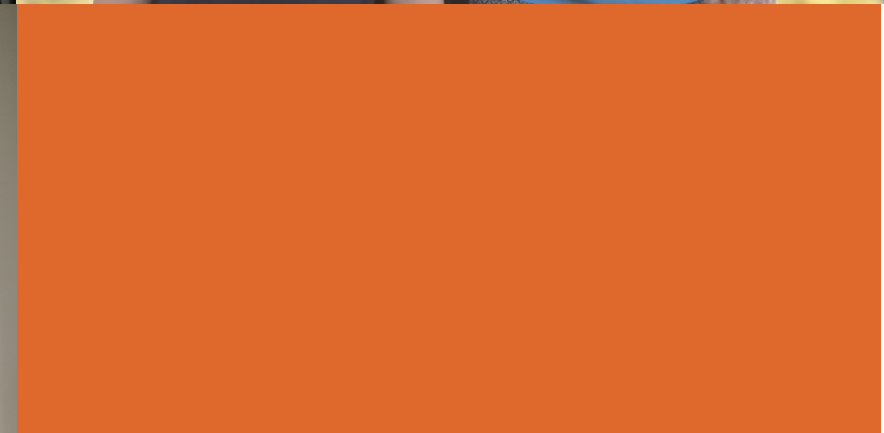


# Commission to Develop a Paid Family and Medical Leave Benefits Program

## Report to the Joint Standing Committee on Labor and Housing

March 7th, 2023



# PFML Commission Members

Meet Maine's Chairs



**Sen. Mattie  
Daughtry.**

**Senate Co-Chair**

**Senate District #23**

**Rep. Kristen  
Cloutier**

**House Co-Chair**

**House District #94**



# PFML Commission Members

Meet Maine's Bears



**Mattie**

Bear Cub  
Enthusiast

**Kristen**

Bear Cub  
Enthusiast





**Sen. Kim Rosen**

Former Senator for  
Hancock County



**Rep. Paul Stearns**

Former Rep for  
Piscataquis County



**Wendy Estabrook**

HR at LL Bean:  
Representing an  
employer with more  
than 50 employees



**Sarah Brydon**

Senior Lead  
Compliance Analyst  
at Majesco: Member  
with expertise in  
issues related to  
family and medical  
leave benefits





## John Leavitt

Business Manager at North Atlantic States Regional Council of Carpenters: Member with expertise in issues affecting labor and independent contractors



## Barbara Crowley, MD

Leader of the Peter Alfond Endowment Program at MaineGeneral Medical Center: Member with expertise in issues affecting maternity and postpartum care

## Bonita Usher

Smooth Transitions: Member with expertise in issues affecting elder care



## Emily Ingwersen

Ginger Hill Design + Build: Representing an employer with 50 or fewer employees





## Charles Mitchell

Bayside Bowl:  
Representing an  
employer in the  
hospitality industry



## Commissioner Laura Fortman

Maine  
Department of  
Labor

## DrewChristopher Joy

Southern Maine  
Workers Center

(Served until 2021 due  
to a job transition.)



**The Goal: To ensure a diverse group of Maine  
businesses and HR professionals shape  
Maine's benefit by Mainers, for Mainers.**

# Milliman

## Meet our Actuaries

Maine made an investment in studying how to make the most simple, sustainable program for our unique state



Paul L. Correia,  
FSA, MAAA

Principal and  
Consulting Actuary  
at Milliman

Daniel D. Skwire,  
FSA, MAAA

Principal and  
Consulting Actuary  
at Milliman



# PFML: A History and Primer

**“The U.S. is the only OECD country without a national paid leave policy. A national paid family and medical leave policy could strengthen America’s global competitiveness, allow smaller businesses to be more competitive with larger ones, and help protect the U.S. economy against potential disruptions.”**

*-Women's Bureau - U.S. Department of Labor*





# FMLA History & Action

**February 5, 1993** ➔ **February 5, 2023**

The Family and Medical Leave Act is signed into law thirty years ago after passing the US Senate with broad bipartisan support. This came after decades of advocacy for its passage.

This created an unpaid system of leave for businesses with more than 50 employees, and only covers 44% of the workforce in the USA.

