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Testimony of Sen. Mattie Daughtry and Rep. Kristen Cloutier presenting
**LD 1964, An Act to Implement the Recommendations of the Commission to
Develop a Paid Family and Medical Leave Benefits Program**
Before the Joint Standing Committee on Labor and Housing

Good afternoon Senator Tipping, Representative Roeder and distinguished members of the Legislature's Joint Standing Committee on Labor and Housing. I am pleased to join you alongside co-sponsor Representative Cloutier to introduce a bill and our amendment that is two years in the making, LD 1964, *An Act to Implement the Recommendations of the Commission to Develop a Paid Family and Medical Leave Benefits Program*. I am Mattie Daughtry, and I proudly represent Senate District 23, which includes Brunswick, Freeport, Harpswell, Pownal, Chebeague Island, and part of Yarmouth.

Good afternoon, honorable members of the Labor and Housing Committee. As Senator Daughtry mentioned, it is a privilege to come before you today to introduce a bill we have been working tirelessly on, in collaboration with business owners, employees and community leaders over the past two years.

Earlier this session, we presented to you the *Commission To Develop a Paid Family and Medical Leave Benefits Program* Report. You had many questions and concerns for us. We took all that into account for the next iteration of what we're presenting to you today.

Most of what we have done through this process is nontraditional. In fact, most other state leaders we've talked to are in awe at how much careful study Maine has done. Yesterday, we heard Louisiana was praising Maine during a Legislative hearing for all the careful study our state has done before launching our program. They all can see that Maine wants to get this right *the first time*, from the moment we launch our program. We have approached this process as careful stewards, balancing the economic support Maine businesses deserve with the undeniable hopes for Maine families; we need to be able to be there when a loved one returns home after being in the ICU. We need to be able to bolster young families with the ability to bond with their newborns and return to work with dignity.

We have never claimed to have all of the answers, so we turned to experts throughout this process – national experts, HR experts, insurance experts, the Departments of Labor in other states who have strong programs. We learned what worked and what didn't in each state. Then, we went directly to Maine businesses so we could be sure to address their concerns head-on. Thanks to these meetings, we have made countless tweaks to the bill – leading to the Sponsor's amendment we are presenting today. I'm going to share a bit about how we got here.

Starting in October 2021, Rep. Cloutier and I chaired the Commission to Develop a Paid Family and Medical Leave Benefits Program, which was established by a bill we worked on in the 130th Legislature: LD 1559, *Resolve, To Create the Commission To Develop a Paid Family and Medical Leave Benefits Program*. This Commission was comprised of two Republican legislative colleagues, representatives from large and small employers, an employer in the hospitality industry, a contract work, a PFML benefits expert, a physician specializing in maternal and postpartum care, an expert in issues affecting aging Mainers and the Commissioner of the Maine Department of Labor.

Through this work, Maine made the investment in contracting with an outside entity to conduct and complete actuarial studies of the program options developed by the Commission. The law also directed the Commission to submit a report, with findings and recommendations to the Legislature, which was presented to you on March 7th., as Rep. Cloutier alluded to earlier. These recommendations as we presented them are included in LD 1964.

In large part because of the questions and concerns we heard from this committee, we felt we had more work to do and we got to work. We both agreed that we needed to share this proposal with Mainers to get their feelings, their fears, their concerns, and work on strong legislation that would address them. So we set out to meet with 300 businesses to discuss what Maine's program could be. We accomplished that. The bill amendment is a reflection of that work. Today presents us with another opportunity to gather even more feedback from those who will testify after us.

We will outline how our amendment is a reflection of the voices we heard from, most from the small-and-medium business community, the backbone of Maine's economy, to receive further input and share information. We also met with over 200 stakeholders, from AARP members to family caregivers, HR representatives and more. Based on these meetings, a sponsors' amendment has been drafted and can be made public today.

Before we hear from the many Mainers in this room whose lives and families' lives would greatly benefit from PFML, Rep. Cloutier will share her personal story – a story that resonates with each of us who has provided precious end-of-life care to our loved ones.

