

**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**



Overview of the presentation

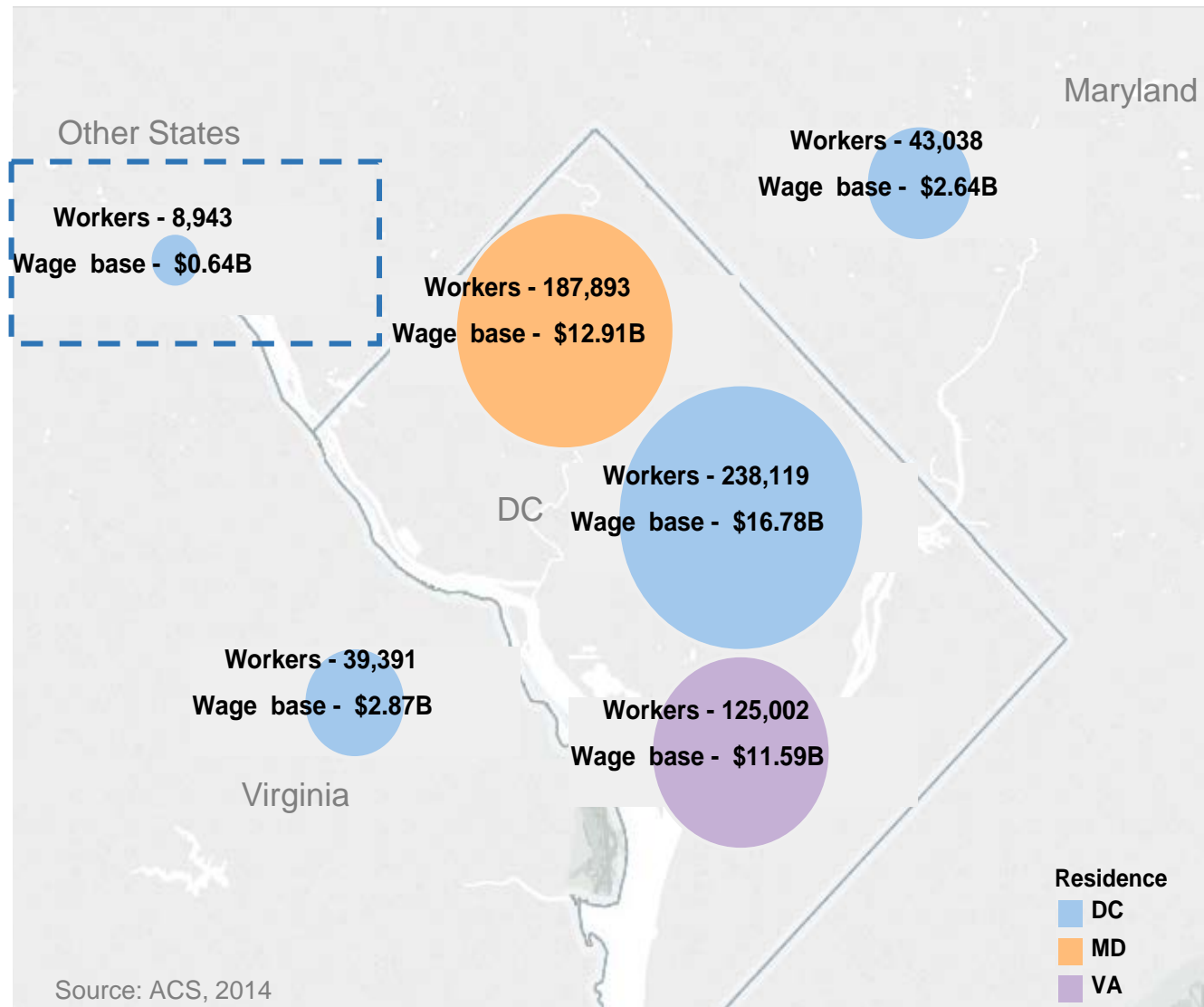
1. Who will be covered?
2. What benefits are offered under the program?
3. How much will the program collect?
4. How do other states' programs compare and perform?
5. Why could the District's program have higher participation?
6. What is necessary for certification?



