



State of Maine
130th Legislature, First Regular/Special Session

**Commission To Develop a Paid Family and
Medical Leave Benefits Program**

February 2022

Office of Policy and Legal Analysis



**STATE OF MAINE
130th LEGISLATURE
FIRST REGULAR/SPECIAL SESSION**

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Executive Summary

The Commission to Develop a Paid Family and Medical Leave Benefits Program was established by Resolve 2021, chapter 122 to study the paid family and medical leave benefits programs in other states and to develop a plan to implement a paid family and medical leave benefits program in Maine. The resolve includes funding for the costs of contracting with an outside entity to conduct and complete an actuarial study of the program developed by the Commission. The resolve directs the Commission to submit a report that includes its findings and recommendations to the Legislature no later than February 1, 2022.

As set forth in the resolve, the Commission's duties are to:

- Study paid family and medical leave benefits programs in other states;
- Solicit and consider public comment on the administration and establishment of a paid family and medical leave benefits program;
- Develop a plan to implement a paid family and medical leave benefits program by consulting with other states that have established paid family and medical leave benefits programs;
- Contract for and complete an actuarial study of the planned program; and
- Make recommendations to implement a paid family and medical leave benefits program, including any necessary legislation, based on the actuarial study and other factors considered by the Commission.

It became clear very early on in the Commission process that the time required to conduct an actuarial study would prevent the Commission from being able to complete the study process as required by the resolve before February 1, 2022. The Commission determined that the best approach was to complete the duties up to, and including contracting for an actuarial study, and request permission to continue the Commission's work in the next Legislative interim to allow adequate time for the actuarial study to be completed so that the Commission's final recommendations would be informed by the actuarial analysis.

The Commission held six meetings. During the course of the first four meetings, the Commission established a foundation of information with presentations on the demographics in the State, existing paid family and medical leave benefits programs that have been implemented or enacted (including those yet to go into effect) in other states including a more in-depth examination of the programs in Washington and Connecticut. They also developed a framework for key parameters of paid family and medical leave program, and heard testimony from the Maine Paid Leave Coalition and the Maine and U.S. Chambers of Commerce. For the fifth meeting, the Commission convened a public hearing to solicit comment on the development of a paid family and medical leave program. The Commission also developed surveys of employees and employers that were posted on the Commission's website to provide additional data points to complement public testimony. The Commission established a subcommittee to evaluate and select an outside entity to conduct an actuarial study. At its sixth meeting, the Commission determined the specifics of the actuarial study and also approved making a recommendation to the Legislature that the Commission be reauthorized in order to continue its work.

The Commission believes it is important to complete the duties established in Resolve 2021, chapter 122. Commission members stated that the people of Maine need a paid family and medical leave program

now. The federal Family and Medical Leave Act has provided important job protections for employees but many workers cannot afford to take unpaid leave. The COVID-19 pandemic has further emphasized the need for a paid program; the federal program granting paid leave during the pandemic has long since expired. However, Commission members understand that it takes time to craft and enact a program, establish the infrastructure, collect premiums to fund the program, and grant benefits. Therefore, the Commission recommends the enactment of legislation in the Second Regular Session to reauthorize the Commission so that it may continue its work through the end of 2022. The funding included in the resolve will support the completion of the actuarial study to take place over the legislative interim. The Commission anticipates finalizing a contract for the actuarial study with assistance from the Office of the Executive Director soon. Once the actuarial study is completed, the Commission expects to carefully consider the results of that analysis and make thoughtful policy recommendations for a Maine paid family and medical leave program to the 131st Legislature.

I. Introduction

The Commission to Develop a Paid Family and Medical Leave Benefits Program was established by Resolve 2021, chapter 122 to study the paid family and medical leave benefits programs in other states and to develop a plan to implement a paid family and medical leave benefits program in Maine. The resolve includes funding for the costs of contracting with an outside entity to conduct and complete an actuarial study of the program developed by the Commission. The resolve directs the Commission to submit a report that includes its findings and recommendations to the Legislature no later than February 1, 2022. A copy of the Commission's authorizing legislation, Resolve 2021, chapter 122, is included as Appendix A.

Pursuant to the resolve, the Commission has 12 members: 4 legislative members; 7 non-legislative members representing interests specifically identified in the resolve; and the Commission of the Department of Labor. Of the non-legislative members, 2 members were appointed by the President of the Senate, 3 members were appointed by the Speaker of the House of Representatives and 2 members were appointed by the Governor. Members were appointed who have expertise in issues affecting labor and independent contractors; family and medical leave benefits; maternity and postpartum care; and elder care. Three members were appointed to represent the interests of employers: one employer with 50 or fewer employees; one employer with more than 50 employees; and one employer in the hospitality industry. Senator Matthea Daughtry was named Senate chair and Representative Kristen Cloutier was named House chair. The complete membership list of the Commission is included in Appendix B.

The Commission's specific duties as set forth in the resolve include:

- Studying paid family and medical leave benefits programs in other states, including consideration of certain factors of the programs related to: equity; funding; state partnerships and consortiums, including information technology needs; education and outreach needs; oversight and structure of the program; and the relationship between state government and the employers and employees participating in the program;
- Soliciting and considering public comment on the administration and establishment of a paid family and medical leave benefits program, including but not limited to purposes for leave, eligibility, job protection and duration;
- Developing a plan to implement a paid family and medical leave benefits program by consulting with other states that have established paid family and medical leave benefits programs;
- Contracting for and completing an actuarial study of the planned program, including start-up costs and ongoing costs of the program, the economic impact on and benefits to the State and the contributions needed to maintain the solvency of the program; and
- Making recommendations to implement a paid family and medical leave benefits program, including any necessary legislation, based on the actuarial study and other factors considered by the Commission.

Resolve 2021, chapter 122 became effective on October 18, 2021. The Commission met six times: October 29, November 15, November 30, December 7, December 14 and January 10. Due to the ongoing COVID-19 pandemic, the Commission meetings were conducted remotely. The meetings are accessible to the public through the Legislature's YouTube channel and through the audio link on the Legislature's

webpage. More information about the Commission, including meeting agenda, meeting materials and presentations made to the Commission, are posted on the Commission's webpage at: <https://legislature.maine.gov/commission-to-develop-a-paid-family-and-medical-leave-benefits-program>

It became clear early on in the Commission process that the time required to conduct an actuarial study would prevent the Commission from being able to complete the study process as required by the resolve before February 1, 2022. The Commission determined that the best approach was to complete the duties up to, and including contracting for an actuarial study, and request permission to continue the Commission's work in the next Legislative interim to allow adequate time for the actuarial study to be completed so that the Commission's final recommendations would be informed by the actuarial analysis.

II. Commission Process

The Commission held six meetings. During the course of the first four meetings, the Commission established a foundation of information with presentations on the demographics in the State, existing paid family and medical leave benefits programs that have been implemented or enacted (including those yet to go into effect) in other states including a more in-depth examination of the programs in Washington and Connecticut. They also developed a framework for key parameters of paid family and medical leave program, and heard testimony from the Maine Paid Leave Coalition and the Maine and U.S. Chambers of Commerce. The Commission devoted one full meeting to a public hearing. The Commission developed surveys of employees and employers that were posted on the Commission's website to provide additional data points to complement public testimony. The Commission established a subcommittee to evaluate and select an outside entity to conduct an actuarial study. At its sixth meeting, the Commission determined the specifics of the actuarial study. At that meeting, the Commission also approved making a recommendation to the Legislature that the Commission be reauthorized in order to continue its work throughout 2022 in order to complete the duties required in the resolve that established the Commission.

