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ISSUE BRIEF

Financing Sustainable Paid Family and Medical Leave Programs

By Jessica Mason and Vasu Reddy

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Across the United States and in the halls of Congress,[1] consensus is growing that we must do more to ensure working people have access to paid family and medical leave. A recent poll found overwhelming support for paid leave among voters in battleground states: 85 percent of voters said they support paid leave, and that support was high regardless of demographics or partisan affiliation.[2]

It is clear that workers need paid leave to ensure that they can manage serious health and caregiving needs – from welcoming a new child to caring for a dying parent – without losing a job or a paycheck.[3] Policymakers considering enacting a state or federal paid leave program must consider how to meet workers' needs with policies that are fiscally responsible and sustainable over time. Decisions about how to finance initial implementation and ongoing operations are critical to any program's success.

In the past two decades since California created the nation's first state paid family leave program, 13 additional states including the District of Columbia have enacted paid leave insurance programs.[4] Generally, these programs provide paid leave benefits directly to eligible workers, paid for through a dedicated, state-run insurance trust fund financed by premiums on payroll earnings. While the first four paid family leave programs were built on pre-existing frameworks of decades-old temporary disability insurance programs,[5] every state since then has created and fully implemented paid family and medical leave from scratch – including creating a new trust fund and financing program implementation as well as ongoing operations.[6]

Each of the newer state programs has taken a slightly different approach to features that are key to their fiscal structure and health. These states have also innovated design features to improve program equity, including progressive wage replacement formulas (in which lower-paid workers – disproportionately women and workers of color[7] – receive a higher percentage of their wages) and more inclusive definitions of family for caregiving leave.[8]

This brief examines key policy design features related to paid leave program finances and reviews the financial state of these programs to offer lessons and best practices for policymakers. It covers:

- How the programs handled startup costs,
- Target formulas for and processes to maintain reserve funds,
- The process and structures for setting premium rates,
- Relative administrative costs associated with each program,
- Early data on the financial impact of private plan options on the public programs, and
- A review of trust fund balances and solvency over the programs' early years.

We look in detail at programs that have been fully operational and paying out benefits for more than one year – enough to demonstrate at least initial solvency: the District of Columbia, Washington state, Massachusetts and Connecticut.

Some key lessons from our analysis of these four programs are:

- **All have remained solvent after successfully paid benefits for a year or more, indicating a successful design.** Program premiums have both increased and decreased modestly, but across all programs premiums have remained below 1.0%.
- **Policymakers should appropriate adequate funds for start-up costs for successful and on-time implementation.** Where repayment of start-up funds has been required, programs have not reported difficulty doing so.
- **Programs are typically required to maintain a reserve fund level based on and higher than prior year expenditures.** Policymakers should keep in mind that revenue may ebb and flow from month to month, particularly if employers generally pay premiums at the end of each fiscal quarter. Reserve fund targets should be high enough to maintain solvency through seasonal patterns of premium collection in order to ensure adequate cash flow.
- **In setting premium rates, policymakers should prioritize fund and rate stability over time, at least as much as they do keeping premiums low.** Maximizing the wage base for premium payments, including by not setting a cap on taxable wages, can help keep premiums low and more equitable.
- **Policymakers should minimize the role of private plans.** Available data indicates that reviewing and monitoring private plans entails substantial administrative costs for the relevant administrative agency. In addition, data

indicate that private plans tend to cover disproportionately high-paid employees, meaning that they remove a disproportionately large share of wages from the overall wage base, increasing relative costs for the middle- and lower-wage workers and businesses in the public programs.

- **Outsourcing administration of claims and benefits processing to a third-party provider appears to result in substantially higher operating costs than in publicly-administered programs.** Connecticut has done this, and there are cost-saving options for remedying the problem without disruption to the state's program.
- **Newer state programs demonstrate that inclusive and equitable policy design features can be implemented in paid leave programs that are financially stable and solvent.** These include specifically progressive wage replacement rates and an inclusive family definition.

