

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §7402, sub-§2, as enacted by PL 2021, c. 398, Pt. AAAA, §1, is amended to read:

2. Taxes and benefits. An amount necessary to reimburse the provider for taxes and benefits paid or costs incurred by the provider that are directly related to the reimbursed wage increase in subsection 1. This amount must be adjusted whenever an increase to the minimum wage is applied to the reimbursement rate under subsection 1. Beginning July 1, 2025, the reimbursement rate must also include an amount necessary to reimburse the provider for 50% of the total premium contribution as required by Title 26, section 850-G.

Sec. 2. 26 MRSA c. 7, sub-c. 6-C is enacted to read:

SUBCHAPTER 6-C

PAID FAMILY AND MEDICAL LEAVE

§850-A. Short title

This subchapter may be known and cited as "the Paid Family and Medical Leave Insurance Act."

§850-B. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Alternative base period. "Alternative base period" means the last 4 completed calendar quarters immediately preceding the first day of the individual's benefit year.

2. Ancillary obligations. "Ancillary obligations" means obligations, agreements or contracts with financial institutions entered into by or for the benefit of the Maine Municipal Bond Bank with respect to its revenue bonds issued pursuant to Title 30-A, section 6006-I and may include, without limitation, contracts commonly known as interest rate swap agreements, forward purchase contracts, guaranteed investment contracts and other contracts.

3. Average weekly wage. "Average weekly wage" means 1/13 of the wages paid during the quarter of the covered individual's base period or alternative base period in which the total wages were highest.

4. Base period. "Base period" means the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual's benefit year, except that if the first quarter of the last 5 completed calendar quarters was included in the base period applicable to any individual's previous benefit year, the individual's base period is the last 4 completed calendar quarters.

5. Benefit year. "Benefit year" means the 12-month period beginning on the first day of the calendar week in which an individual files an application for family and medical leave insurance benefits.

6. Bureau. "Bureau" means the Bureau of Labor Standards within the Department of Labor.

7. Covered individual. "Covered individual" means an individual who:

A. Earned at least 6 times the state average weekly wage in wages subject to premiums under this subchapter during the individual's base period or alternative base period or elects coverage and meets the requirements of section 850-O;

B. Meets the administrative requirements outlined in this subchapter and in rules adopted pursuant to this subchapter; and

C. Submits an application with a claim for benefits pursuant to section 850-I.

"Covered individual" includes a former employee who has been separated from employment for not more than 26 weeks at the start of the individual's paid family and medical leave and who satisfies the requirements of this subsection.

8. Director. "Director" means the director of the bureau.

9. Employee. "Employee" means a person who may be permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment in this State but does not include an independent contractor as established by section 1043, subsection 11, paragraph E or an employee as defined by 45 United States Code, Section 351(d) who is subject to the federal Railroad Unemployment Insurance Act, 45 United States Code, Section 351 et seq.

For the purposes of this subsection, "employment" includes a person's entire service, performed within or both within and without this State if the service is localized in this State or the service is not localized in any state but some of the service is performed in this State and the base of operations, or if there is no base of operations, then the place from which such service is directed or controlled, is in this State or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the person's residence is in this State.

Service is localized within a state if the service is performed entirely within that state or the service is performed both within and without that state but the service performed without that state is incidental to the person's service within that state, including, but not limited to, service that is temporary or transitory in nature or consists of isolated transactions.

10. Employer. "Employer" means:

A. Any person, sole proprietorship, partnership, corporation, association or other business entity that employs one or more employees at one location in this State;

B. The State, including the executive, legislative and judicial branches, and any state department or agency that employs any employees, except as provided in section 850-C;

C. Any county, city, town or municipal agency, except as provided in section 850-C;

D. Any agent of an employer, the State or a political subdivision of the State, except as provided in section 850-C;

E. Public employers as defined in section 962, subsection 7, except as provided in section 850-C; and

F. A tribal government that has elected coverage pursuant to section 850-O.

"Employer" does not include the Federal Government.

11. Family and medical leave insurance benefits. "Family and medical leave insurance benefits" or "benefits" means the benefits provided under the terms of this subchapter.

12. Family and medical leave insurance program. "Family and medical leave insurance program" or "program" means the program created pursuant to section 850-I.