Who will be covered?



Coverage by residence and place of work



Potential coverage:

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



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. |
| <i>489,357 workers \$36.4 billion in wages</i> | <i>129,100 workers \$10 billion in wages</i> | <i>23,929 workers \$1 billion in wages</i> |

Source: ACS, 2014



What benefits are offered under the program?

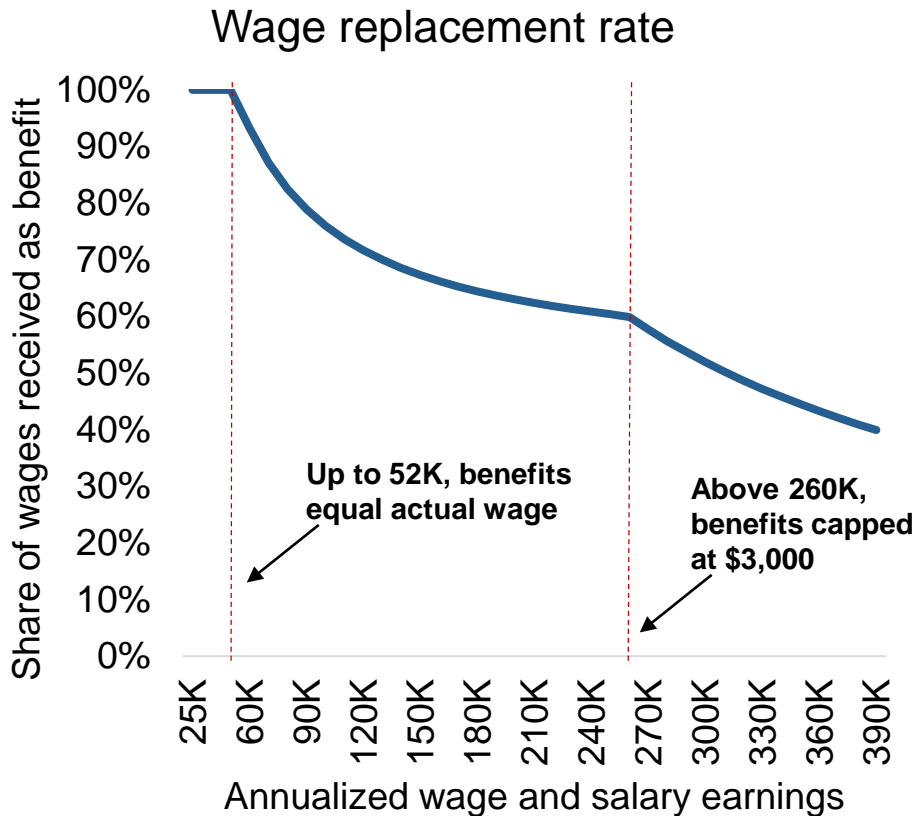


Statutory benefits under the program