The Landscape

Access to family and medical leave across the United States has been slowly growing since 1993 when unpaid leave was guaranteed for many workers and job protections were enacted at the federal level. Since then, some states have enacted state-level programs with additional protections and access to unpaid leave and a few have enacted paid family and medical programs. Paid family and medical leave can also be offered as recruitment tools in private industry and as a result of collective bargaining. Suzanne Hultin, Associate Director of the Employment, Labor & Retirement Program at NCSL, stated that Americans access to paid leave programs is not as prevalent as in other industrialized countries but it is becoming more accessible in state and local government jobs – in 2018, 16% of American workers had access to paid leave in private industry and 25% had access in state and local government.¹ According to the Pew Research Center, a survey conducted at the end of 2016 found that 85% of American adults support paid family and medical leave for workers, although they are equally divided on whether it should be a federal mandate or employers deciding for themselves.² According to the Maine Paid Leave Coalition, 75.5% of Mainers support the creation of a statewide paid program and one is supported by a majority within each political party.³ The COVID-19 pandemic has also intensified conversations around paid family and medical leave.

¹ <https://legislature.maine.gov/doc/7634>

² <https://www.pewresearch.org/social-trends/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/>

³ <https://legislature.maine.gov/doc/7632>

Federal and State Family and Medical Leave Acts

The federal Family and Medical Leave Act of 1993 allows employees in the public sector or employed in private businesses with 50 or more employees to take unpaid leave for up to 12 weeks in a 12-month period as long as the employee has worked for 12 months and worked 1,250 hours in the previous 12 months. Leave can be used to care for a new child, to care for a family member with a serious health condition, to recover from the employee's own serious health condition, or to attend to certain exigencies related to a family member's military deployment. A longer period of leave is available under the federal law to care for a family member injured on active military duty. In most circumstances, the federal law also guarantees the right to return to the employee's job or equivalent job.

In addition to the federal law, Maine's law also establishes a family medical leave program that provides up to ten weeks of unpaid leave within a two-year period for employees of businesses who have 15 or more employees at one location in the state. Maine employers are required to provide eligible employees who are victims of domestic violence, sexual assault or stalking, reasonable leave for court proceedings, medical care and to obtain services to deal with a crisis caused by domestic violence, sexual assault or stalking.

In response to the COVID-19 pandemic, the federal government enacted the Families First Coronavirus Response Act (FFCRA) to require certain employers to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. Under FFCRA, covered employers were generally required to provide up to two weeks (80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; and up to two weeks (80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19. The federal law also provided up to an additional 10 weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay where an employee is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19. These federal requirements were in place from April 1, 2020 through December 31, 2020.

Paid Family and Medical Leave Programs In Other States

Programs providing paid family and medical leave have become more popular in recent years although programs around the country vary. Currently, there are nine states (California, Colorado, Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island, Washington) and Washington DC that have enacted programs although Colorado, Connecticut and Oregon are not yet providing benefits (Oregon recently delayed implementation of its program to September 2023). Molly Weston Williamson of a A Better Balance, a national nonprofit policy organization that works on paid and family medical leave issues, noted in her presentation to the Commission that the period of time for states that do not build upon existing temporary disability programs to fully implement a paid family and medical leave program from enacting the program to paying out benefits ranged from two and a half years to just over four years.⁴

California was the first state to enact its program in 2002. New Jersey followed in 2009, Rhode Island in 2014 and New York in 2016. Washington initially passed legislation in 2007 but it was postponed

⁴ <https://legislature.maine.gov/doc/7471>

awaiting a funding mechanism and was eventually replaced with legislation enacted in 2017 that is described in more detail below. Washington DC enacted a program in 2017, Massachusetts in 2018, and Oregon and Connecticut in 2019. More recently, Colorado's program was enacted by a ballot measure in 2020 and Georgia enacted a limited program in 2021 that applies only to paid parental leave for state and education system employees and did not require a new funding pool. State programs are not static and continue to change. Suzanne Hultin from NCSL, in her presentation to the Commission, stated that early adopters of paid family and medical leave programs have begun to expand definitions of family, duration of leave, reasons for taking leave, and wage replacement rates. For example, New York recently increased the number of weeks available for paid leave for family leave.⁵

The Commission received presentations from national nonprofit organizations with expertise in paid family and medical leave programs: A Better Balance,⁶ Family Values at Work,⁷ and the National Conference of State Legislatures.⁸ These presentations outlined the programmatic differences between states. Existing state programs vary in terms of whether they were built atop existing temporary disability programs or not. They also vary in terms of the purposes family and medical leave could be used; whether family and medical leave were separated; who is covered; whether public sector workers, domestic workers and/or self-employed workers were included; requirements for qualifying for benefits; definitions of family; the funding of the program; the amount of paid leave received in relation to wages; the length of time a benefit can be drawn; job protection; and administration of the program (public or private) (see the chart from A Better Balance providing an overview of state programs⁹). The Commission returned to these policy questions several times to frame the parameters for a program in Maine.

The Commission examined the Washington state and Connecticut programs in more depth with two presentations on the Washington program and one on the Connecticut program.

Washington's program was developed from scratch and, like Maine, did not have an existing temporary disability insurance program to serve as a foundation. Commissioner Fortman outlined the Washington program at the first meeting¹⁰ and Matt Buelow, from the Washington Employment Security Department, described the program in more detail at the third meeting. The Washington legislation was signed in July 2017 after working on it since 2007, premiums to fund the program were collected in 2019, and benefits began to be paid out in January 2020 (there were 30,000 applications in the first month of the program).

Washington's program was funded with an \$84 million loan from the Legislature to be repaid after premiums were collected to fund the program. A state agency with new employees was established to administer the program. Washington's program is funded by premiums that are split between employees (63%) and employers of businesses with over 50 employees (37%). The Washington program allows for employers with their own programs to opt out. Mr. Buelow also explained that, for the employee, all work, with limited exceptions, was counted and used to establish a claim; the program is portable except for nonparticipating employers such as the federal government or across state lines, and can include multiple part time jobs. Self-employed individuals and gig workers (freelance workers who enter into formal agreements with on-demand companies to provide services to the company's clients) are included in the program although the mechanics of tracking premium payments for gig workers can be difficult. Mr. Buelow stressed the importance that those who administer and fund the program should also conduct

⁵ <https://legislature.maine.gov/doc/7634>

⁶ <https://legislature.maine.gov/doc/7471>

⁷ <https://legislature.maine.gov/doc/7470>

⁸ <https://legislature.maine.gov/doc/7634>

⁹ <https://legislature.maine.gov/doc/7334>

¹⁰ <https://legislature.maine.gov/doc/7339>

the outreach. He noted that these efforts should reach minority communities and be accessible in multiple languages. He also cautioned the commission to be sure to clearly delineate the employees in state government who are administering the program so that they are not diverted for other purposes in state government. Mr. Buelow stated that the administration continues to examine the rate structure and determine what solvency looks like, and noting that rates would be going up in the next year to adequately fund the program.

Andrea Reeves, the Chief Executive Office of the Connecticut Paid Leave Authority (PLA), presented on the Connecticut program at the third Commission meeting.¹¹ The Connecticut program was enacted in July 2019. It covers all business with one or more employees. In contrast to the Washington program, Connecticut's program is administered by an independent quasi-governmental agency with a board of directors and collaborates with several state agencies. Similar to Washington, the Connecticut plan allows for employers to opt out as long as the private plans are approved for compliance with the state program, and are overseen by the state. The Connecticut program is employee-funded from 0.5% of wages and the premiums go into a trust fund established by the PLA. The PLA selected a vendor to build the website, registration system and contribution collection system. The trust fund collected \$300 million in contributions by November 2021, and was set to open for applications on December 1, 2021 and benefit payouts on January 1, 2022. Connecticut has a third-party administrator to collect premiums and do benefits payment, and the Department of Labor is responsible for the appeals process. Ms. Reeves cautioned that the Connecticut program does not have a link between contributions and access to benefits; a beneficiary may never have contributed to the fund, and this is not a good plan for the long-term solvency of the program although the actuarial analysis conducted by PLA determined the fund would be solvent for the time being. Ms. Reeves also stressed the importance of a public education campaign.