After decades of federal inaction, all other New England States have created a PFML benefit, leaving Maine businesses lagging without the competitive advantage offered by our neighbors when many businesses seek ways to attract and retain a strong workforce.

# Current Maine FML

- Ten weeks of unpaid leave within a two-year period for employees of businesses who have 15 or more employees.
- **77% of all Mainers do not have access** to paid family medical leave. Many do not even qualify for unpaid leave.



# Other States:

13 states + Washington, D.C. have already enacted programs:

California (2004)

Vermont (2023)

Oregon (2023)

New Jersey (2009)

Delaware (2022)

New Hampshire (2023)

Rhode Island (2014)

Washington, D.C. (2020)

Colorado (2024)

New York (2019)

Massachusetts (2021)

Maryland (2022)

Washington (2020)

Connecticut (2022)

*Hawaii has disability insurance only.*

# PFML Commission

## A tale of two commissions



### July 2021

LD 1559 - "Resolve, To Create the Commission To Develop a Paid Family and Medical Leave Benefits Program" is passed and signed into law

### Oct. - Nov. 2021

The first PFML commission held its first six meetings. This portion of the commission was focused on fact-finding about other states and soliciting input from Mainers through both a public hearing and survey to employees and employers.

### May 2022

LD 1952 - "Resolve, To Create the Commission To Develop a Paid Family and Medical Leave Benefits Program" is introduced to give the commission additional time.

Milliman is hired to conduct the actuarial study and begins.

### Oct - Dec. 2022

After receiving the actuarial study from Milliman, the commission begins meeting in October in order to finalize recommendations and do additional modeling.

The Commission meets seven times.

# Public Input:



Public Hearing on December 14, 2021



## Public Surveys of Employers and Employees

The Commission conducted two public surveys: one for employees and another for employers. We had over 730 responses.



## Listening to Experts

The Commission heard from a variety of experts from across the country. Including:

- National Conference of State Legislatures
- A Better Balance
- Family Values at Work
- The US Chamber of Commerce (and ME)
- Maine Paid Leave Coalition
- Washington State Paid Leave
- Connecticut Paid Leave Authority
- Maine Department of Labor

# Commission Discussion

The Commission used the following questions to guide our deliberations:



What can leave be used for?

How will it be funded?

Will there be any additional job protections?



Who is covered?

What is the wage replacement?

How will the insurance be provided?



How do you qualify?

What is the maximum weekly benefit?

How will the program be organized and structured?