- **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

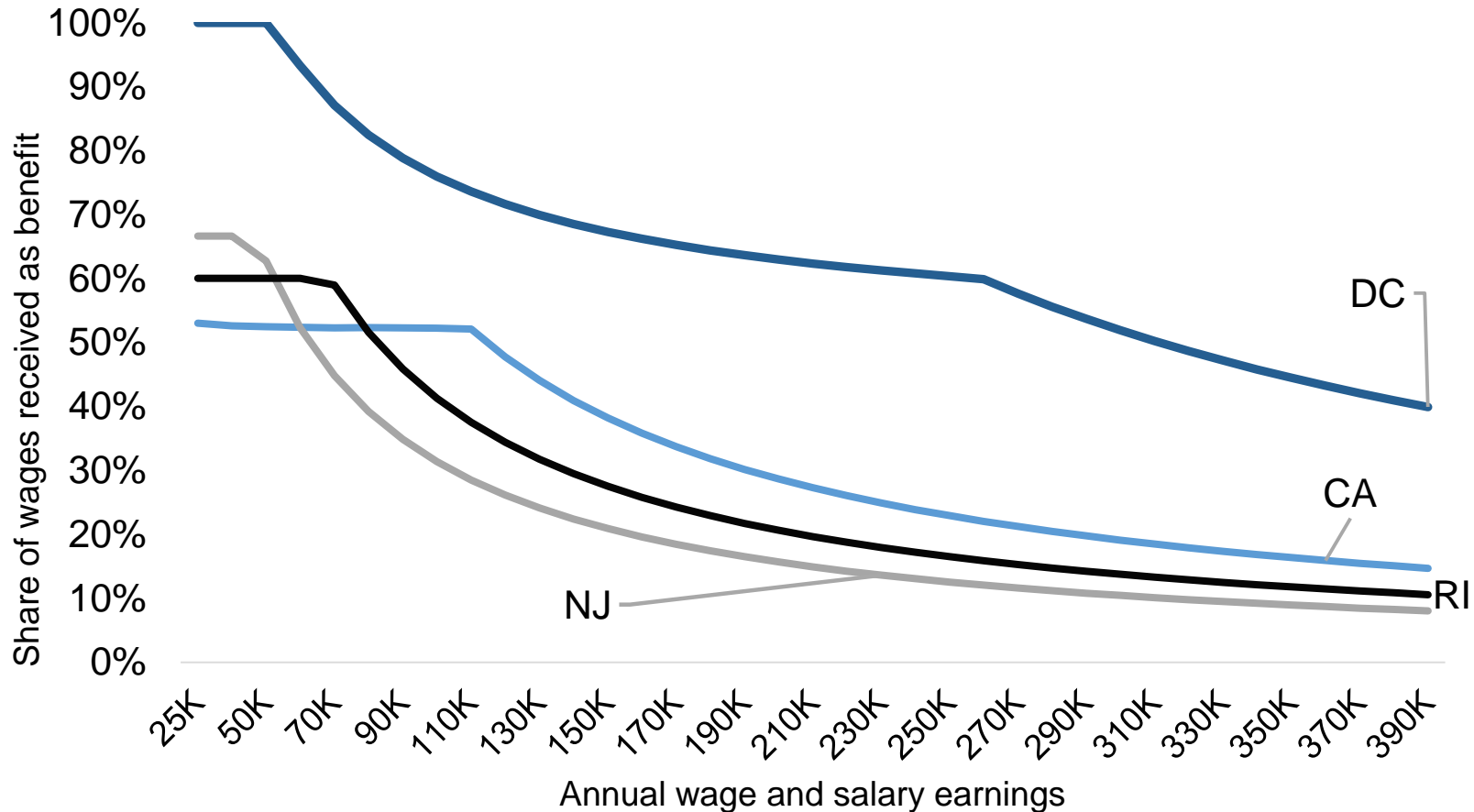


| Wage replacement rate | Max annual income that qualifies | Weekly benefit under the program | Annual equivalent of the benefit |
|-----------------------|----------------------------------|----------------------------------|----------------------------------|
| 100% | \$52,000 | \$1,000 | \$52,000 |
| 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?