Maine Demographics

The Commission received a briefing from Mark McInerney, the Director of the Center for Workforce Research and Information in the Department of Labor.¹² Dr. McInerney explained that Maine's population has stayed relatively unchanged over the last 15 years or more. The median age in the U.S. has gradually increased in the last 40 years although the median increase was sharper in Maine, which had the highest median age in the country. In the last 30 years, the largest segment of the state's population has moved from prime working age (25-44 years) to later career or retirement age (55-74 year). Based on current trends, the state's population of 45-64 age groups is projected to decline through 2028 while the portion of the population aged 65 years and older is expected to grow substantially. Maine has experienced a natural population decrease in the last 10 years with fewer births than deaths but with modest population growth driven by people migrating to Maine.

Dr. McInerney shared statistics related to the labor force, employment and wages in the state. The labor force includes the employed and those who are unemployed but actively seeking work; it does not include the retired and those not seeking work. Leading up to the pandemic, the state's aging population contributed to a decline in labor force participation rates. During the pandemic, the labor force participation rate decreased substantially – child care and schools are a big factor on work force participation. Maine's labor force is projected to contract modestly between 2018 and 2028 with fewer young people aging into prime working age and older individuals participating in the labor force at lower rates. Maine's average weekly wage, as of the second quarter of 2021, is \$1,005. The average weekly wage is calculated using total wages divided by average employment level and does not distinguish between full time, part time or seasonal work (employers report wages not hours). Five out of six Maine jobs are in the private sector and one out of six are government jobs. Ninety-eight percent of the almost

¹¹ <https://legislature.maine.gov/doc/8102>

¹² <https://legislature.maine.gov/doc/7605>

36,500 private sector firms in Maine employ fewer than 100 workers, although just over half of the private sector jobs in Maine are within firms with 100+ employees because a few employers provide many jobs in the state.

These demographics provide important context for what a family and medical leave program might look like in Maine. For example, the age of workers affects the reasons for needing time away from work. Maternity leave is often the most visible reason for family and medical leave but in Maine taking care of seniors in ill health may also be a common reason for needing employment leave. Another example is that the average weekly wage level may be a factor in determining the percentage of wage replacement.

Developing a Program Design For Maine

Commission members discussed the policy questions that need to be addressed to design a program for Maine and to provide the parameters for an actuarial study. Considering these questions also required input from the public, from supporters of paid family and medical leave and from the business community.

Destie Holman Sprague and James Myall presented the Maine Paid Leave Coalition's vision at the December 7th meeting.¹³ Ms. Holman Sprague stated that the coalition "is a group of partners working together to create comprehensive paid family and medical leave, and to implement a system that works for all Mainers, leaving no one behind." The coalition advocates for a universal program regardless of business size, private or public sector, full or part time status or self-employment. They argue that programs should be gender inclusive, include job protection, have inclusive definitions of family, be comprehensive in terms of reasons for leave, be designed as a social insurance system, have adequate wage replacement including around 90% for lowest paid workers, allow up to 20 weeks a year for all standard leave purposes, and be funded by both employees and employers (with businesses with fewer than 10 employees being exempt from the employer-side). The coalition advocates for having no payroll cap so that all income can be taxed to keep the overall payroll tax low; if the payroll tax is capped, more money must be collected.

The Commission was also briefed by Peter Gore for the Maine Chamber of Commerce and Marc Freedman for the U.S. Chamber of Commerce at the December 7th meeting. Both presenters stated that employers understand that paid family and medical leave is an inevitable policy and the business community is trying to figure out a paid family and medical leave program that works for employers. Mr. Freedman admitted that the U.S. Chamber used to be in "just say no" mode but that there has been a sea change and employers understand the need for leave. Both offered things for the Commission to consider in developing a paid family and medical leave program. Both requested that the committee keep in mind the number of small businesses in Maine and the particular needs of those businesses. Small businesses often do not have human resource departments and the person running the company must ensure compliance with the existing laws. Additionally, Maine has a critical workforce shortage right now in every sector of the economy and when people are out on leave whether paid or not, the business of the business does not change with the work still needing to be done – either the work does not get done or it is left to the rest of the employees.

Mr. Freedman stated that businesses would like a simplified national landscape. He stated that the COVID-19 pandemic has exposed the need for leave and temporary federal policies showed that workplaces continued to function when employees were out on leave caring for family members or for themselves. Employers need clear definitions of "family" and "serious health conditions" and clarity in

¹³ <https://legislature.maine.gov/doc/7632>

the use of intermittent leave. Mr. Freedman submitted model language for consideration.¹⁴ That language proposed that any state program: set the standard for the whole state by preempting local ordinances except that local governments may adopt programs for their own employees; be funded by employees; provide clear categories for leave and coordinate leave benefits with other leave programs; provide exemptions for more general private plans with state certification that the private plan meets all state requirements; and incorporate the same enforcement and penalty structures as the federal Family and Medical Leave Act.

The Commission also solicited public comment and held a public hearing on December 14th that lasted for three hours. The Commission heard testimony from a variety of individuals, including self-employed business owners without access to any paid time off; small business owners; new parents; lactation consultants; people who had experienced all manner of crises resulting in breaks from employment; people with concerns about the financial ability to take unpaid leave when leave was needed including poorer health outcomes from returning to work too early; concerns about unsafe work environments during the COVID-19 pandemic; lobbyists for the Maine Women's Lobby; Paid Leave Coalition and Equality Maine; employment law attorneys advocating for a universal state-administered program paid for by employers and employees; representatives of insurance companies advocating for private plans rather than state administration; and a representative of Hospitality Maine who stated that his membership varied widely on their opinions on a paid leave program and requested consideration of small businesses facing additional administrative costs and labor shortages.

The Commission also developed surveys that were posted on the Commission's webpage after spending time in several meetings to design and refine the questions. Although members of the Commission understood that the survey would not include a scientific sample because it was voluntary and self-identified, it could still generate useful information about preferences for the Commission to consider when designing a paid family and medical leave program. The Commission decided that posting two surveys, one for employees and one for employers, would make the design and instructions simpler for anyone filling out the survey. Commission members conducted outreach outside of the Commission meetings to generate traffic to the survey on the website. The survey was posted for just over two weeks and resulted in more than 700 employee respondents and more than 75 employer respondents. Complete results of the survey are available on the Commission's website.¹⁵

The employee survey asked questions about: age, race and ethnicity; county of residence; gender identification; employment (full-time, part-time, temporary, contract, seasonal, self-employed and more than one job); income; average weekly wage in gross pay; size of household; number of members of the household working; access to family and medical leave; and whether family and medical leave is a consideration in accepting a job or choosing a place to live. The survey also included questions specifically related to a paid family and medical leave program: how much an employee would be willing to contribute from their wages to fund a program; life events experienced that could be eligible for leave; how those events were handled (e.g. taking no time from work, taking time off but not as much as needed, leaving a job etc.); which life events the respondent expects to face in the next two years; how those events might be handled; and how much wage replacement would be necessary to allow the respondent to use a paid leave program.