Financing Program Startup Costs

When the District of Columbia and Washington state enacted laws to create statewide paid leave programs in 2017, they stepped into unknown policy territory. While four other states had created paid family leave programs – California, New Jersey, Rhode Island and New York – all had done so by expanding upon temporary disability insurance programs that date back decades,[9] meaning that they had long-standing financing mechanisms and administrative structures to build on. Policymakers in Washington state, the District of Columbia, Massachusetts and Connecticut could take lessons from those older programs, but faced the challenge of standing up entirely new programs – including financing trust funds – within relatively short windows of time.

Timeline from Enactment to First Benefits Paid

	District of Columbia[10]	Washington State[11]	Massachusetts[12]	Connecticut[13]
Law enacted	4/2017	7/2017	6/2018	6/2019
Premium collection started	7/2019 16 months after enactment	1/2019 17 months after enactment	7/2019 12 months after enactment	1/2021 18 months after enactment
Benefit payments started	7/2020 12 months after premium collection	1/2020 12 months after premium collection	1/2021 18 months after premium collection	1/2022 12 months after premium collection

Like the older programs, these four programs were designed to be financially self-sustaining – in other words, covering both program and operating costs entirely

through the revenue generated through premiums, once they were up and running.[14] But premiums would not begin to flow in until partway through the implementation cost.

In all four states, legislators opted to bridge this gap at least in part through an appropriation from the state's general fund. All but one – D.C. – required this amount to be repaid.

Initial Appropriations and Repayment Deadlines				
	District of Columbia[15]	Washington State[16]	Massachusetts[17]	Connecticut[18]
Law enacted	4/2017	7/2017	6/2018	6/2019
Appropriation	$20.04 million	$82.0 million	$5 million	$5.17 million
Repayment Deadline	n/a	6/2019 (met)[19]	Upon receipt of sufficient contributions[20]	10/2022[21]

Connecticut's program featured both an unusual administrative structure and an additional funding source. Rather than operating as an office within an existing government agency, Connecticut's program established a new quasi-government entity, the Connecticut Paid Leave Authority (CT Paid Leave Authority), which issued $12.3 million in bonds as additional start-up funding, which are required to be repaid over a seven-year period starting in FY 2023.[22] The CT Paid Leave Authority contracted out[23] to a for-profit corporation (American Family Life Assurance Company of Columbus, or "Aflac") to set up and administer the paid leave program. Under the contract, Aflac set up the claims portal website and back end database, receives and adjudicates claims, processes benefit payments from the Trust Fund, and manages processes for claims appeals, overpayments, and fraud prevention, as well as providing customer service.[24] Aflac received a $1.5 million implementation fee to establish the program, as well as a monthly fee per covered worker on an ongoing basis (see below).[25]

Best Practices

Adequate appropriations at the beginning of the implementation period help ensure a paid leave program is able to launch successfully and on time. States have typically planned for at least 12 months of premium collection prior to benefit payments to ensure an adequate fund balance.

Reserve Fund Targets

State programs have generally required that paid leave trust funds maintain a reserve – which is an additional amount on top of the amount needed to pay the current costs of benefits and administration. The amount required varies by state, but is typically expressed in terms of a certain number of months' worth of benefits or percentage of existing costs. These reserve requirements help cushion the fund from major economic shocks – for example, reduced revenues from a sudden rise in unemployment, or a surge in benefits applications due to a public health emergency (which occurred in Washington state as a result of the COVID-19 pandemic).[26]

In setting the premium rates for employer and employee contributions, the laws typically direct states to set the premiums at a level that will both pay for benefits and meet the reserve requirements. State statutes have established the following formulas:

- Washington: Starting in 2023, 140% of the prior fiscal year program expenses minus the trust fund account balance, divided by the prior fiscal year's total taxable wage base. The rate cannot be set higher than that needed to maintain a three-month reserve, or 1.2%.[27]
- D.C.: The fund balance shall not fall below the equivalent of nine months of benefits at any time during a fiscal year,[28] but the premium rate cannot exceed 0.62%.[29]
- Massachusetts: The contribution rate required to ensure the trust fund is at least 140% of the prior fiscal year's expenditure for both benefits paid and the administration of the department.[30]
- Connecticut: The target fund balance must be sufficient to ensure the ongoing ability of the fund to pay benefits and limit the need for rate increases or benefit reductions.[31] The premium rate cannot exceed 0.5%.[32]