In 2012, my mother was living alone in Ocala, Florida. Her family was here in Maine. We visited each other at least twice a year – her coming to Maine for Christmas and her children traveling to Florida to celebrate the arrival of spring. While things with my mother began to appear “off” over the course of some of those visits, it never occurred to any of us – her three children – that she could have Alzheimer’s. She was only entering her early 70s and had spent her entire life in great health. It wasn’t long after her initial diagnosis from her primary care physician that we had moved her back to Maine and set her up with the memory care team at St. Mary’s Regional Medical Center. Over the course of the next 6 years, the disease progressed quickly and aggressively, stripping away the parts of my mother that made her who she was. She passed away on April 20, 2018.

When she first arrived in Maine, while we were fortunate to have access to excellent medical care, we did not have access to living conditions that were suitable for the stage of disease my mother was experiencing. Because she was considered to have “moderate” Alzheimer’s, it was difficult to find a place for her. She did not require the level of care that was available through the locked memory care facilities close to our home, yet she did require someone to be with her 24 hours a day. This care partially ended up falling to my husband and I, who needed to also work full-time to keep our household and family afloat financially. Mom sometimes went to “adult daycare” in Topsham while we were at work. She also sometimes came to work with me for 8 hours a day and read magazines while I attempted to be as productive as possible. We split the duties of taking care of her in the evenings and on weekends, juggling schedules to manage our then 10-year old daughter, two dogs, and community responsibilities. I was blessed to have had this time with my mother and I would not change our decision to take her into our home. I only wish that we had been able to take some time away from our jobs to do it. I have no doubt that our time together would have been less stressful and more meaningful for all of us.

Eventually, my mother moved into the final stages of the disease, and while my family struggled through some of the hardest decisions we have ever had to make, I am genuinely comforted that I was able to give back to her as she had once cared for me.

PFML would have made it possible for both my husband and I to take the time we needed to care for my mother, without having to choose between providing for our family or taking time or productivity away from our jobs.

Like Rep. Cloutier, and I am sure many of you here today, I too have a stories of caring for loved ones and needing to be cared for, which is why since first being elected to the

Legislature at age 25, I have been working to ensure Mainers have the ability to take paid time off to take care of themselves and their families. Some asked me why paid family medical leave was something that a wet-behind the ear, twenty something cared about, but I had my reasons.

I first introduced this bill during my first session after caring for an extended family member—who was like my second mother—at the end of their battle with terminal cancer. Seeing the village that was able to surround her and care for her in those last moments still moves me to this day. I will never forget that bittersweet and difficult period, or those precious moments. Whether it was trying each day to find a food that she could hold down—crepes did the trick—or watching the other women in her circle hold her and be by her side. It shaped my outlook of the world. It taught me serious lessons about what we all need in those moments.

My passion and personal experience with both this policy and the need for it in our state has grown immensely since my first days in the legislature. Over the last decade I have personally faced many moments where I wish we had a PFML program in Maine.

In 2016 I was hit by a car while bicycling, and faced one of those medical emergencies that would be covered by our bill. I'm grateful to both my partner and my family who took unpaid time off to care for me.

Over my time in the House and Senate, as I grew older, PFML is an issue that has become increasingly important to me, as both a business owner and a young woman who hopes to one day start a family.

Right before the pandemic completely turned our world and our small businesses upside down, I have this vivid memory of walking to my business, Moderation Brewing. I had my headphones in, listening to the news, and I heard a piece about paid family medical leave throughout the world. More than 120 countries have laws requiring paid maternity leave.

The U.S. is not one of them. This, combined with the scarcity of child care services (my friends have suggested I put my name on waiting lists before I even get pregnant), puts incredible pressure on young families. At the same time, we're seeing a growing "sandwich generation" – working adults who are caught between needing to care for their children as well as aging parents. As I opened the back door and looked in at our bustling taproom I had one of those deep pangs of realization and it fully clicked that as someone who is self-employed – and hopes to be a mother – that this was an experience I might never be able to see. As much as I think I could thrive, slinging brews while having an infant

strapped to me, this is something that shouldn't have to be a reality for young parents. Most Mainers are in the same boat – 77% of Mainers don't have access to paid leave.