The employee survey respondents represented a range of income levels. Half of the respondents indicated they had access to paid time off for family and medical leave at their job and 88.5% stated they would consider paid family and medical leave a factor in considering whether to accept a job and where to live. Only 5% of the respondents were not willing to contribute a portion of wages to fund a paid family and

¹⁴ <https://legislature.maine.gov/doc/7633>

¹⁵ <https://legislature.maine.gov/paid-family-and-medical-leave-meeting-1102022>

medical leave program. The responses varied as to how much a person was willing to contribute to such a program:

- 44.8% of respondents stated that they would need 100% of the State's current average weekly wages or approximately \$1,000 a week to be able to take paid family and medical leave;
- 5.8% stated that they would need 90% of the State's current average weekly wages or approximately \$900 a week to be able to take paid family and medical leave;
- 21.4% stated that they would need 80% of the State's current average weekly wages or approximately \$800 a week to be able to take paid family and medical leave; and
- 13.2% stated that they would need 70% of the State's current average weekly wages or approximately \$700 a week to be able to take paid family and medical leave.

Of the 731 respondents, 683 respondents identified they had experienced at least one category of life event such as a personal or family illness, surgery, birth, adoption, family violence or military deployment that may necessitate taking time off from work. For those respondents, 28.5% didn't take time away from work because they needed to be paid and 63.1% took time away from work but not as much as needed because they needed to be paid. In the next two years, 67.7% of respondents expect to take care of a close family member who is sick, 38.9% expect to need surgery or take care of an illness themselves, and 32.9% expect to give birth.

The employer survey asked if the respondent was an employer or self-employed, how many employees worked in the business, the county the business was located in, whether they provide paid family and medical leave, why they provide paid leave or why they do not, if a paid leave program would be used as a recruitment or retention tool, life events that employees have had that impacted availability for work, how those events were handled as an employer and how they affected the business, and if the employer would be willing to contribute funding to a paid family and medical leave program. Employer respondents included a quarter with one to four employees and 19.7% with more than 100. Of the respondents, 56.6% offer paid time off for family and medical leave including comments related to it being the right thing to do, attracting and retaining employees, and paid time off that could be used for any reason. Of employer respondents, 43.4% do not offer paid family and medical leave and included comments about it being unaffordable, difficult staffing-wise to hire temporary workers while employees are on leave, and minimum wage and paid time off policies already straining the viability of businesses.

A copy of the survey questions is included as Appendix C.

Proposal for Actuarial Study

The Commission established a subcommittee to discuss and hire a consultant to conduct the actuarial study to identify and quantify start-up costs and ongoing costs of a paid family and medical leave program, the economic impact and benefits to the State, and the contributions needed to maintain the solvency of the program. The Commission took suggestions from members, solicited contacts for actuarial organizations from the Bureau of Insurance, and gauged interest from actuarial organizations identified in studies of paid family and medical leave in other states. At the time of writing, the subcommittee is still in the process of contracting with an actuarial organization. The Commission developed an invitation for proposal for the services of an actuarial consultant to assist with the review and evaluation of a proposal to develop a paid family and medical leave benefits program. The invitation for proposal was released on January 28, 2022 and written proposals are due on February 11, 2022. The Commission's subcommittee will review the written proposals and request presentations from one or more entities submitting proposals before making a final selection. A copy of the invitation for proposal is included in Appendix D.

At the last meeting of the Commission on January 10th, the members returned again to the policy questions and identified the parameters of the actuarial study. The Commission agreed that, instead of developing a specific proposal, they would provide a basic framework for a proposal and identify several options to be assessed as part of the actuarial study. The proposal outlined below has been developed for the purposes of review and evaluation only and is not intended to reflect any individual Commission member's support of the proposal or any proposed legislation related to a paid family and medical leave benefits program.

The Commission agreed to request review and evaluation of the following framework and the suggested options outlined below.

1. Purposes for which leave can be used: The proposal framework should use the same purposes that are permissible under federal FMLA and also include the ability to take "safe leave" if a person, or a person's family member, is a victim of domestic violence. The actuarial study should analyze a proposal including all purposes described above; a proposal that tracks the current purposes permissible under federal FMLA; and the separate cost impact of each component as an allowed purpose, if possible.
2. Who is covered: The proposal framework should include all Include all workers, including public sector employees, domestic workers and part-time, temporary, per diem and seasonal workers, and all self-employed workers to opt in for coverage. The actuarial study should provide an analysis of a proposal including all workers described above; a proposal that exempts public sector employees; and the separate cost impact of each category of worker, if possible.
3. What are the requirements to qualify for benefits: The proposal framework should consider and compare the eligibility requirements used in the California and Connecticut paid family and medical leave program. The actuarial study should provide an analysis of a proposal using California's requirements and a proposal using Connecticut's requirements, if possible.
4. What family members are covered: The actuarial study should provide an analysis of a proposal using the federal FMLA definition; a proposal using the definition in current Maine FMLA law; and a proposal using the broad definition similar to Connecticut law, including persons related by affinity whose close association the employee shows to be the equivalent of those family relationships
5. How is the program funded: The actuarial study should provide an estimate of total costs and also assess the impact on program funding if contributions from employers of the following sizes are exempt from making contributions: (1) employers with 50 or fewer employees; (2) employers with 25 or fewer employees; or (3) employers with 10 or fewer employees.
6. What percentage of wages do workers receive: The actuarial study should assess impact on cost if worker receives these percentages:
 - 80% of the worker's average weekly wage, up to the maximum of the State average weekly wage;
 - 90% of the worker's average weekly wage, up to the maximum of the State average weekly wage; or
 - 100% of the worker's average weekly wage, up to the maximum of the State average weekly wage.
7. What is the maximum weekly benefit: The proposal framework assumes the maximum weekly benefit is the State average weekly wage, adjusted for inflation.

8. For how long can a worker receive benefits: The actuarial study should assess impact on cost if worker receives benefits for a maximum of 12 weeks, 20 weeks or 26 weeks.
9. Is there an unpaid waiting period: The proposal framework assumes there is no unpaid waiting period. If possible, the actuarial study should assess impact on cost if a short unpaid waiting period is required (considering any requirements in existing programs in other states).
10. Are workers entitled to have their jobs back when they return: The Commission deferred making a recommendation on job protection as the Commission believes this is a policy decision and does not impact the actuarial study.
11. How is the insurance provided and what is the structure and organization of the program: The actuarial study should assess the following options:
 - The program is administered and overseen fully by State;
 - The program is a public-private partnership with State oversight, but certain services contracted to private sector, e.g. claims payment/processing, IT services;
 - The program is contracted to private sector; and
 - Separate start-up costs/implementation costs from ongoing costs once implemented.
12. Other elements to be considered: The actuarial study should consider the impact of workers with multiple jobs, the length of time for collection of contributions to achieve solvency before claims can begin to be paid and the number of workers required/level of contributions needed to maintain solvency.

III. Recommendations and Next Steps

The Commission believes it is important to complete the duties established in Resolve 2021, chapter 122. Commission members stated that the people of Maine need a paid family and medical leave program now. The federal Family and Medical Leave Act has provided important job protections for employees but many workers cannot afford to take unpaid leave. The COVID-19 pandemic has further emphasized the need for a paid program; the federal program granting paid leave during the pandemic has long since expired. However, Commission members understand that it takes time to craft and enact a program, establish the infrastructure, collect premiums to fund the program, and grant benefits. Therefore, the Commission's recommends the enactment of legislation in the Second Regular Session to reauthorize the Commission so that it may continue its work through the end of 2022. The funding included in the resolve will support the completion of the actuarial study to take place over the legislative interim. The Commission anticipates finalizing a contract for the actuarial study with assistance from the Office of the Executive Director soon. Once the actuarial study is completed, the Commission expects to carefully consider the results of that analysis and make thoughtful policy recommendations for a Maine paid family and medical leave program to the 131st Legislature.