13. Family member. "Family member" means:

A. Regardless of age, a covered individual's child in accordance with Title 19-A, chapter 61, a biological, adopted or foster child, a stepchild, a legal ward, a child of a domestic partner, a child to whom the covered individual stands in loco parentis or a person to whom the covered individual stood in loco parentis when the person was a minor;

B. A covered individual's parent in accordance with Title 19-A, chapter 61, a biological, adoptive or foster parent, stepparent or legal guardian of a covered individual or covered individual's spouse or domestic partner or a person who stood in loco parentis when the covered individual or covered individual's spouse or domestic partner was a minor child;

C. A person to whom the covered individual is legally married under the laws of any state or jurisdiction, or a domestic partner of a covered individual as defined in section 843, subsection 7;

D. A grandparent, grandchild or sibling, whether the relationship is a biological, foster, adoptive or step relationship, of the covered individual or covered individual's spouse or domestic partner; or

E. As shown by the covered individual, any other individual with whom the covered individual has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.

Any reference to in loco parentis includes but is not limited to those relationships within the scope of the federal Family and Medical Leave Act of 1993, 29 United States Code, Sections 2601 to 2654.

14. Family and Medical Leave Insurance Fund. "Family and Medical Leave Insurance Fund" or "fund" means the Family and Medical Leave Insurance Fund created in section 850-S.

15. Health care provider. "Health care provider" means a person licensed, certified or registered to provide medical or emergency services, including, but not limited to, physicians, doctors, nurses, emergency room personnel and midwives.

16. Paid family and medical leave. "Paid family and medical leave" means leave taken from employment in connection with family and medical leave insurance benefits under this subchapter.

17. Qualifying exigency leave. "Qualifying exigency leave" means leave based on a need arising out of a covered individual's family member's active duty service or notice of an impending call or order to active duty in the United States Armed Forces, including, but not limited to, providing for the care or other needs of the military member's child or other

family member, making financial or legal arrangements for the military member, attending counseling, attending military events or ceremonies, spending time with the military member during a rest and recuperation leave or following return from deployment or making arrangements following the death of the military member.

18. Retaliatory personnel action. "Retaliatory personnel action" means denial of or interference with any right guaranteed under this subchapter, including, but not limited to, any threat, discharge, suspension, demotion, reduction of hours or any other adverse action against an employee for the exercise of any right guaranteed in this subchapter. "Retaliatory personnel action" also includes interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this subchapter.

19. Safe leave. "Safe leave" means any leave taken because the covered individual or the covered individual's family member is a victim of violence, assault, sexual assault under Title 17-A, chapter 11, stalking or any act that would support an order for protection under Title 19-A, chapter 103. Safe leave under this subchapter applies if the covered individual is using the leave to protect the covered individual or the covered individual's family member by:

A. Seeking an order for protection under Title 19-A, chapter 103;

B. Obtaining medical care or mental health counseling for the covered individual or for the covered individual's family member to address physical or psychological injuries resulting from the act of violence, assault, sexual assault or stalking or act that would support an order for protection under Title 19-A, chapter 103;

C. Making the covered individual's or the covered individual's family member's home secure from the perpetrator of the act of violence, assault, sexual assault or stalking or act that would support an order for protection under Title 19-A, chapter 103 or seeking new housing to escape the perpetrator; or

D. Seeking legal assistance to address issues arising from the act of violence, assault, sexual assault or stalking or act that would support an order for protection under Title 19-A, chapter 103 or attending and preparing for court-related proceedings arising from the act or crime.

20. Serious health condition. "Serious health condition" means an illness, injury, impairment, pregnancy, recovery from childbirth or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider.

21. Start-up cost. "Start-up cost" means any amount paid or incurred by the bureau in connection with the development or initial administration or implementation of the family and medical leave insurance program under this subchapter, including associated costs of public education.

22. State average weekly wage. "State average weekly wage" means the annual average weekly wage as defined in section 1043, subsection 1-A.

23. Wages. "Wages" includes, but is not limited to, salary, wages, tips, commissions and other compensation as determined by the director by rule. For a self-employed person who elects coverage under section 850-O, "wages" includes, but is not limited to, self-employment income as defined by 26 United States Code, Section 1402(b).

§850-C. Public sector employees

1. Definitions. For the purposes of this section, the following terms have the following meanings.

A. "Public sector employee" means an employee of a public sector employer.

B. "Public sector employer" means the State, including the executive, legislative and judicial branches, and any state department or agency, any county, city, town or municipal agency, any agent of the State or a political subdivision of the State and a public employer as defined in section 962, subsection 7.

2. Collective bargaining agreement. Nothing in this subchapter requires a public sector employer or public sector employee that is a party to a collective bargaining agreement in existence on the effective date of this subchapter to apply any of the rights and responsibilities under this subchapter until the existing agreement expires.