This is a benefit Maine businesses like mine want to offer to our employees to compete with larger corporations. Having a statewide PFML program will enable small businesses like mine to offer similar benefits akin to much larger employers. A statewide program helps fill in the patchwork of leave availability by empowering and enabling businesses like mine to be able to offer PFML and compete with the larger corporations offering good benefits. This matters when it comes to attracting and retaining quality workers, and being able to compete in a tough hiring environment. As unemployment slips to record lows, 2.4% Maine must be proactive in how we craft wise policies that support small business.

Now that we've showcased how a PFML program would have been helpful to families and businesses like ours, I would like to take some time to tell you what the amendment proposes the program look like.

At its core, PFML is an insurance program for Maine workers that provides wage replacement for when the best or worst happens. Our proposal calls for this wage replacement to be less than an individual makes from going to work, but aims to be helpful in the weeks they are unable to work. After considering over 100 different models for a potential program and exploring what would work and not work for Maine and our small and medium-driven business economy, we landed on the language included in LD 1964 and then after talking to hundreds of businesses, slightly moderated our proposal in a compromise sponsor's amendment.

The legislation provides for a **maximum of 12 weeks of paid leave**. This leave cannot be stacked or used consecutively with any other benefit. Further, this proposal is not short-term disability insurance. In fact, we believe the PFML statewide program could actually make short-term disability premiums go down for Maine business owners, saving them money. The commission recommendation allowed for 12 weeks of family leave and an additional 4 additional weeks of medical leave if needed, for a combined 16 weeks in total. But in the end, our amendment suggests a total of 12 weeks would be Maine's cap.

Contrary to some misinformation about the program, **our PFML proposal does not create a new wage tax**. Supreme Courts in Oregon and Colorado have ruled that this statewide benefit is a fee-based service, also called a payroll premium.

We have included **clear guardrails** in this bill to ensure funding fairness and solvency. The PFML Authority included in this bill has the fiduciary responsibility to oversee the program. One thing we revised from a flat rate wage replacement for all workers, is we a

tiered wage replacement that supports low and middle-income earners slightly more than higher earners. The reason we felt this was necessary is all that we learned about fund solvency from insurance carriers and other states. The wage replacement will be tied to the state average weekly wage because we know that \$100 this year won't be the same as \$100 in twenty years. Maine's fund must be responsive to the economy.

The contribution rate is 1% – and that is the ceiling. In other states with similar Authorities, contribution rates have gone down over time thanks to strong program management and oversight. Further, the 1% contribution rate would be split between employer and employee, meaning each would likely make a contribution of 0.5% or less.

For businesses that already provide PFML programs, nothing would change for them. With a comparable program, the business is exempt from the program. For example, we spoke with Louisiana Pacific leaders in Aroostook who described their paternity and maternity program, programs they are using to attract and retain quality workforce. For a business with existing benefits, there would be no need to pay into the state fund under this law. Businesses can still select private programs. We wanted to keep that flexibility for Maine employers.

This plan is designed to support businesses. We know we are currently in a workforce crunch and we have been aware of this even before the COVID-19 pandemic. Older Mainers are retiring and there aren't enough younger Mainers to fill the workforce. Maine is the oldest state in the nation, and we know we must do more to support our aging workforce and encourage younger workers to move to Maine.

Some have shared their fears of program misuse. I want to be clear that research has shown that misuse is almost nonexistent in other states. New Jersey revealed not a single instance of program abuse in a qualitative study of employers. In California, almost 95% of employers surveyed said they were unaware of any abuse of the state's program in research conducted 6 years after the program was implemented. Nearly all those that suspected abuse knew of no more than five instances in which abuse of paid family leave had occurred, and more than one-quarter could only cite one instance. Further, employers in both New Jersey and California said the programs were less onerous on business than expected.

Nationally, 61% of people stated that they would be more likely to relocate to a state that has "state-mandated paid family and medical leave" and they are less likely to relocate to a state that does not offer PFML. This is exactly the type of program Maine needs to reinvigorate our workforce.