Addressing Possible Funding Shortfalls

Programs differ significantly in how they would address potential funding shortfalls. In Washington, the Employment Security Department is authorized to continue making payments in the event of short-term negative cash flow, ensuring that workers' earned benefits are not interrupted; the original statute also permitted the Department to collect an additional surcharge if needed to maintain solvency.[33] In Connecticut, by contrast, the CT Paid Leave Authority is required to cut benefits if the maximum premium rate allowed (0.5%,[34] the lowest cap of the four states) is not sufficient to ensure solvency, so the cost of higher-than-predicted program expenses or utilization would be covered by cutting workers' earned benefits.[35] In D.C., if money in the reserve falls below 6 months of expenditures, benefits will be suspended until the reserve has climbed to a 12-month level.[36]

Best Practices

- Reserve fund formulas should set a target fund balance that is derived from recent program expenditures and that would retain a reserve of at least three months' expenditures in order to maintain solvency as revenue ebbs and flows seasonally.
- Policymakers should prioritize maintaining workers' earned benefits as the primary goal of fund solvency considerations. While neither D.C. nor Connecticut has had to implement a benefit freeze or cut in response to a trust fund shortfall, these provisions are unnecessarily punitive approaches to protecting fund solvency. Either approach would in effect concentrate the cost of a fund solvency among paid leave claimants, who would have been paying premiums into the system for months or years only to find that their earned benefits were cut or inaccessible just when they were needed.

Premium Rate-Setting

All four states financed their programs – both benefits and operating expenses – through payroll premiums, and all began collecting premiums for at least one year prior to beginning to pay out benefits, in order to build up a balance in the program's trust fund. Washington state and D.C. set initial premium rates in their laws, along with establishing processes for future adjustments, while Massachusetts simply authorized the Department of Family and Medical Leave to set the rate annually based on the amount needed to maintain the target fund balance. Connecticut's statute set a maximum premium (0.5%) and authorized the CT Paid Leave Authority to set the rate.

In Washington state, Massachusetts, and Connecticut (but not D.C.), premiums are only charged on wages up to the Social Security Old Age, Survivors and Disability Insurance (OASDI) cap ($132,900 in 2019, when Washington began premium collection).[37] As detailed below under Trust Fund Solvency, this wage cap can contribute to uneven revenue during the fiscal year, as premiums will cease to be collected for higher-paid workers partway through the year. The foregone revenue also means that the overall premium rate is higher than it would be if all wages were subject to the premium. In addition, workers whose wages are below the cap end up paying a higher total share of their wages as premiums than higher-paid workers, which undermines program equity.

Annual changes to premium rates are generally made to meet reserve fund targets (see above), and reflect the interaction of program utilization, operating costs, prior years' revenue and costs and economic conditions such as increasing wages. An increase in the premium rate could reflect higher-than-expected program use in the prior year, or that revenues were lower in the previous year than needed, for example due to a large premium cut.

Initial Premium Rates and Employee-Employer Split				
	District of Columbia[38]	Washington State[39]	Massachusetts[40]	Connecticut[41]
Initial Rate (Total)	0.62%	0.40%	0.75%	0.50%
Employee Rate	0.00%	0.25%	0.67%	0.50%
Employer Rate	0.62%	0.15%	0.12%	0.00%
Small Employer Premium Exemption	No	Yes	Yes	N/A
OASDI Cap on Wages	No	Yes	Yes	Yes

Premium Rates Over Time				
	District of Columbia[42]	Washington State[43]	Massachusetts[44]	Connecticut[45]
2019	0.62%	0.40%	0.75%	-
2020	0.62%	0.40%	0.75%	-
2021	0.62%	0.40%	0.75%	0.50%
2022	0.26%	0.60%	0.68%	0.50%
2023	0.26%	0.80%	0.63%	0.50%
2024	0.26%	0.74%	0.88%	0.50%