APPENDIX A

Resolve 2021, chapter 122

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

S.P. 501 - L.D. 1559

Resolve, To Create the Commission To Develop a Paid Family and Medical Leave Benefits Program

Sec. 1. Commission established. Resolved: That the Commission To Develop a Paid Family and Medical Leave Benefits Program, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 12 voting members as follows:

1. Two members of the Senate appointed by the President of the Senate, including a member from each of the 2 parties holding the largest number of seats in the Legislature;
2. Two members of the House of Representatives appointed by the Speaker of the House, including a member from each of the 2 parties holding the largest number of seats in the Legislature;
3. Two members appointed by the President of the Senate as follows:
 - A. One member with expertise in issues affecting labor and independent contractors; and
 - B. One employer with more than 50 employees;
4. Three members appointed by the Speaker of the House as follows:
 - A. One member with expertise in issues related to family and medical leave benefits;
 - B. One employer with 50 or fewer employees; and
 - C. One member who is an employer in the hospitality industry;
5. Two members appointed by the Governor as follows:
 - A. One member with expertise in issues affecting maternity and postpartum care; and
 - B. One member with expertise in issues affecting elder care; and
6. The Commissioner of Labor or the commissioner's designee.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the

commission. Notwithstanding Joint Rule 353, the chairs may appoint, as nonvoting members, individuals with expertise in paid family and medical leave, social insurance programs or related state infrastructure.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the commission shall:

1. Study the paid family and medical leave benefits programs in other states, including those that have established paid family and medical leave benefits programs. In its review of paid family and medical leave benefits programs in other states, the commission shall consider without limitation the following factors for each program:

- A. Equity of the program;
- B. Program funding;
- C. State partnerships and consortiums, including information technology needs;
- D. Education and outreach needs;
- E. Oversight and structure of the program; and
- F. Relationship between state government and the employers and employees participating in the program;

2. Solicit and consider public comment on the administration and establishment of a paid family and medical leave benefits program, including but not limited to purposes for leave, eligibility, job protection and duration;

3. Develop a plan to implement a paid family and medical leave benefits program by consulting with other states that have established paid family and medical leave benefits programs;

4. Contract for and complete an actuarial study of the planned program under subsection 3, including start-up costs and ongoing costs of the program, the economic impact on and benefits to the State and the contributions needed to maintain the solvency of the program; and

5. Based on the actuarial study in subsection 4 and other factors considered by the commission, make recommendations to implement a paid family and medical leave benefits program, including any necessary legislation.

Sec. 6. Staff assistance. Resolved: That, notwithstanding Joint Rule 353, the Legislative Council shall provide necessary staffing services or may contract for necessary staffing services for the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session. Upon request, the Governor's Office of Policy Innovation and the Future, the Department of Labor, the Department of Health and Human Services and the Department of Administrative and

Financial Services, Office of Information Technology and Bureau of Revenue Services shall provide additional staffing assistance to the commission.

Sec. 7. Report. Resolved: That, notwithstanding Joint Rule 353, no later than February 1, 2022, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 130th Legislature.

Sec. 8. Additional funding sources. Resolved: That, notwithstanding Joint Rule 353, the commission may apply for and receive funds, grants or contributions from public and private sources to support its activities.

Sec. 9. Transfer from Department of Administrative and Financial Services Other Special Revenue Funds balances to Legislature, Study Commissions - Funding. Resolved: That, notwithstanding any provision of law to the contrary, at the close of fiscal year 2021-22, the State Controller shall transfer \$200,000 from the available balance in the Adult Use Marijuana Regulatory Coordination Fund Other Special Revenue Funds account within the Department of Administrative and Financial Services to the Legislature, Study Commissions - Funding Other Special Revenue Funds account.

Sec. 10. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds on a one-time basis to the Legislature for the costs of contracting with an outside entity to conduct and complete an actuarial study as required for the Commission To Develop a Paid Family and Medical Leave Benefits Program.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$200,000	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$200,000	\$0

APPENDIX B

**Membership list, Commission to Develop a Paid Family and
Medical Leave Benefits Program**

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

Commission Members

Name	Representation
Senator Matthea Daughtry – Chair	Member of the Senate, appointed by the President of the Senate
Representative Kristen Cloutier – Chair	Members of the House, appointed by the Speaker of the House of Representatives
Senator Kim Rosen	Member of the Senate, appointed by the President of the Senate
Representative Paul Stearns	Member of the House, appointed by the Speaker of the House of Representatives
Wendy Estabrook	Employer with more than 50 employees
DrewChristopher Joy	Member with expertise in issues affecting labor and independent contractors
Sarah Brydon	Member with expertise in issues related to family and medical leave benefits
Emily Ingwersen	Employer with 50 or fewer employees
Charlie Mitchell	Member who is an employer in the hospitality industry
Dr. Barbara Crowley	Member with expertise in issues affecting maternity and postpartum care appointed by the Governor
Bonita Usher	Member with expertise in issues affecting elder care appointed by the Governor
Laura Fortman	Commissioner of the Department of Labor or the Commissioner's designee

APPENDIX C
Survey Questions

Survey of the Commission to Develop a Paid Family and Medical Leave Benefits Program

The Commission to Develop a Paid Family and Medical Leave Benefits Program is soliciting public comment and feedback on the establishment of a paid family and medical leave benefits program.

Please respond.

1. 1. What is your age?

Mark only one oval.

- Under 18
- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65+

2. 2. Are you:

Mark only one oval.

- White
- Black
- Hispanic
- Asian
- Native American/Member of Indigenous Community
- Other: _____

3. 3. What is your gender?

4. 4. What Maine county do you live in?

5. 5. Which of these describes the way you work? Check all that apply.

Check all that apply.

- I'm not working right now
- I'm a full-time employee
- I'm a part-time employee
- I'm a temporary worker
- I'm a contract worker
- I'm a seasonal worker
- I'm self-employed
- I have more than one job

6. 6. What were your earnings from working in 2020? Do not include any amounts that are not income from working, such as alimony or child support, social security or disability income benefits, dividend income or gifts or other monetary support you have received.

Mark only one oval.

- Under \$20,000
- \$20,000 to \$29,999
- \$30,000 to \$39,999
- \$40,000 to \$49,999
- \$50,000 to \$59,999
- \$60,000 to \$69,000
- \$70,000 to \$79,999
- \$80,000 to \$89,999
- \$90,000 to \$99,999
- More than \$100,000

7. 6. When earning money from jobs, what is your average weekly wage in gross pay before any deductions for taxes, contributions for retirement or other benefits?

Mark only one oval.

- Below \$500
- Between \$500 and \$750
- Between \$750 and \$1000
- Between \$1000 and \$1250
- Between \$1250 and \$1500
- More than \$1500

8. 7. How many members are there in your household?

9. 8. How many other members of your household other than yourself are working?

10. 9. Do you currently have access to paid time off for family and medical leave at your job?

Mark only one oval.

Yes

No

Not sure

11. 10. Is access to paid time off for family and medical leave a factor you considered or would consider when deciding to accept a job or where to live?

Mark only one oval.

Yes

No

12. 11. As an employee, how much would you be willing to contribute from your wages to provide funding so that you can access paid family and medical leave benefits? In states that have enacted laws to establish paid family and medical leave, the payroll contributions required by employees range from 0.10% to 1.3% of wages. Maine's current average weekly wage is approximately \$1000 per week; using that figure, the estimated payroll contribution may be between \$1.00 and \$13.00 per week.