Senator Daughtry, a small business owner herself, will further discuss what PFML would mean for Maine's small and medium-sized businesses.

As a small business owner, this program would be incredibly meaningful for businesses of my size. I know what it feels like to lose amazing employees at the brewery as they went off to work in positions they weren't as passionate about, just for a better benefits package. Large companies with the ability to provide these benefits will continue to be more competitive than businesses such as mine. As I mentioned in our report-back to this committee, SSDI programs can be cost-prohibitive for small businesses, even if they wish they could provide this benefit.

Our amendment proposes ensuring that small businesses with under 15 employees would be exempt from paying any portion of the employee's contribution. Their workers would still be eligible to take leave and would contribute under 1% of their weekly wage, estimated around .05%. We've also written a hardship exemption into the bill for small businesses to be able to have the flexibility to hire another worker in the case that they can not handle a single employee taking leave.

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. This program can help reverse this trend. Like much of the country, Maine is experiencing a worker shortage. Workers are looking for more than just a paycheck – they're looking to join businesses that will help them lead successful, fulfilling lives. PFML will make Maine businesses attractive to workers, giving them a competitive edge both regionally and nationwide. Please note, Women are 50 percent more likely to return to work after giving birth if they have access to this benefit.

This is especially vital when it comes to ensuring Maine's young people stay to live, work and put down roots in the state they already love. Small Businesses with 15 or fewer employees will be exempt from making contributions, but their workers will still have the ability to be covered.

Businesses that already offer comparable leave and protections won't have to change what they're doing.

The 130th Legislature made major investments in our economy and our people to keep Maine business' doors open during the pandemic. This program continues the Maine Legislature's good work in supporting small and medium sized businesses who need to be competitive.

Studies have shown that PFML boosts worker productivity and improves employee retention. Here in Maine, the oldest state in the nation, there are many older adults suffering from chronic conditions requiring long-term care. Often, this falls to family members, who must choose between providing care and quitting their jobs – dropping out of the workforce entirely. PFML will grow Maine's workforce by ensuring that Mainers will not have to choose between their careers and providing the care their loved ones need.

At the time the first Commission report was written in February 2022, there were nine states—California, Colorado, Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island, Washington as well as Washington DC—that had enacted PFML programs. Colorado, Connecticut and Oregon were not yet providing benefits. Since then, Connecticut has begun to provide benefits and two additional states, Maryland and Delaware, have enacted programs. Maryland benefits are set to begin on January 1, 2025 and Delaware's will begin on January 1, 2026.

On May 18, the Minnesota State Senate sent their PFML plan to the governor's desk, which is scheduled to be signed into law this very afternoon. Michigan is currently working on a state plan. Further, Georgia, Minnesota and New Mexico expanded maternity and paternity leave programs this legislative session.

Every other state in New England has a version of a PMFL program. We want Maine to be competitive with them in an economy that relies on a strong, healthy workforce.

We have an opportunity to pass legislation that has been proven to help families better balance caring for their children and sick and aging family members, while at the same time, helping our employers attract and retain workers, who are desperately needed in our state.

We've been on a thoughtful journey to take the time needed to study and craft a proposal of this importance. The business community asked us to create a program that would be solvent. This was the Maine State Chamber of Commerce's suggestion in testimony from LD 1410 in 2018:

"Should the committee decide to proceed with the bill and its key components, we would suggest in the strongest terms that an extensive actuarial study be done to ensure it is properly financed, and will remain fiscally solvent into the future. While only a few states have elected to institute paid FMLA, a number of those that have used an existing State STD/LTD insurance program to do so. Maine does not have such a program; we'd be starting from scratch. In no other universe would this legislature or state government authorize the startup of a long- or short-term disability insurance

company without ensuring its long-term viability. Taking the time to conduct a detailed actuarial study is a prudent step toward any such program's success."

We have done that and the actuary studies have shown the cost of the larger programs was attainable and we are here with a much more modest proposal. We have taken the time and the chart on the final page of our testimony shows how this program would work if it were to begin next year.

I'll remind you, we are proposing this start in 2026 after another actuary study shows the fund is solvent and strong.