Washington. The initial premium was set at 0.40%, with one-third of the total initially designated for paid family leave and two-thirds for paid medical leave. Employers can deduct 100% of the paid family leave premium and 45% of the paid medical leave premium from the employee. The remaining 55% of the paid medical leave premium is paid by the employer; employers with fewer than 50 employees are not required to pay it, but must still collect the employee's share and remit it to the state. Additionally, small employers must pay the employer share of the premiums for three subsequent years after receiving a small business assistance grant.[46]

The original law established that starting in October 2020, the premium rate would be updated annually based on the trust fund account ratio (see more below), and that the adjustment would take effect in January of the next year.[47] And starting in October 2022, the premium split (the share designated for paid family leave versus paid medical leave) would be adjusted annually based on the number of claims paid in the previous year, by type. This adjustment also takes effect the following January.[48]

District of Columbia. The initial premium was set at 0.62%[49]. Premiums are paid entirely by the employer.[50] As of March 2022, the premium rate can be adjusted annually to maintain benefits and continued fund solvency (see more below), with the new rate taking effect in July of that same year. The rate cannot exceed 0.62%. If the fund reserve falls below the amount needed to pay six months of benefits, payment of benefits will be suspended.[51]

Inclusive Family Definition Offers Equity Gains at Low Cost

In July 2021, Washington state became the first of these newer programs to provide paid family leave to caregivers for chosen family members (loved ones to whom a person may not have a biological or legal relationship).* This provision is particularly important for LGBTQI+ people and disabled people, who are more likely to need to receive and provide care to chosen family.** Over the first 20 months after it was implemented, 686 people have had claims approved for chosen family caregiving (representing 0.2% of total claims and 0.2% of benefits paid in that period). The provision has had no measurable impact on trust fund solvency or premium rates.***

See Endnotes for sources.

In D.C. the initial premium rate proved to be significantly higher than needed to meet program demand and maintain an adequate trust fund balance.[52] In 2022, the District enacted a significant expansion to its program while simultaneously reducing the premium rate.[53]

Massachusetts. The initial premium was set at 0.75% – 0.13% for paid family leave and 0.62% for paid medical leave.[54] Employers can deduct 100% of the paid family leave premium and 40% of the paid medical leave premium from the employee.[55] The remaining 60% of the paid medical leave premium is paid by the employer; employers

with fewer than 25 employees are not required to pay it, but must still collect the employee's share and remit it to the state.[56] Every year by October 1, the director will set the contribution rate for the coming year at a rate sufficient to maintain an adequate fund balance (see more below) and cover administrative costs, which takes effect the following January 1.[57]

Connecticut. By statute, the CT Paid Leave Authority is authorized to set the premium, which cannot exceed 0.5%.[58] Premiums are 100% paid by the employee, but remitted by the employer.[59] The law established that each November starting in 2022, the Authority must review the fund balance and if needed can announce an adjusted premium sufficient to maintain the target fund balance, which will go into effect the following January.[60] If contributions at the maximum allowable premium rate are not sufficient to maintain the target fund balance, the Authority must adjust benefit amounts to maintain fund solvency.[61]

Best Practices

- Maximize the wage base on which premiums are paid to help keep premium rates as low as possible.
    - Policymakers should consider not capping the earnings on which premiums are levied. This will also help stabilize the revenue stream throughout the year (see more about seasonal changes in revenues below under Trust Fund Solvency), and help ensure that premium payments are not regressive.
    - Policymakers should carefully evaluate how the program and revenue costs associated with private plan options could impact premium rates for workers and employers in the public program. (See more under Administrative Costs and Funding below.)
- Ensure the premium rate is high enough to maintain an adequate fund balance, to avoid large swings up or down in the rate from year to year. Predictable costs help both workers and employers plan their budgets.
- Avoid formulas that would address a potential funding shortfall by cutting benefits.
    - Workers who have paid into a program have earned a benefit at a given rate. Meeting shortfalls through benefit cuts rather than revenue improvements unfairly force a minority of workers to foot the bill simply because they claimed benefits during one budget cycle and not another.