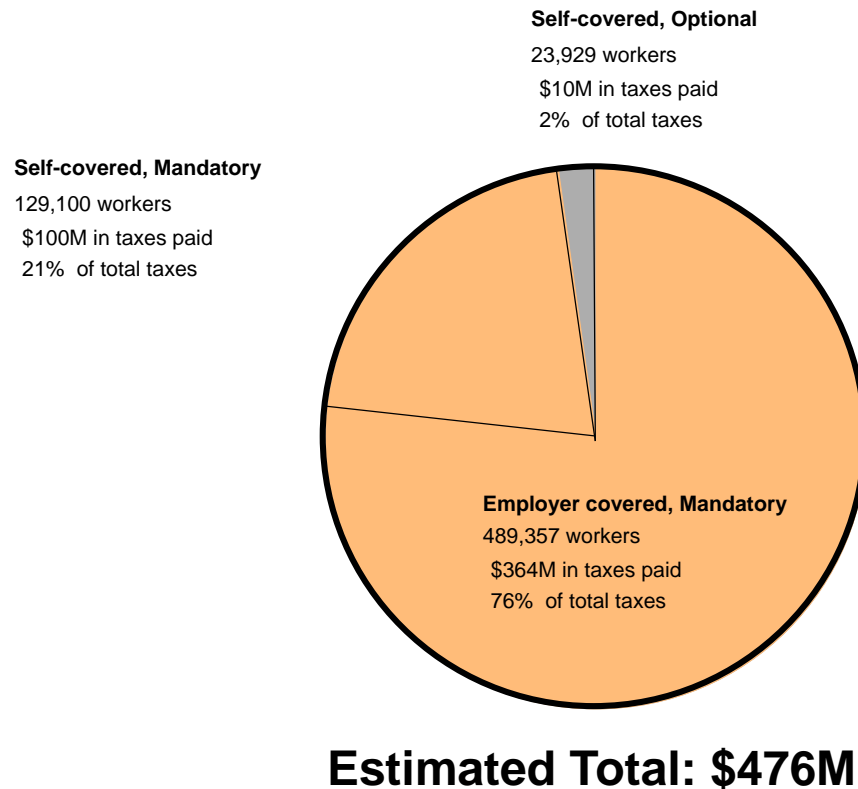


Statutory tax rate under the proposal

- **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?



