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

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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.

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 less³) 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

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/ebb10057.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 Johansson, 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

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](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). *California’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/Ramirez.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);

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_DL_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/tidi/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_faqs.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,

32 A. 3870, 201st Leg., Reg. Sess. § 9(1) (N.Y. 2015), available at http://assembly.state.ny.us/leg/?default_fld=&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/uiilwcompar/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 Missouri⁴⁴ 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

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/HB11611.PDF>.

45 H.B. 1273, 2015 Leg., Reg. Sess. § 15(1) (Wash. 2015), available at <http://lawfilesex.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

Paid Leave	Family Leave		Personal Medical 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/eddforecastmay15.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*. Retrieved 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 Workforce 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 Workforce 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

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

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.

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.