- Additionally, workers with low incomes – disproportionately women and workers of color – are less likely to have additional savings or other leave benefits to help bridge the gap.[62]

Administrative Costs and Funding

Generally, after initial implementation states have paid for administrative and operating costs out of the trust fund, typically with some statutory limitations on how funds for expenses other than benefit payments can be accessed. For the programs in Washington state[63] and the District of Columbia,[64] trust fund dollars must be appropriated for administrative expenses. In Massachusetts, administrative costs for any fiscal year after the first year of benefits cannot by law exceed 5% of the trust fund.[65] D.C.'s statute limits administrative costs to no more than 15% of the trust fund,[66] and as of FY 2021, the D.C. Council had only authorized 10% of the paid leave fund to go towards administration, although actual costs appear to have been below these levels.[67]

In Connecticut, Aflac is paid $1.24 per worker covered per month (based on an assumption of 1,529,275 covered), and can request an increase in that rate if program benefits materially change, if the actual number of people covered is 25% or more below that assumed level, or changes in the law or regulations change the services needed or cost to provide services.[68] Additionally, Aflac is paid $800 to $1,500 for second and third opinion evaluations and $150 per hour, up to $300,000, for additional programming fees.[69] The state initially anticipated that administrative costs would amount to approximately 5% of premium revenues, or about $20 million per year.[70] Detailed data on administrative costs is limited, but based on overall figures provided in the program's FY 2022 report, Connecticut's operating costs amount to more than 10% of premium revenues, the highest of the four states.

Operating Cost-to-Premium Ratios

	District of Columbia (2021)[71]	Washington State (2023)[72]	Massachusetts (2022)[73]	Connecticut (2023)[74]
Annual Operating Costs	$16,500,000	$63,196,067	$69,320,000	$45,800,000
Premiums Collected	$308,300,000	$1,374,600,000	$925,337,000	$436,835,677
Operating Costs as Share of Premiums Collected	5.35%	4.60%	7.49%	10.48%

Connecticut's operating costs are also high relative to the volume of claims being processed and approved.

Operating Costs Per Claim			
	Washington State (2023)[75]	Massachusetts (2022)[76]	Connecticut (2023)[77]
Annual Operating Costs	$63,196,067	$69,320,000	$45,800,000
Claims Processed	212,164	140,038	90,393
Cost per Claim Processed	$298	$495	$507
Claims Approved	169,606	112,531	55,111
Cost per Approved Claim	$373	$616	$831

Notably, Connecticut's program has also experienced significant challenges in terms of performance. In fact, the state recouped $375,000 from Aflac for failing to meet performance standards in 2022.[78]

Administering Private Plans

Washington, Massachusetts and Connecticut all permit employers to offer private plans rather than participating in the public program, if they meet certain requirements. Generally, plans must provide at least the same benefits on the same terms, go through a state review and approval process, and the employer or a third-party provider must have a bond to ensure employee coverage in the event of bankruptcy. Employers with approved private plans, and their covered employees, typically pay a small administrative fee, but do not contribute premiums to the state program.

To date, information is limited on the scale and fiscal impact of private plan coverage in Massachusetts and Connecticut. In Washington state, the three years of data available indicate that private plans have cost more to administer than has been covered by the private plan fee.