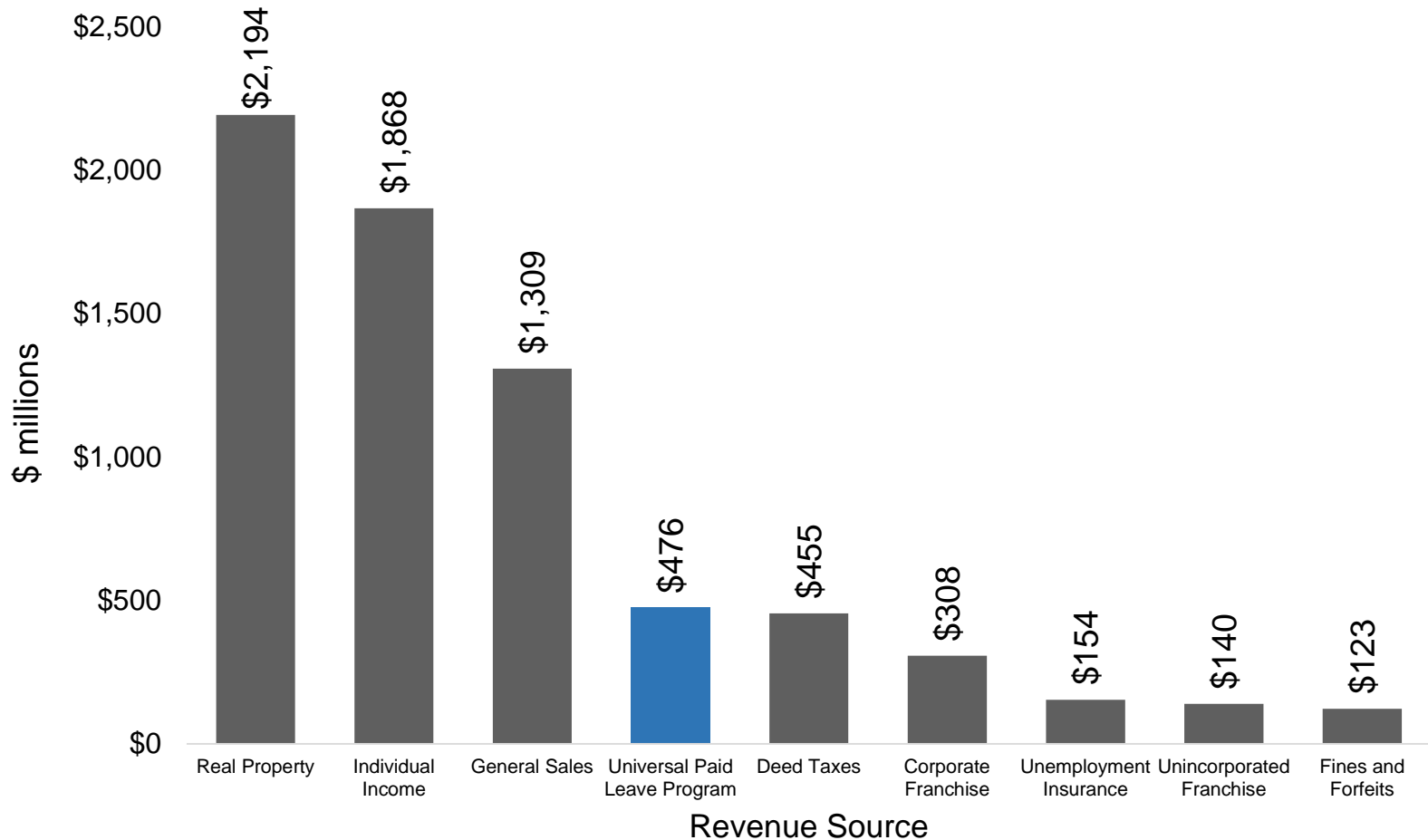
Numbers may not add up due to rounding

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% | |

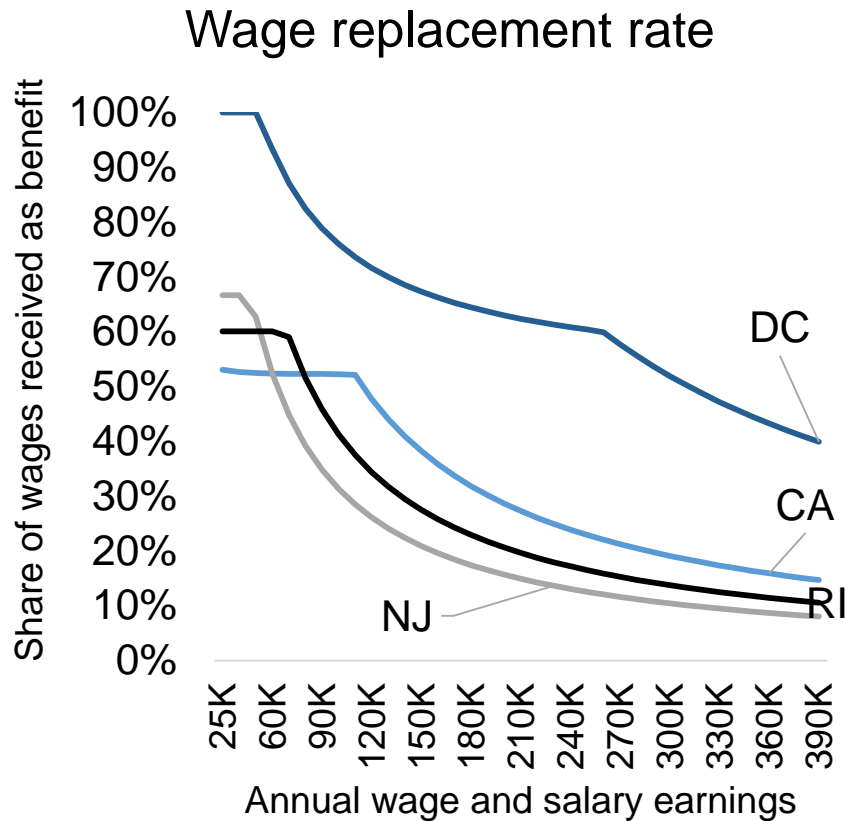
⁽ⁱ⁾ DC Government Paid Leave program pays full salary for up to 8 weeks. The average weekly benefit is an estimate based on average salary of \$84,500—the budgeted amount for FY 2015. ⁽ⁱⁱ⁾ The estimated value of benefits paid.



