

Testimony in Support of LD 575, "An Act to Ensure Equitable Access to the Paid Family and Medical Leave Benefits Program by Removing the Requirement That Leave Must Be Scheduled to Prevent Undue Hardship on the Employer" and LD 894 "An Act to Amend the Laws Governing Paid Family and Medical Leave" and in opposition to LD 406, "An Act to Repeal the Laws Providing for Paid Family and Medical Leave and to Reimburse Taxpayers," LD 539 "An Act to Repeal the Paid Family and Medical Leave Benefits Program," LD 952, "An Act to Exempt Agricultural Employers and Employees from the Maine Paid Family and Medical Leave Benefits Program," LD 1169, "An Act Regarding Employer Payments for the Paid Family and Medical Leave Benefits Program," LD 1221, "RESOLUTION, Proposing an Amendment to the Constitution of Maine to Prohibit the Legislature from Using Paid Family and Medical Leave Program Funds for Any Other Purpose," LD 1249, "An Act to Delay Payment of Benefits Under the Paid Family and Medical Leave Benefits Program," LD 1273, "An Act to Make Paid Family and Medical Leave Voluntary," LD 1307, "An Act to Suspend the Remittance Obligation for Paid Family and Medical Leave Private Plan Users," LD 1333, "An Act to Make Changes to the Paid Family and Medical Leave Benefits Program," LD 1400, "An Act to Exempt Certain Public School Districts and Their Employees from the Paid Family and Medical Leave Benefits Program," and LD 1712, "An Act to Amend the Paid Family and Medical Leave Benefits Program to Balance Support of Businesses and Employees."

James Myall, Senior Policy Analyst

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Good afternoon Senator Tipping, Representative Roeder and members of the Joint Standing Committee on Labor. My name is James Myall and I am a Senior Policy Analyst at the Maine Center for Economic Policy. I am here to testify on behalf of MECEP in support of LDs 575 and 894, and in opposition to LDs 406, 539, 952, 1169, 1221, 1249, 1273, 1307, 1333, 1400, and 1712. MECEP believes that Maine's new Paid Family and Medical Leave law will improve workers' economic security, promote healthier Mainers, and ensure that no one has to choose between a paycheck and caring for a loved one. Consequently, we would urge you not to make significant changes to the program before it has even been fully implemented.

Some of the proposals before you today (LDs 406 and 539) would **eliminate the program completely**. Others would hollow out the program or remove key provisions, severely weakening the benefits for Maine workers and our economy. There are also several bills which seem redundant or whose purpose is unclear. While my testimony contains some more detailed analysis below, in the interest of time, I will summarize our key concerns.

LD 1273 proposes replacing the current law with a **voluntary program** which resembles the one in New Hampshire. By switching to a voluntary program, Maine would lose many of the benefits in the current law. A voluntary program has a smaller risk pool which makes premiums more volatile and potentially more expensive. Additionally, administrative costs are a larger share of the total cost. It's worth noting that New Hampshire's current program is not very popular, only 2% of workers have coverage through the program, most of whom are state workers who are automatically enrolled.¹

LD 1273 and LD 1712 both propose greatly **reducing the wage replacement rate** for workers who take leave. Doing so would greatly disadvantage low-wage workers. The state PFML commission recommended a progressive wage replacement rate to ensure that low-wage workers would receive a livable replacement benefit when on leave. 60 or 65% of Maine's minimum wage is simply unlivable for many and will make the program unusable for tens of thousands of Mainers. One of the lessons from California's first iteration of a paid family leave program was that their low wage replacement rate (55%) meant that up to a third of eligible workers could not afford to use the program.¹¹

At the same time, both LD 1273 and 1712 greatly **increase the maximum benefit** permitted for high-wage earners. Current law caps the maximum benefit at 100% of the statewide average weekly wage, which is currently just under \$1,445. LD 1273 would increase this cap to around \$2,030 a week, while LD 1712 includes no cap on weekly benefits, meaning that a CEO could receive tens of thousands of dollars in weekly benefits. Not only are these provisions unfair, but the lack of any cap in LD 1712 poses serious risks to fund solvency.

MECEP estimates that the change to the wage replacement rate under LD 1273 would reduce the maximum benefit for the lowest-earning 86% of wage workers in Maine, while increasing it for the top 14%. LD 1712 would reduce the maximum benefit for the lowest-earning 83% and increase it for the top 17%.

Weekly wage	Weekly wage replacement		
	Current law	LD 1273	LD 1712
\$225 (10 th percentile)	\$203	\$135	\$146
\$515 (25 th percentile)	\$464	\$309	\$335
\$880 (median)	\$716	\$528	\$572
\$1400 (75 th percentile)	\$1,059	\$840	\$910
\$2,115 (90 th percentile)	\$1,128	\$1,269	\$1,375
\$9,000 (99 th percentile)	\$1,128	\$2,032	\$5,850

MECEP calculations. Percentiles of income for wage earners are based on US Census Bureau data, American Community Survey data for 2023. Wage replacement rates are based on the current average weekly wage of \$1,128 and Social Security taxable wage base of \$176,100 per year.