A large share of the state wage base – disproportionately from higher earners – is being exempted from premiums. Concerningly, it is disproportionately higher earners and larger employers whose wages are being removed from the program wage base, meaning that lower earners and small businesses are bearing a relatively higher cost to maintain the public program. For example in 2021, workers paid $150,000 or more annually made up about 13 percent of Washington's workforce – but 68 percent of workers covered by private plans.[79]

This pattern is similar to what earlier research has found in California (in 2019, about 3.4% of covered employees are covered by a private plan, and their average weekly wage was more than $5,000, compared to about $1,000 in the public plan).[80] The limited

data now available from Connecticut suggests a similar trend. Across all private plans, an estimated $14.1 million in premium revenue is lost, compared to just $11.3 million in benefits expenditures saved, a gap that indicates private plan wages are higher on average than in the public program.[81] The most common industry for employees covered by private plans is financial activities,[82] an industry with higher than average pay.[83]

Washington State Private Plan Coverage and Excluded Wages

	Employer Size	Employees (Annual Average)	Share of All Covered Employees	Gross Wages Excluded from Program	Share of Statewide Gross Wages
2020[84]	Total	115,600	Not Reported	Not Reported	5% (in 2019)
2021[85]	Small employer (<50)	1,908	0.2%	$276,478,033	0.5%
	Large employer (50+)	115,009	5%	$31,466,243,837	17%
	Total	116,917	3%	$31,742,721,870	13%
2022[86]	Small employer (<50)	1,487	0.1%	$176,362,492	0.3%
	Large employer (50+)	126,284	5%	$26,654,908,532	13%
	Total	127,771	3%	$26,831,271,024	10%
2023[87]	Small employer (<50)	1,692	0.1%	$213,620,632	0.4%
	Large employer (50+)	138,199	5%	$31,558,653,377	15%
	Total	139,891	3%	$31,772,274,009	12%

As of 2022, Washington employers had submitted 384 voluntary plans, paying a one-time $250 fee for each plan. Each initial application is reviewed, then if approved, it is reviewed again annually for the next two years. The state estimates that it has cost an average of more than $200,000 per year – largely staffing costs – to review plans, while the total revenue received from 2018-2021 was just $96,000.[88]

Best Practices

States have demonstrated that paid leave programs can be self-funded, including administrative costs after initial implementation.

- Notably, there is little evidence that privatizing administration of a program leads to savings on administrative costs – and in fact appears to be significantly more expensive. Policymakers should avoid privatizing program administration.
- In addition, allowing individual employers to use private coverage instead of participating in the public program may erode the financial health of the public program through foregone revenue – disproportionately from high-wage employees and their employers – and added administrative costs. Policymakers should at minimum ensure that fees for private plans cover all administrative costs throughout the duration of the plan, and may wish to consider limiting the role of private plans in the program overall.