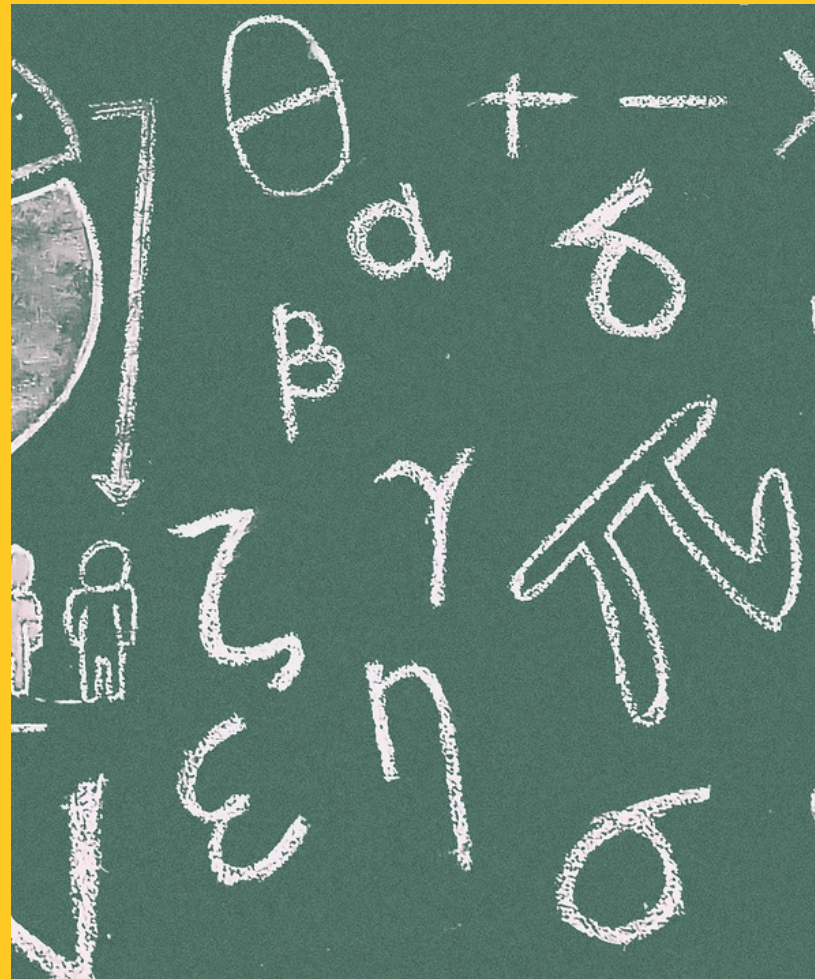


What family is covered?

Will there be a waiting period?

What are the potential start-up costs?

# By the Numbers



After constructing our framework of questions, we passed off our menu of "options" to our consultants at Milliman to lay out for Maine.

# Actuary Study.



Milliman presented it's initial actuarial analysis in August 2022, and then continued to provide additional modeling based on committee discussions



# Maine's Plan

Our recommendations for Maine's benefit were guided by this goal:

Create a program that is affordable, accessible, and straightforward for all Mainers.



# Purposes for Leave

Leave should mirror current state and federal law. This includes:

- To care for a new child (birth, adoption, fostering)
- To care for family with serious health condition.
- One's own medical needs
- Emergencies related to military deployment
- Safe leave for victims of domestic abuse

# Employees Covered

The Commission consistently stressed the importance of the program being broadly accessible, and thus voted the program should cover all workers.

Self-employed workers can opt-in.

Public and private employees would be covered.

**Private plans would be allowed. If you currently have or offer a plan, you can continue to do so.**

# Requirements to qualify

- We wanted the program to be portable, job to job, as well as accessible.
- Wages will be examined over a four-quarter lookback period. This means one would have to earn a certain amount during the last four quarters in order to qualify.
- The commission was unable to recommend an exact amount and encourages this to be discussed during rule-making.
- We caution putting a precise amount in statute and recommend building in a mechanism to have the number stay responsive to the economy. (ie. tying it to SAWW or CPI)

# Maximum benefit periods and intermittent leave

- The Commission unanimously voted for an annual 12-week maximum limit for a particular qualifying need and a 16-week combined limit.
- Employees may use intermittent leave as long as the minimum was for full work day increments (whatever that full day might look like for the employee).
- Smaller leave amounts could be cumbersome for employers to facilitate, and there are other programs that could potentially cover these shorter periods.

# Program Funding

- **Employers with fewer than 15 employees** would be exempt from contributions to fund the program but their employees could opt-in.
- **Employers with 15 or more employees** and employees would contribute to program costs based on a percentage of wages.
- 1% of wage rates is the desired **maximum amount** of total contribution.



# Benefit Amounts & Wage Replacement



Two options tied to a 120% of the state average weekly wage

## Tiered vs Flat

We considered, and ultimately rejected, the option of a tiered approach to wage replacement. We found that the tiered system did not fit with our goals of simplicity for the program. It additionally made it more difficult for both employees and employers to calculate costs and benefits.

## State Average Weekly Wage (SAWW)

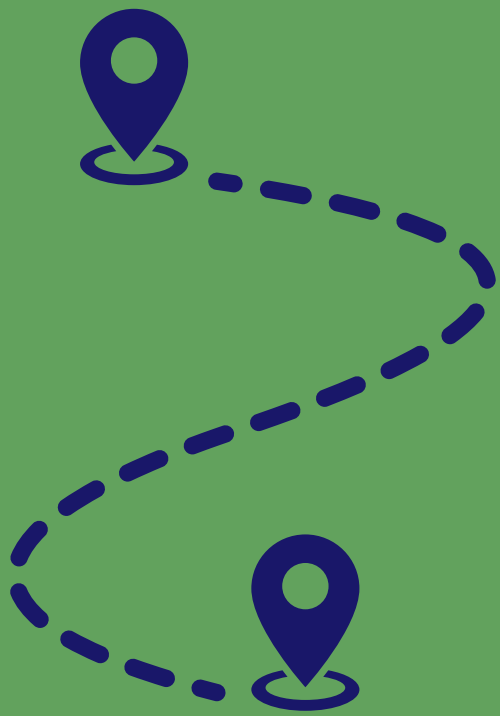
The Commission unanimously supports the maximum replacement rates of 120% of the state average weekly wage. Maine has the 19th lowest weekly wage in the nation and 120% is closer to what the actual cost of living is in our state.