§850-D. Eligibility

Beginning July 1, 2026, an individual has the right to take paid family and medical leave, and to receive family and medical leave insurance benefits pursuant to this subchapter while taking paid family and medical leave, if the individual:

1. Covered individual. Is a covered individual; and

2. Additional requirement. Meets one of the following requirements:

A. Because of birth, adoption or placement through foster care, is caring for a child during the first year after the birth, adoption or placement through foster care of that child;

B. Is caring for a family member with a serious health condition;

C. Has a serious health condition;

D. Because of the fact that a family member is on active duty or has been notified of an impending call or order to active duty, has a need for qualifying exigency leave; or

E. Has a need for safe leave.

§850-E. Duration

1. Maximum number of weeks. The maximum number of weeks for which a covered individual may take paid family and medical leave and for which family and medical leave insurance benefits are payable for any particular qualifying need in a benefit year is 12 weeks. The maximum number of weeks in the aggregate for which a covered individual may take paid family and medical leave and for which family and medical leave insurance benefits are payable in a benefit year is 16 weeks.

2. First payment. The first payment of benefits must be made to an individual within 2 weeks after the claim is filed or within 2 weeks of the first day of the approved claim, whichever is later, and subsequent payments must be made every 2 weeks thereafter.

3. Intermittent leave. A covered individual may take intermittent leave in increments of one hour, or shorter periods if consistent with the increments the employer typically uses to measure employee leave, except that benefits are not payable until the covered individual accumulates at least 8 hours of benefits.

4. Notice. In any case in which the necessity for leave under this subchapter is foreseeable, an employee shall provide notice to the individual's employer not less than 30 days before the date the leave is to begin. If the necessity for leave is not foreseeable or providing 30 days' notice is not possible, the employee shall provide notice as soon as practicable.

§850-F. Amount of benefits

1. Determination of benefit amount. The amount of family and medical leave insurance benefits must be determined as follows.

A. The weekly benefit must be determined as follows:

(1) The portion of the covered individual's average weekly wage that is equal to or less than 50% of the state average weekly wage must be replaced at a rate of 90%; and

(2) The portion of the covered individual's average weekly wage that is more than 50% of the state average weekly wage must be replaced at a rate of 65%.

B. The maximum weekly benefit is the state average weekly wage, except that for paid family and medical leave beginning before July 1, 2027, the maximum weekly benefit is \$1,000.

2. Covered individual's weekly benefit amount. The bureau shall calculate a covered individual's weekly benefit amount based on the covered individual's average weekly wage earned from the job or jobs from which the covered individual is taking paid family and medical leave, up to the maximum total benefit established in subsection 1, paragraph B. The bureau shall establish by rule a method for calculating benefits for covered individuals with multiple jobs. A covered individual with multiple jobs may elect to take leave from one job or multiple jobs.

§850-G. Premiums

1. Authorized. Payroll premiums are authorized in order to finance the payment of family and medical leave insurance benefits under this subchapter and administration of the family and medical leave insurance program, including repayment of bonds issued pursuant to Title 30-A, section 6006-I and any associated financing and administrative costs including ancillary obligations and the funding and replenishment of debt service reserves.

2. Employer to remit premiums to fund. Beginning July 1, 2025, for each employee, an employer shall remit to the fund premiums in the form and manner determined by the bureau. Premiums must be remitted quarterly and must be paid in arrears.

3. Premium amount. The following provisions govern the premium amount.

A. From July 1, 2025 through December 31, 2027, the premium amount is 0.86% of wages per employee.

B. Annually, for the 2028 calendar year and each calendar year thereafter, not later than October 1st, the director shall set the premium for the coming calendar year based on a percentage of employee wages and at the rate necessary to obtain a total amount of premium contributions equal to 135% of the benefits paid during the previous fiscal year plus an amount equal to 100% of the cost of administration of the payment of

those benefits during the previous fiscal year, less the amount of net assets remaining in the fund as of June 30th of the current calendar year. For purposes of this paragraph, the costs of administration include the costs of repayment of interest and principal on bonds issued pursuant to Title 30-A, section 6006-I and any associated financing and administrative costs including ancillary obligations and the funding and replenishment of debt service reserves.

C. If, for the 2028 calendar year or any calendar year thereafter, the premium rate adjustment pursuant to this subsection is an increase and results in the difference between the rate of the upcoming calendar year and the current calendar year equaling more than 0.1% of wages paid, the bureau shall submit a report regarding fund solvency and factors contributing to rate setting to the joint standing committee of the Legislature having jurisdiction over labor matters.

4. Self-employed persons. The following provisions govern self-employed persons.

A. A self-employed person who elects coverage under section 850-O shall pay 50% of the premium required for an employee by subsection 3 on that individual's income from self-employment.

B. A self-employed person who elects coverage under section 850-O shall remit the premium amount required by this subsection directly to the bureau, in the form and manner required by the director by rule.