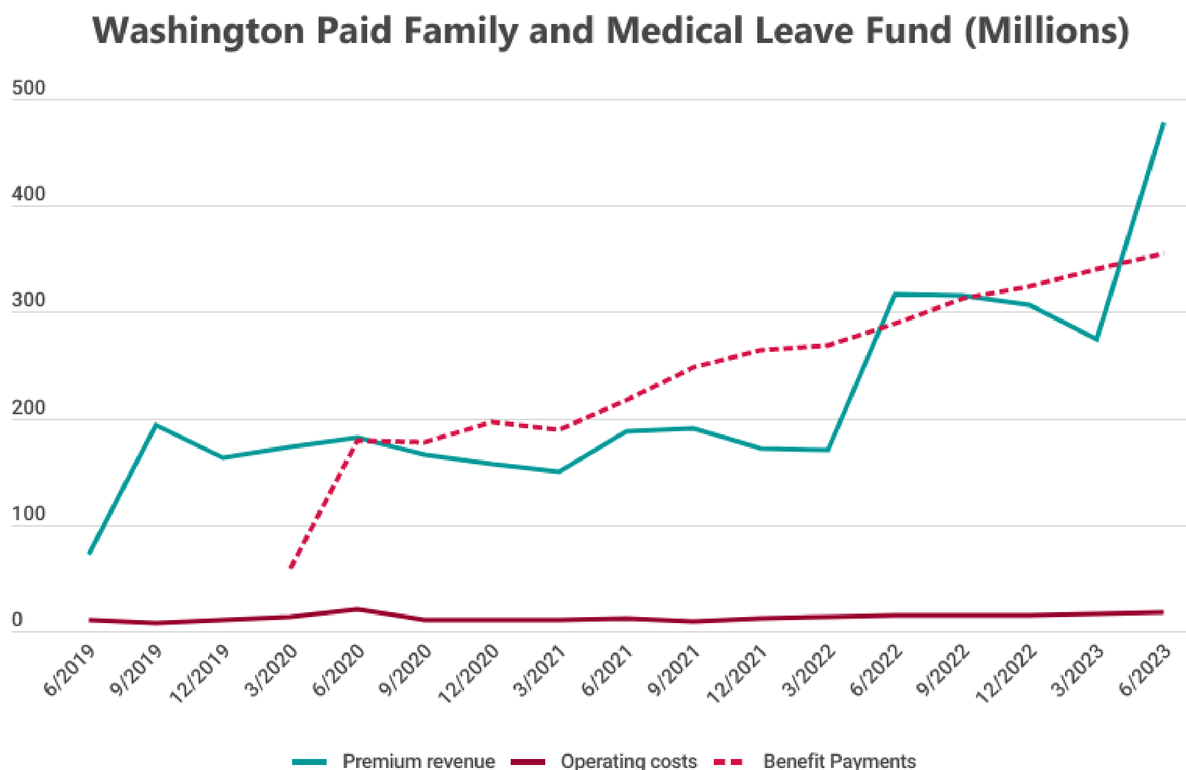
Trust Fund Solvency

In all four states, programs have been able to close out financial reporting periods with a positive fund balance, and have demonstrated that costs and revenues tend to be predictable and relatively steady.

End of Fiscal Year Balances (Millions)			
	District of Columbia[89]	Washington State[90]	Massachusetts[91]
2019	$70.60	$26.83	-
2020	$356.90	$454.16	$830
2021	$558.0	$286.52	$1,380
2022	Not Available	$31.60	$1,838
2023	Not Available	$211.40	Not Available

The experience of Washington state, which alone among these states publishes more granular fund balance data, also highlights important considerations for policymakers related to the seasonal dynamics of paid leave program revenues and expenditures. As the program's popularity and use has grown since its launch, Washington state has consistently met the requirement to pay benefits and operating expenses out of the trust fund. However, monthly and quarterly trust fund levels have been more volatile than administrators and policymakers likely desire. Causes for this include the fact that the bulk of premiums tend to be paid immediately following the end of a reporting period, while benefits are paid out at a fairly steady rate week to week. In addition, because premiums are only paid on earnings up to the Social Security earnings cap,

collections slow later in the year when higher-paid employees have met that cap, and only rise again at the beginning of the calendar year.[92] In addition, as noted above, the Washington state program's original target fund formula was not derived from historical program expenditures.[93]



These factors have led to three short periods of an end-of-quarter deficit in the trust fund; in each case the fund returned to a positive balance once quarterly payments were collected. The Employment Security Department has been given authority to continue making payments in such a period, and so program claimants were never impacted. But to address fund volatility more permanently, in 2023 a legislative fix (SB 5286) adjusted the premium-rate setting formula, which will take effect in 2024 and is expected to build up an adequate solvency reserve within the next few years.[94] The state also appropriated $200 million to cushion the trust fund during this interim period and avoid further short-term deficits (these funds have not been spent on benefits or operating costs).[95]

Best Practices

- Regular, transparent reporting to lawmakers, a program's advisory board and the public helps ensure issues are identified quickly and timely solutions can be developed.

- Program officials and lawmakers should prioritize maintaining workers' access to their earned benefits when determining appropriate premium rates, reserve fund formulas and procedures for addressing any potential short-term funding gaps.
- In designing new programs, policymakers should plan for an adequate cushion of funding in a paid leave insurance fund to allow for timing gaps between premium payments and benefits expenditures.
- Avoiding a cap on taxable wages may help ensure premium payments are more regular and predictable throughout the year.

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Sources for sidebar, "Inclusive Family Definition Offers Equity Gains at Low Cost":

* The provision covers caregiving for "any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care." 2021 Wash. Sess. Laws ch. 232, § 2.

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[11] 2017 Wash. Sess. Laws ch. 5 §§ 6, 8.
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