## 80% Replacement

All Commission members voted to support an 80% wage replacement up to 120% of SAWW

## 90% Replacement

A majority of Commission members voted to support an 90% wage replacement up to 120% of SAWW



# Choosing our own adventure: Contributions models

Finding a pathway that works for businesses and workers

There are several models of contributions and wage replacement for members of this Committee to consider.

The models presented stay within guardrails that will keep this program sustainable for Maine.

# Sample Payroll with 80%

**Annual Salary:** \$50,000

**Weekly Benefit:** \$769

# Sample Payroll with 90%

**Annual Salary:** \$50,000

**Weekly Benefit:** \$865

# Sample Weekly Cost Shares for \$50,000 Salary

## 80% Replacement

25% / 75% Cost Share

Employer  
\$2.02

Employee  
\$6.15

50% / 50% Cost Share

Employer  
\$4.23

Employee  
\$4.23

## 90% Replacement

25% / 75% Cost Share

Employer  
\$2.50

Employee  
\$7.40

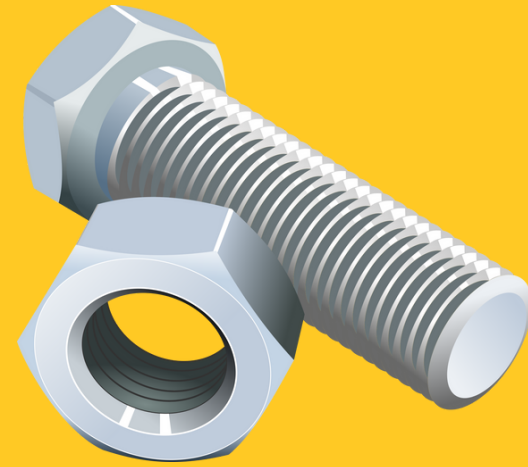
50% / 50% Cost Share

Employer  
\$5.10

Employee  
\$5.10



# Nuts and Bolts



## Administration

Approximately \$19M ongoing operating expenses.

## Start Up Costs

Estimated \$65M in one-time start up costs.



## Program Evaluation and Oversight: Watchdog

This is one of the most important portions of our recommendations. Time and time again we heard from states with PFML and from various policy experts that we need to have a robust data collection mechanism as well as strong oversight of the program.

## Timeline

After rulemaking, the benefit is anticipated to launch one year after contributions begin. Potential estimated start in 2025 or 2026.



# The Need for PFML in Maine is Vital

Only 35 percent of workers even have access to job-protected unpaid leave, meaning they must choose between losing income and taking care of themselves or a loved one who is sick.

That's why 73 percent of Mainers support a paid family and medical leave law that would guarantee workers are paid for time off to care for loved ones or themselves.



# PFML benefits Maine businesses and our state's economy while empowering workers.

Studies have shown that PFML boosts worker productivity and improves employee retention.

PFML can also increase labor force participation, which has been declining in Maine in recent years and remains below the U.S. and New England averages.

# PFML will benefit our state's aging population and support families.

As the oldest state in the nation, Maine has many older adults suffering from chronic conditions requiring long-term care. Often, this falls to family members, many of whom cannot both work and take care of their loved one.

Allowing parents to spend time with their newborns, recently adopted children or foster children has been shown to improve maternal health, childhood outcomes, child welfare and family economic security.

# Questions?

We want to hear from you or visit your community!



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[kristen.cloutier@legislature.maine.gov](mailto:kristen.cloutier@legislature.maine.gov)

**Next Step: Maine Tour!**