We are working towards a compromise. Being in the middle is hard, but it is what's needed for this bill. If we do not pass this bill, the committee should be aware that there would be a referendum. We wanted you to be able to compare each proposal and compare to the commission recommendations, LD 1964. We have created a comparison chart here. This is our chance to create a strong, bipartisan program.

We are committed to creating a PFML program that works for Mainers and is crafted by all of us—not via referendum. The reality is, there is a pending referendum that has the support to pass at the ballot box. Our goal has been to make sure we pass a solution at the legislative level where we can all build this together; a bill that takes into consideration the concerns and ideas of over 300 businesses, including members of the State Chamber and regional Chambers of Commerce, stakeholder groups representing the interests of older Mainers, women, foster care, early childhood education, health care providers, local government and more.

We are committed to finding the middle-ground with this committee to create the best proposal possible. We remain optimistic that the time and energy invested in this effort by so many Mainers will result in the most collaborative and comprehensive paid family and medical leave policy enacted in the United States.

We remain willing to negotiate elements of this proposal. We look forward to working with the committee on the next steps.

Projection 3
Benefit Percent: 90%
Maximum Benefit Amount: 100% SAWW

	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>
Eligible Employees		606,383	607,595	607,595	607,595	606,380
Taxable Wages (\$ millions)						
Small Employers (< 15 Employees)	\$5,358.5	\$5,584.0	\$5,824.1	\$6,074.6	\$6,304.9	\$6,544.0
<u>All Other Employers</u>	\$29,893.3	\$31,151.2	\$32,490.7	\$33,887.9	\$35,172.9	\$36,506.6
Total	\$35,251.9	\$36,735.3	\$38,314.9	\$39,962.4	\$41,477.8	\$43,050.7
Claims						
Family		11,342	11,932	12,410	12,782	12,757
<u>Medical</u>		25,509	26,838	27,912	28,749	28,691
Total		36,851	38,771	40,321	41,531	41,448
Benefit Payments (\$ millions)						
Family		\$81.3	\$88.9	\$96.4	\$103.6	\$107.5
<u>Medical</u>		\$213.2	\$233.2	\$253.0	\$271.8	\$282.1
Total		\$294.4	\$322.2	\$349.4	\$375.4	\$389.6
Expenses (\$ millions)						
Family		\$4.3	\$4.7	\$5.1	\$5.5	\$5.7
<u>Medical</u>		\$18.5	\$20.3	\$22.0	\$23.6	\$24.5
Total	\$65.0	\$22.8	\$25.0	\$27.1	\$29.1	\$30.2
Total Expenditure (\$ millions)						
Family		\$85.5	\$93.6	\$101.5	\$109.1	\$113.2
<u>Medical</u>		\$231.7	\$253.5	\$275.0	\$295.4	\$306.6
Total	\$65.0	\$317.2	\$347.1	\$376.5	\$404.5	\$419.8
Contribution Rate						
Employer	0.30%	0.30%	0.30%	0.30%	0.30%	0.30%
Employee	0.76%	0.76%	0.76%	0.76%	0.76%	0.76%
Overall*	1.01%	1.01%	1.01%	1.01%	1.01%	1.01%
Contributions (\$ millions)						
Employer	\$89.2	\$93.0	\$96.9	\$101.1	\$105.0	\$108.9
<u>Employee</u>	\$267.6	\$278.8	\$290.8	\$303.3	\$314.8	\$326.8
Total	\$356.8	\$371.8	\$387.8	\$404.4	\$419.8	\$435.7
Investment Income (\$ millions)	\$2.9	\$3.5	\$3.9	\$4.3	\$4.4	\$4.7
EOY Fund Balance (\$ millions)	\$291.8	\$349.2	\$393.4	\$425.2	\$444.8	\$465.1
Target Fund Balance (\$ millions)			\$380.7	\$416.5	\$451.8	\$485.4
Fund Balance % of Prior Year Expenditure			124%	123%	118%	115%

* The overall contribution rate is equal to total contributions divided by total taxable wages every year, and does not equal the sum of employer and employee contribution rates due to small employer exemptions.