leave programs based on costs incurred by other jurisdictions. There are a number of areas that not discussed or fully or addressed in the research analysis.

a. the unique differences in the business demographics in DC compared to the three jurisdictions with paid leave policies and the financial, operational, and economic impact based on these unique differences;

b. an economic impact analysis of the surplus costs of a paid leave program on the District's economy as a percentage of the Gross Domestic Product and the percentage of the total tax revenues

[1] IWPR at p.3

lost or gained; as well as the net costs of paid leave policies on the employer and District's economy;

c. the economic impact on the employer and the local economy, when the employer bears the full cost of the premium;

d. the impact of the loss of tax revenue proposed by UPL;

e. the types of paid leave employers currently provide and the impact of these benefits on the paid leave program; and

f. the most optimal paid leave scenario that takes into consideration the costs, benefits, and economic impact of the scenarios on the local economy.

A copy of the report is available on the DOES website at www.does.dc.gov.

There are at least three states that currently operate paid leave policies, California, New Jersey and Rhode Island. California and New Jersey offer largely identical six-week paid, no job guarantee family leave programs. Both are components of their respective state temporary disability insurance program, which covers private- and public-sector

employees. Rhode Island has a four-week paid, job protected temporary care insurance program that applies to employees needing time off to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law, or grandparent. In addition, it is also applicable to employees wishing to bond with a newborn, adopted or foster child. Rhode Island's program covers private-sector employees, **but exempts public-sector employees**.

Bill 21-415, the Universal Paid Leave Act of 2015 proposes to:

1. Amend DC's Comprehensive Merit Personnel Act of 1978 and expand the current paid leave policy for District government employees from an eight-week family leave program to a sixteen- week family and medical program; and
2. Expand the current job protected leave policy in the private sector, pursuant to the DC Family and Medical Leave Act of 1990, by creating a 16-week paid family and medical leave program. This bill would authorize paid leave of up to 16 weeks annually for each qualifying event.

Compared to UPL, these state policies are similar except in a few key areas:

1. All three states tax the family leave programs and exempt the medical leave from tax, whereas the UPL would exempt the entire benefit from tax;

2. Duration ranges from four to six weeks depending upon the type of leave, whereas the UPL would allow up to 16 weeks of paid medical leave and 16 weeks of paid family leave. Essentially, there is potential for up to eight months of job protected paid leave for each employee every year; and

3. The costs for family leave are borne by the employee in all three states, whereas the UPL places the tax on the employer.

With the exception of New Jersey which shares the costs of temporary disability insurance with employees, UPL is inconsistent with program models in states with existing paid family and medical leave programs that require employees to pay the tax.

Based on the history of the programs in New Jersey and California, paid leave programs are clearly beneficial to employees and their families. In the cases where employers were not required to contribute or share the cost of the fund with employees, employers felt minimal to no impact from the policy. Due to the significant difference in business demographics – which I will cover later in my testimony – duration of leave, and tax policy these key distinctions do not allow an apples-to-apples comparison.

I will now highlight some of the policy and operational concerns of the UPL.

Policy and Operational Concerns

The District of Columbia Family and Medical Leave Act currently exempts employers with fewer than 20 employees from coverage under the Act, and the federal Family and Medical Leave Act exempts employers with fewer than 50 employees. The breadth and scope of UPL will be daunting for most of these businesses. Of the approximately 36,712 employers in the District, 25,337 (or 69 percent) have fewer than

five employees. The number of employers with **fewer than 20 employees, the maximum exemption threshold under the DC FMLA, is 32,514 or more than 89 percent of the District's businesses**. This represents approximately 20% of the District's private sector workforce or about 100,000 employees. These businesses have not had to comply with District or federal family leave laws, but they must comply with requirements under the District's Accrued Sick and Safe Leave Act of 2008. **The Accrued Sick and Safe Leave Act simply requires employers to provide a minimum number of days of leave depending upon their size and make their records available for inspection**. With 89% of businesses in the District employing 20 or fewer employees, small businesses are more likely to experience a loss in productivity and are less likely to be able to expend funds to temporarily replace the employee while on leave. Under the current bill, all employers would be compelled to provide job protected leave and not transfer the employee even if numerous intermittent and extended leaves could severely interrupt their business. It is for these reasons that Congress exempted

small businesses, with fewer than 50 employees from FMLA and provided exceptions for others.

As managers of personnel, we understand the complexity of managing requests for family and medical leave, especially intermittent leave. Even though a large percentage of employers are exempt from FMLA and DCFMLA, still thousands of private employers are expected to manage and track multiple paid leave programs, the FMLA, DCFMLA, and Accrued Sick and Safe Leave Act. Employers must discern whether unscheduled leave is connected to their job protected leave hours or not. Medical documentation often trails the use of leave; the tracking and administration of leave policies often requires at least one staff member for each unit, a coordinator to collect and track the use of hours, and compliance monitoring. This act would require more than 32,000 businesses to hire, train, and implement this policy for the first time- even though they have been previously exempt from participation under DC and federal FMLA laws. There will be a steep learning curve for small businesses, as they will need to learn how to track routine sick

leave as well as job protected sick and family leave. (trying to make the distinction, because we go back and forth in saying, that many businesses have never had to do anything like this before yet other businesses now have four things to track).

One unintended consequence of Section 106 of the act is the impact of the policy on workplace culture and morale. Understanding the impact of employer paid leave programs for select employees and how it will affect staff morale, union agreements, and the business operation is unknown at this time. Businesses may lose interest in hiring DC residents because of the added tax and administrative requirements of the paid leave policy. Morale may be affected when residents that work outside the District are treated differently under the law. Thirty-five percent of DC residents work outside of the District of Columbia. They will be financially responsible for the tax, unlike their neighbors that will not be required to pay into the fund.

Section 109 of the bill requires the Office of Administrative Hearings to determine claims while also being the final decision maker

for the District. However, other sections authorize the Mayor to decide where the program would be administered. In our administration of the Unemployment Compensation program, there is a claims determination process within the agency, where the Office of Administrative Hearings adjudicates appeals and renders final decisions. In our experience administering other benefit programs, there is a system of accountability for falsifying claims. Currently UPL does not align with these policies.

The definition for Serious Medical Condition has broadened to include any condition that requires inpatient treatment, continuing treatment or supervision by a health care provider. This change is significant, and broadens the number of routine conditions that would be eligible and makes confirmation more difficult. The definition does not exclude work-based injuries, which are covered under the Worker's Compensation Act. Therefore, the current UPL definition is inconsistent with the federal definition of serious health condition.

Conclusion

The Bowser Administration is focused on building Pathways to the Middle Class for workers and their families. The economic health and stability of our businesses and the well-being of District residents is important to this administration. As the Committee assesses various options, I urge you to consider the concerns we present here today.

That concludes my testimony, I am happy to answer any questions.