Mark only one oval.

- Not willing to contribute
- Unsure of amount but willing to contribute
- Between \$1.00 and \$4.99 per week
- Between \$5.00 and \$9.99 per week
- Between \$10.00 and \$13.00 per week

13. 12. Which of these life events have you dealt with? Check all that apply.

Check all that apply.

- A close family member has been sick or injured, and I've had to take care of them.
- A close family member is in the military and has been deployed overseas.
- A close family member in the military has been injured or killed during their service.
- I've had an accident or a serious injury.
- I've had surgery or some other medical procedure that I had to recover from.
- I've been so sick, for more than a few days, that it has been difficult to function.
- I've donated an internal organ.
- I've given birth.
- I've lost a pregnancy.
- I've become a parent because my spouse/partner/co-parent has given birth.
- I've adopted a child.
- I've been a foster parent.
- I've experienced family violence or have a close family member who has experienced family violence.

14. 13. Thinking about those life events you've had, which of these describes how you handled them? Check all that apply. For example, you might check several if you've experienced more than one of these life events.

Check all that apply.

- I didn't take time away from work. I was able to address the life event and continue to work successfully.
- I didn't take time away from work because I wasn't working.
- I didn't take time away from work. It would have been helpful to take time away from work, but I couldn't because I needed to get paid.
- I took time away from work, but not as much as I really needed. I went back to work because I needed to get paid.
- I was able to take all the time away from work that I needed, and I was paid for that time.
- I was able to take all the time away from work that I needed. It was unpaid but I could afford to take some unpaid time.
- I left my work or stopped looking for work to address the life event.

15. 14 Tell us more, if you're comfortable doing that.

16. 15. Which of these life events are things you might have to deal with in the next two years? Check all that apply.

Check all that apply.

- I'll have to take care of a close family member who is sick.
- A close family member in the military may be deployed overseas.
- I'll need surgery or some other medical procedure that I will need to recover from.
- I'll donate an internal organ.
- I'll give birth.
- I'll become a parent because my spouse/partner/co-parent will give birth.
- I intend to adopt a child.
- I intend to be a foster parent.
- I'll need to take leave to take care of myself or a family member experiencing family violence.

17. 16. Which of these describes how you think you'll handle that? Check all that apply. For example, you might check several if you expect to deal with more than one life event in the next two years.

Check all that apply.

- I won't need time away from work. I'll address the life event and be able to keep working successfully.
- It would be helpful to take time away from work, but I'll keep working because I need to get paid.
- I'll take time away from work, but not as much as I really need. I'll go back to work sooner because I need to get paid.
- I'll take all the time away from work that I need, and I'll be paid for that time.
- I'll take all the time away from work that I need. It will be unpaid but I can afford to take some unpaid time.
- I won't need time away from work because I don't intend to be working.

18. 17. Tell us more, if you're comfortable doing that.

19. 18. Thinking about your past experience and anticipated future experience with life events that require you to care for yourself or others, how much time off from work did you need or would you need over the course of a 12-month period?

20. 19. What is the amount of wage replacement you needed or would need if you needed to take paid family and medical leave? Maine's current average weekly wage is approximately \$1000 per week; using that figure, the estimated wage replacement is provided below.

Mark only one oval.

- 100% of weekly wages or \$1000 per week
- 90% of weekly wages or \$900 per week
- 80% of weekly wages or \$800 per week
- 70% of weekly wages or \$700 per week
- 60% of weekly wages or \$600 per week
- 50% of weekly wages or \$500 per week

21. PLEASE PROVIDE ANY ADDITIONAL COMMENTS YOU WOULD LIKE TO SHARE

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Google Forms

Employer Survey of the Commission to Develop a Paid Family and Medical Leave Benefits Program

The Commission to Develop a Paid Family and Medical Leave Benefits Program is soliciting public comment and feedback on the establishment of a paid family and medical leave benefits program.

Please respond to the questions in if you are an employer.

1. 1. Are you an employer?

Mark only one oval.

- Yes
- No
- Self-employed

2. 2. If you are an employer, how many employees are working in your business?

Mark only one oval.

- 0
- 1 to 4
- 5 to 9
- 10 to 19
- 20 to 49
- 50 to 99
- 100 or more

3. 3. In which Maine county is your business?

4. 4. Do you currently provide access to paid time off for family and medical leave to your employees?

Mark only one oval.

Yes

No

5. 5. If you currently provide paid time off for family and medical leave to your employees, please describe the factors for why you do?

6. 6. If you do not currently provide paid time off for family and medical leave to your employees, please describe the factors for why you do not?

7. 7. Is access to paid time off for family and medical leave a benefit you have used or would use as a recruitment and retention tool for your employees?

Mark only one oval.

Yes

No

8. 8. In your experience as an employer, which of these life events have your employees had to deal with that has impacted their availability for work? Check all that apply.

Check all that apply.

- An employee has been unable to work because a close family member has been sick or injured, and I've had to take care of them.
- An employee has been unable to work because a close family member is in the military and has been deployed overseas.
- An employee has been unable to work because a close family member in the military has been injured or killed during their service.
- An employee has had an accident or a serious injury.
- An employee has had surgery or some other medical procedure that I had to recover from.
- An employee has been sick for more than a few days.
- An employee has donated an internal organ.
- An employee has given birth.
- An employee has lost a pregnancy.
- An employee has become a parent because their spouse/partner/co-parent has given birth.
- An employee has adopted a child.
- An employee has been a foster parent.
- An employee has experienced family violence or has a close family member who has experienced family violence.

9. 9. As an employer, please describe how you have handled those life events for your employees? Check all that apply. For example, you might check several if your employees have experienced more than one of these life events.

Check all that apply.

- As an employer, I was unable to provide the employee time away from work.
- An employee was able to take unpaid time away from work, but I would have liked to be able to provide my employee paid time off.
- An employee took unpaid time away from work, but not as much as really needed because the employee needed to get paid.
- An employee was able to take all the time away from work that was needed and was paid for that time.
- An employee was able to take all the time away from work that was needed as unpaid because the employee could afford to take some unpaid time.
- An employee left their employment to address the life event.

10. 10. Tell us more about your experiences in addressing these life events of your employees and how it may have affected your business.

11. 11. As an employer, how much would you be willing to contribute to provide funding so that you can provide access to paid family and medical leave benefits to your employees? In states that have enacted laws to establish paid family and medical leave, the payroll contributions required by employees range from 0.10% to 1.3% of wages. Maine's current average weekly wage is approximately \$1000 per week; using that figure, the estimated payroll contribution may be between \$1.00 and \$13.00 per week per employee.

Mark only one oval.

- Not willing to contribute
- Unsure of amount but willing to contribute
- Willing to contribute up to 50% of amount if employees pay 50%
- Willing to contribute more than 50% up to 100% of amount on behalf of employees

12. PLEASE PROVIDE ANY ADDITIONAL COMMENTS YOU WOULD LIKE TO SHARE

APPENDIX D

Invitation for Proposals to Conduct Actuarial Study

Commission to Develop a Paid Family and Medical Leave Benefits Program

Invitation for Proposals: Actuarial Study of Potential Costs and Feasibility of a Paid Family and Medical Leave Benefits Program

The Commission to Develop a Paid Family and Medical Leave Benefits Program was established by Maine Legislature pursuant to Resolve 2021, chapter 122. More information about the Commission, including meeting agendas, meeting materials and recordings of meetings, can be found on the Commission's [webpage](#).