LD 1249, which would **delay the program's implementation** by another 18 months, would appear to be wholly unnecessary and a bad deal for Maine workers, who would pay twice as much into the program fund before they could access benefits. The program's premium contributions are calculated to ensure that Mainers pay enough into the program to ensure the fund is solvent without paying in more than is necessary, and there are statutory requirements to review the premium rate each year. LD 1249 would unnecessarily disrupt this careful planning.

LDs 1169 and 1307 would require the Department to issue **refunds of premiums** paid into the public plan for employers who are later approved for their own private plan. We recommend against passing either proposal because both would pose unknown risks to the overall solvency of

the public PFML plan. There would also be administrative complications in ensuring that employers return the premiums paid by their employees back to the workers, especially where workers may have gotten new jobs or even moved out of state in the meantime.

LDs 952 and 1400 would seek to **create new exclusions** from the law for particular classes of workers (agricultural workers and public school employees). MECEP generally opposes different tiers of employment rights based on the kind of work someone does. All workers deserve access to the PFML program, and the current law already contains provisions that account for the needs of seasonal employers.

LD 1221, adding constitutional restrictions to the **use of the PFML trust fund**, appears to be largely unnecessary. While the idea of restricting the fund's use has merit, the current statutory language already does this, and we do not consider the extra protection from a constitutional amendment to be necessary.

LD 1333 contains several provisions that would hollow out the program and **make it much more difficult for workers to use**. We are particularly concerned about the provisions that exclude newly-hired workers from coverage completely, and several provisions that make the program harder to use for emergency purposes. We believe the current law's language strikes an appropriate balance of allowing new hires to use the program if they have paid in enough premiums at a previous job, while relieving the employer of the necessity to hold the job open for them. Likewise, we think the current law offers workers the right amount of flexibility to take emergency leave where giving notice might be difficult.

In addition to the lower wage replacement rate, we are concerned about the extreme expansion of the law's proposed **hardship exemption** in LD 1712. The current language in the bill draft allows an employer to deny non-emergency leave for any reason whatsoever, without appeal to the Department of Labor or program administrator. MECEP believes the existing hardship exemption is already too broad and open to abuse by employers, and we support LD 575's intent to align Maine with the PFML programs in other states which do not include such an exemption at all.

We also oppose the provisions of LDs 1333 and 1712 which **undermine collective bargaining rights**. MECEP believes it is important that organized workers retain the ability to negotiate the share of the PFML premium which is being paid for by employers and employees. The payment of PFML premiums is similar to the share of health insurance or disability insurance premiums workers would pay, and is a wholly appropriate topic for collective bargaining. We have no objection to the provision in LD 1712 to include private-sector unions in the exemptions granted to public-sector unions, but would ask the committee to be aware of any complications from applying this retroactively.

We oppose the provisions in LDs 1333 and 1712 that **reduce the fines and penalties** for employers who violate the law. MECEP believes that for any labor law to be effective, fines and penalties need to be strong enough to act as a deterrent against bad actors. Otherwise, the penalties risk

becoming simply part of the cost of doing business, and some employers will choose to pay the fine rather than comply with the law.

LD 1333's requirement that **unpaid leave** be exhausted before paid family leave can be accessed amounts to a reduction in the available benefits for Maine workers and again puts the leave out of reach for many low-wage workers, who simply do not have the savings available to take unpaid leave for a significant period of time. While significant numbers of Mainers do not qualify for unpaid leave under the federal FMLA, for those who do, LD 1333 would require up to 12 weeks of unpaid leave to be taken before the PFML they have paid into could be accessed.

LD 1333 also throws an unnecessary barrier to coverage at **self-employed individuals**. For the average worker in Maine, LD 1333 would require an upfront payment of almost \$150. We believe this provision is unnecessary given the requirement for a self-employed individual to maintain coverage under the current law for a minimum period of three years.

The provision in LD 1712 for administrator to withhold a portion of the benefit for the purpose of **paying state taxes** is a good one, though the related language which requires PFML benefits to be subject to state income taxes to the extent that they are not taxed at the federal level appears to be a departure from normal practice. For simplicity, we recommend the state conform to the federal government's standards for taxation of PFML benefits.

The changes in LD 894 are mostly technical in nature and we support the Department's efforts to add clarity to the program.

Thank you for your attention. I'm happy to answer any questions.

Notes

ⁱ "New Hampshire Paid Family and Medical Leave: Annual Report, Implementation and Year 1, 2021-2023." New Hampshire Department of Administrative Services. June 1, 2024.

<https://www.paidfamilymedicalleave.nh.gov/sites/g/files/ehbemt781/files/documents/nh-pfml-2023-annual-report.pdf>

ⁱⁱ Eileen Appelbaum and Ruth Milkman, "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California." *Center for Economic and Policy Research* Jan 11, 2011.

<https://cepr.net/publications/leaves-that-pay-employer-and-worker-experiences-with-paid-family-leave-in-california/>