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%) |

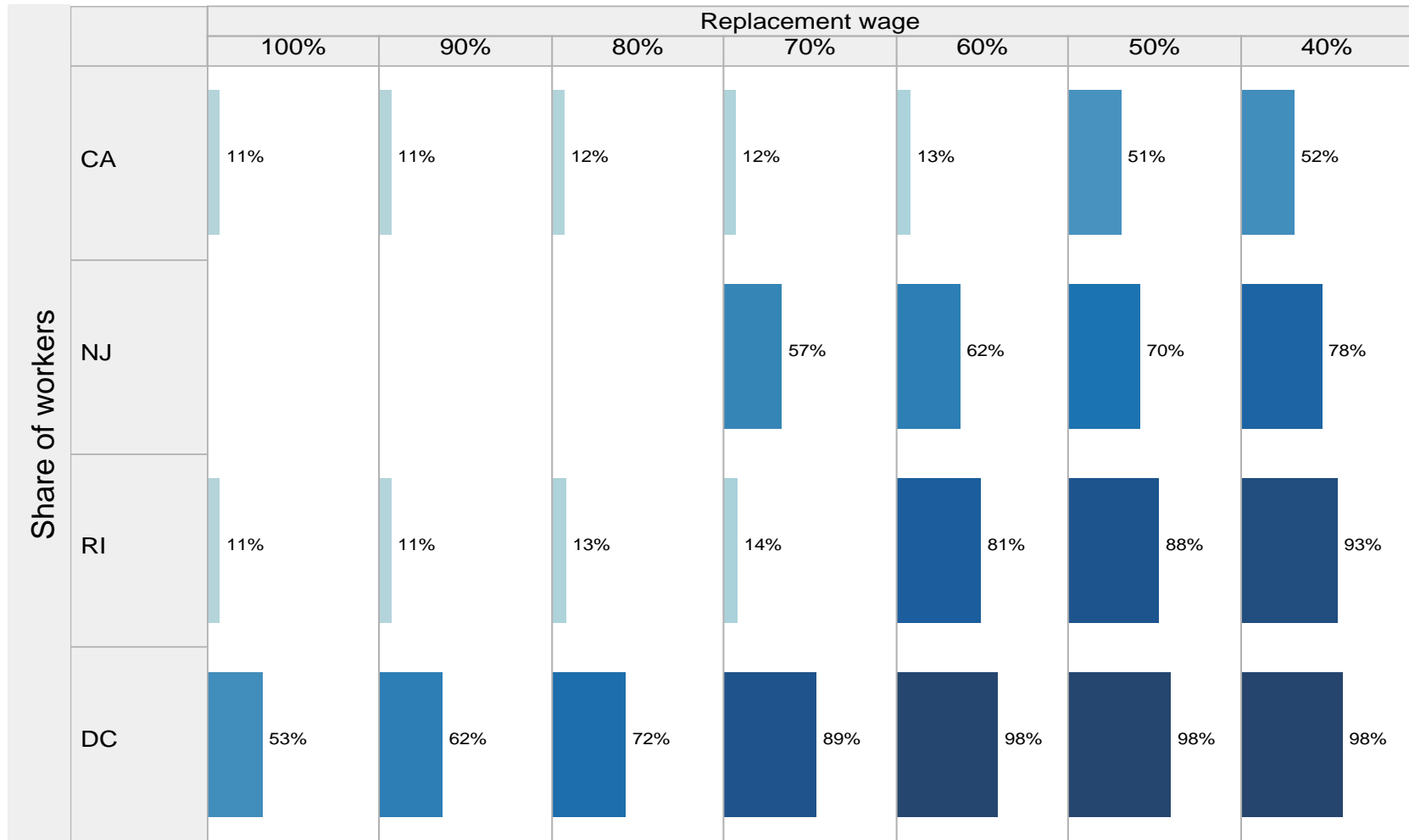
Source: CA: <http://www.edd.ca.gov/>

NJ: http://lwd.dol.state.nj.us/labor/forms_pdfs/tidi/WPR-119.pdf

RI: <http://www.dlt.ri.gov/tidi/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.