The Commission to Develop a Paid Family and Medical Leave Benefits Program, through the Office of the Executive Director of the Maine Legislature, requires the services of an actuarial consultant to assist with the review and evaluation of a proposal to develop a paid family and medical leave benefits program. The consultant will review and evaluate the impact of the Commission's proposal and the suggested options outlined by the Commission, including start-up costs and ongoing costs of the proposal, the economic impact on and benefits to the State and the total contributions needed to maintain the solvency of the proposal.

*All questions about this proposal must be received electronically by Colleen McCarthy Reid by **February 3, 2022** no later than 11:59 p.m., local time. Answers to submitted questions will be shared with all invited parties by **February 5, 2022** no later than 11:59 p.m., local time.*

*Proposals must be received by **February 11, 2022** no later than 11:59 p.m., local time. Proposals must be submitted electronically to the following address: colleen.mccarthyreid@legislature.maine.gov*

Written proposals will be opened the following business day and considered by the Commission chairs, selected Commission members and staff. Upon review of written proposals, the Commission will identify one or more finalists to meet with the reviewers via Zoom at a mutually agreed upon time during the week of February 21, 2022. Note that any meeting with the Commission reviewers will be accessible to the public as a subcommittee meeting of the Commission.

The Commission anticipates making a final selection as soon as possible after completing a review of the submitted proposals and any interviews. Following announcement of a selection, all submissions in response to this invitation will be public records, available for public inspection pursuant to the State of Maine Freedom of Access Act (FOAA) ([1 M.R.S. § 401 et seq.](#)). Notification of a selection will be made in writing. A selection in no way constitutes a commitment by the Commission to award a contract or to pay costs incurred in the preparation of a response to the Invitation for Proposal.

The Office of the Executive Director of the Maine Legislature, on behalf of the Commission, reserves the right to negotiate with the selected consultant to finalize a contract. Such negotiations may not significantly vary the content, nature or requirements of the proposal or this Invitation for Proposal to an extent that may affect the price of goods or services requested. The

Executive Director, on behalf of the Commission, reserves the right to terminate contract negotiations with a selected consultant who submits a proposed contract significantly different from the proposal they submitted in response to the Invitation for Proposal. In the event that an acceptable contract cannot be negotiated with the selected consultant, the Commission may withdraw its selection and negotiate with any other consultant who responded to this Invitation for Proposal, until an acceptable contract has been finalized. Alternatively, the Commission may cancel the Invitation for Proposal, at its sole discretion.

After a contract is finalized, the selected consultant will provide monthly progress updates to the Commission chairs in a mutually acceptable format. The Commission chairs are responsible for determining if the selected consultant is meeting any deliverables and requirements of the contract. Deliverables under the contract are expected to include the submission of a written report, presentation of the report to the full Commission and continued consultation with the Commission to assist in the development of policy recommendations to the 131st Legislature.

Description of Proposed Services. See the **Outline of Proposal/Scope of Work for Actuarial Study** in Appendix A.

Timeline. The Commission is seeking a cost-efficient proposal to provide the services in an expedited manner; it is anticipated that the Commission will use the completed report of the selected consultant to make policy recommendations for consideration by the 131st Legislature. The actual contract start date will be established by a completed and approved contract.

Proposal Format and Contents. The following information must be completed and submitted.

1. Proposal Cover Page

Bidders must complete Appendix B (Proposal Cover Page). It is critical that the cover page show the specific information requested, including Bidder address(es) and other details listed. The Proposal Cover Page must be dated and signed by a person authorized to enter into contracts on behalf of the Bidder.

2. Debarment, Performance and Non-Collusion Certification

Bidders must complete Appendix C (Debarment, Performance and Non-Collusion Certification Form). The Debarment, Performance and Non-Collusion Certification Form must be dated and signed by a person authorized to enter into contracts on behalf of the Bidder.

3. Organization Qualifications and Experience

Bidders must complete Appendix D (Qualifications and Experience Form) describing their qualifications and skills to provide the requested services in the Invitation for Proposal, also describing any unique sources of data available to the firm. Bidders must include three examples of projects which demonstrate their experience and expertise in performing these services as well as highlighting the Bidder's stated qualifications and skills.

If subcontractors are to be used, Bidders must provide a list that specifies the name, address, phone number, contact person, and a brief description of the subcontractors'

organizational capacity and qualifications.

Bidders must provide an organizational chart. The organization chart must include the project being proposed. Each position must be identified by position title and corresponding to the personnel job descriptions.

Bidders must attach a list of all current litigation in which the Bidder is named and a list of all closed cases that have closed within the past five (5) years in which the Bidder paid the claimant either as part of a settlement or by decree. For each, list the entity bringing suit, the complaint, the accusation, amount, and outcome.

Bidders must provide a certificate of insurance evidencing the Bidder's general liability, professional liability and any other relevant liability insurance policies that might be associated with the proposed services.

4. Services to be Provided

Discuss the **Outline of Proposal/Scope of Work for Actuarial Study** in Appendix A and what the Bidder will offer. Give particular attention to describing the methods and resources you will use and how you will accomplish the tasks involved. Also, provide an anticipated timeline for performing the tasks involved and describe how you will ensure expectations and/or desired outcomes as a result of these services will be achieved. If subcontractors are involved, clearly identify the work each will perform.

5. Cost Proposal

The cost proposal must include the costs necessary for the Bidder to fully comply with the contract terms, conditions, and Invitation for Proposal requirements. No costs related to the preparation of the Invitation for Proposal, or to the negotiation of a contract, may be included in the proposal. Only costs to be incurred after the contract effective date that are specifically related to the implementation or operation of contracted services may be included.

Bidders must fill out Appendix E (Cost Proposal Form), following the instructions detailed here and in the form. Failure to provide the requested information, and to follow the required cost proposal format provided, may result in the exclusion of the proposal from consideration, at the discretion of the Commission.

Proposal Evaluation and Selection. Evaluation of the submitted proposals will be made by the evaluation team (Commission chairs, selected Commission members and staff). The evaluation team will judge the merits of the proposals received in accordance with the criteria defined in the Invitation for Proposal. The goals of the evaluation process are to ensure fairness and objectivity in review of the proposals and to ensure that the Commission selects the proposal that provides the best value to the Commission. The Commission reserves the right to communicate and/or schedule interviews/presentations with Bidders, if needed, to obtain clarification of information contained in the proposals received. Changes to proposals, including updating or adding information, will not be permitted during any interview/presentation process and, therefore, Bidders must submit proposals that present their rates and other requested information as clearly and completely as possible.

Proposals will be scored based on a 100-point scale and will measure the degree to which each proposal meets the following criteria: 1) Organization Qualifications and Experience (30 points); 2) Proposed Services (35 points); and 3) Cost Proposal (35 points). The evaluation team will use a consensus approach to evaluate and score proposals. Members of the evaluation team will not score those sections individually but, instead, will arrive at a consensus as to assignment of points for each of those sections. The Cost Proposal, will be scored by assigning the lowest bid a total of 35 points; proposals with higher bids values will be awarded proportionately fewer points calculated in comparison with the lowest bid. All Bidders are expected to provide their best value pricing with the submission of their proposal.

Contract Document. The selected consultant will be required to execute a contract with the Executive Director of the Legislative Council with appropriate riders. In providing services and performing under the contract, the selected consultant must act as an independent contractor and not as an agent of the State of Maine. Following the selection, the Executive Director of the Legislative Council will designate an appropriate contact from the Executive Director's Office to assist with the development and administration of the contract and to act as administrator during the entire contract period. Commission staff will be available after the selection to consult in the finalization of the contract.

Appendices and Related Documents.

Appendix A – Outline of Proposal/Scope of Work for Actuarial Study

Appendix B – Proposal Cover Page

Appendix C – Debarment, Performance, and Non-Collusion Certification

Appendix D – Qualifications and Experience Form

Appendix E – Cost Proposal Form

APPENDIX A

Commission to Develop a Paid Family and Medical Leave Benefits Program Outline of Proposal/Scope of Work for Actuarial Study

The Commission to Develop a Paid Family and Medical Leave Benefits Program is inviting proposals for an actuarial consultant to assist with the review and evaluation of a proposal to develop a paid family and medical leave benefits program.

Description: The consultant will review and evaluate the impact of the Commission's proposal and the suggested options outlined below, including start-up costs and ongoing costs of the proposal, the economic impact on and benefits to the State and the total contributions needed to maintain the solvency of the proposal.

Outline of Proposal: The Commission has agreed to request review and evaluation of the proposal and the suggested options outlined below. The proposal has been developed for the purposes of review and evaluation only and does not reflect that any individual Commission member's supports the proposal or any proposed legislation related to a paid family and medical leave benefits program.

1. Purposes for which leave can be used:
 - Adopt same purposes that are permissible under federal FMLA
 - Include safe leave
 - Actuarial study should provide an analysis of a proposal including all purposes outlined above; a proposal that tracks the current purposes permissible under federal FMLA; and the separate cost impact of each component as an allowed purpose, if possible
2. Who is covered?
 - Include all workers, including public sector employees, domestic workers and part-time, temporary, per diem and seasonal workers
 - Permit self-employed workers to opt in
 - Actuarial study should provide an analysis of a proposal including all workers outlined above; a proposal that exempts public sector employees; and the separate cost impact of each category of worker, if possible
3. What are the requirements to qualify for benefits?
 - Compare eligibility requirements used in California (CA) and Connecticut (CT)
 - Actuarial study should provide an analysis of a proposal using CA requirements and a proposal based on CT requirements, if possible
4. What family members are covered?
 - Provide analysis of a proposal using federal FMLA definition; a proposal using definition in current Maine FMLA law; and a proposal using broad definition similar to CT law, including persons related by affinity whose close association the employee shows to be the equivalent of those family relationships
5. How is the program funded?
 - Actuarial study should provide estimate of total costs
 - Actuarial study should also assess impact on program funding if contributions from employers of the following sizes are exempt from making contributions:
 - Employers with 50 or fewer employees;
 - Employers with 25 or fewer employees; or
 - Employers with 10 or fewer employees.

6. What percentage of wages do workers receive?
 - Actuarial study should assess impact on cost if worker receives these percentages:
 - 80% of the worker's average weekly wage, up to the maximum of the State average weekly wage;
 - 90% of the worker's average weekly wage, up to the maximum of the State average weekly wage; or
 - 100% of the worker's average weekly wage, up to the maximum of the State average weekly wage.
7. What is the maximum weekly benefit?
 - State average weekly wage, adjusted for inflation
8. For how long can a worker receive benefits?
 - Actuarial study should assess impact on cost if worker receives benefits for a maximum of:
 - 12 weeks;
 - 20 weeks; or
 - 26 weeks.
9. Is there an unpaid waiting period?
 - No unpaid waiting period
 - If possible, actuarial study should assess impact on cost if short unpaid waiting period required (consider any requirements in existing programs in other states)
10. Are workers entitled to have their jobs back when they return?
 - Deferred making a recommendation on job protection
 - Commission believes this is a policy decision and does not impact actuarial study
11. How is the insurance provided? Structure and organization?
 - Actuarial study should assess the following options:
 - Program is administered and overseen fully by State;
 - Program is a public-private partnership with State oversight, but certain services contracted to private sector, e.g. claims payment/processing, IT services
 - Program is contracted to private sector
 - Separate start-up costs/implementation costs from ongoing costs once implemented
12. Other elements to be considered:
 - Consider impact of workers with multiple jobs
 - Consider length of time for collection of contributions to achieve solvency before claims can begin to be paid
 - Consider number of workers required/level of contributions needed to maintain solvency

PROPOSAL COVER PAGE
Actuarial Study of Potential Costs and Feasibility of a
Paid Family and Medical Leave Benefits Program

Bidder's Organization Name:			
Chief Executive - Name/Title:			
Tel:		E-mail:	
Headquarters Street Address:			
Headquarters City/State/Zip:			
<i>(Provide information requested below if different from above)</i>			
Lead Point of Contact for Proposal - Name/Title:			
Tel:		E-mail:	
Headquarters Street Address:			
Headquarters City/State/Zip:			

- This proposal and the pricing structure contained herein will remain firm for a period of 180 days from the date and time of the bid opening.
- No personnel currently employed by the Maine State Legislature or any State agency participated, either directly or indirectly, in any activities relating to the preparation of the Bidder's proposal.
- No attempt has been made, or will be made, by the Bidder to induce any other person or firm to submit or not to submit a proposal.
- The above-named organization is the legal entity entering into the resulting contract with the Commission/Legislature if they are awarded the contract.
- The undersigned is authorized to enter contractual obligations on behalf of the above-named organization.

To the best of my knowledge, all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.

Name (Print):	Title:
Authorized Signature:	Date:

APPENDIX C

Actuarial Study of Potential Costs and Feasibility of a
Paid Family and Medical Leave Benefits Program

DEBARMENT, PERFORMANCE, and NON-COLLUSION CERTIFICATION

Bidder's Organization Name:	
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By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals and any subcontractors named in this proposal:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.*
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:*
 - i. Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.*
 - ii. Violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.*
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification.*
- d. Have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.*
- e. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

Name (Print):	Title:
Authorized Signature:	Date:

APPENDIX D

**Actuarial Study of Potential Costs and Feasibility of a
Paid Family and Medical Leave Benefits Program**

QUALIFICATIONS & EXPERIENCE FORM

Bidder's Organization Name:	
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Present a brief statement of qualifications, including any applicable licensure and/or certification. Describe the history of the Bidder's organization, especially regarding skills pertinent to the specific work required by the Invitation for Proposal and any special or unique characteristics or sources of data available to the organization which would make it especially qualified to perform the required work activities. You may expand this form and use additional pages to provide this information.

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APPENDIX D (continued)

Provide a description of projects that occurred within the past five years which reflect experience and expertise needed in performing the functions described in the "Scope of Services" portion of this Invitation for Proposal. For each of the project examples provided, a contact person from the client organization involved should be listed, along with that person's telephone number and email address. Please note that contract history with the State of Maine, whether positive or negative, may be considered in rating proposals even if not provided by the Bidder.

Project One	
Client Name:	
Client Contact Person:	
Telephone:	
E-Mail:	
Brief Description of Project	

Project Two	
Client Name:	
Client Contact Person:	
Telephone:	
E-Mail:	
Brief Description of Project	

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APPENDIX D (continued)

Project Three	
Client Name:	
Client Contact Person:	
Telephone:	
E-Mail:	
Brief Description of Project	

APPENDIX E

**Actuarial Study of Potential Costs and Feasibility of a
Paid Family and Medical Leave Benefits Program**

COST PROPOSAL FORM

Bidder's Organization Name:	
Total Proposed Cost:	\$

Bidders must use the table below (add rows as needed) to develop a Total Proposed Cost to complete all aspects of the project as described in this Invitation for Proposal. The Total Proposed Cost will be used in the scoring formula as described in this Invitation for Proposal.

Staff Type or Title	Hourly Rate	Estimated Total Required Hours	Estimated Total Cost
			\$
			\$
			\$
Other Costs			
			\$
			\$
			\$
Total Proposed Cost			\$