5. Employers. The following provisions govern employers.

A. An employer with 15 or more employees may deduct up to 50% of the premium required for an employee by subsection 3 from that employee's wages and shall remit 100% of the premium required by subsection 3 to the fund.

B. An employer with fewer than 15 employees may deduct up to 50% of the premium required for an employee by subsection 3 from that employee's wages and shall remit 50% of the premium required by subsection 3 to the fund.

6. Limit. Premiums are not required for employees' wages above the contribution and benefit base limit established annually by the federal Social Security Administration for purposes of the federal Old-Age, Survivors, and Disability Insurance program limits pursuant to 42 United States Code, Section 430.

7. Use. The premiums collected under this subchapter must be used exclusively for the payment of family and medical leave insurance benefits and the costs of administration of the program, including the repayment of bonds issued pursuant to Title 30-A, section 6006-I and any associated financing and administrative costs including ancillary obligations and the funding and replenishment of debt service reserves. The bureau together with the Maine Municipal Bond Bank is authorized to pledge the premiums collected under this subchapter as security for bonds issued pursuant to Title 30-A, section 6006-I and any associated ancillary obligations. Any pledge of revenue or other money made by the Maine Municipal Bond Bank or the bureau is valid and binding when the pledge is made. The revenues or other money so pledged and thereafter received by the Maine Municipal Bond Bank or the bureau is immediately subject to the lien of the pledge without any physical delivery of the revenues or other money. The lien of any such pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Maine Municipal Bond Bank or the bureau, regardless of whether those parties have notice of the

pledge. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the Maine Municipal Bond Bank or the bureau.

8. Approved private plan. An employer with an approved private plan under section 850-V is not required to remit premiums under this section to the fund.

9. Failure or refusal to make premium contributions. An employer that fails or refuses to make premium contributions as required in this section must be assessed 0.86% of its total annual payroll for each year it so failed to comply in addition to any amounts previously owed, or fraction thereof, in addition to the total amount of benefits paid to covered individuals for whom it failed to make premium contributions. The rate of assessment imposed by this subsection must be adjusted for the 2028 calendar year and annually thereafter consistent with subsection 3, paragraph B.

10. Self-employed person who elects coverage and fails or refuses to make premium contributions. A self-employed person who elects coverage under section 850-O and who fails or refuses to make premium contributions for at least 2 quarters as required in this section may be disqualified from family and medical leave insurance benefits. The self-employed person's disqualification terminates upon:

A. The self-employed person's remittance of all previously owed premium contributions as required in this section; and

B. Following remittance as required by paragraph A, the self-employed person's remittance of premium contributions as required in this section for an additional number of quarters equivalent to the number of quarters for which the self-employed person failed or refused to make premium contributions.

§850-H. Powers of the bureau and enforcement

1. Powers of the bureau. The following provisions govern the powers of the bureau.

A. The director may adopt, in accordance with the Maine Administrative Procedure Act, rules regarding this subchapter. Rules adopted pursuant to this paragraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

B. The bureau has all the powers and duties authorized by this subchapter pertaining to family and medical leave insurance benefits, including the authority to collect premiums and assessments pursuant to section 850-G. The fund constitutes part of the bureau.

C. Nothing in this section limits or restricts the authority of the bureau to expend its revenues consistent with this subchapter.

D. The bureau is authorized to accept transfers from the Maine Municipal Bond Bank of proceeds from the sale of revenue bonds for the purposes set forth in this subchapter. The bonds must be payable from any revenues received by the bureau and pledged pursuant to this subchapter. Funds received by the bureau pursuant to this subchapter must be deposited into the Family and Medical Leave Insurance Fund.

E. The bureau shall administer and implement the provisions of this subchapter. The bureau shall collect premiums, process and determine claims for family and medical leave insurance benefits and administer appeals to the bureau pursuant to section 850-M.

2. **Attorney General may bring action.** The Attorney General may bring an action in any court of competent jurisdiction to enforce this subchapter.

§850-I. Family and medical leave insurance program

1. **Established.** The bureau shall establish and administer a family and medical leave insurance program and begin collecting premiums as specified in this subchapter.

2. **Procedures and forms.** The bureau shall establish reasonable procedures and forms for filing claims for benefits under this subchapter and shall specify what supporting documentation is necessary to support a claim for benefits, including any documentation required from a health care provider for proof of a serious health condition and any documentation required by the bureau with regard to a claim for safe leave or qualifying exigency leave.

3. **Filing of application.** An individual may file an application for family and medical leave insurance benefits no more than 60 days before the anticipated start date of paid family and medical leave and no more than 90 days after the start date of paid family and medical leave. The bureau shall waive the 90-day filing deadline for good cause. The bureau shall institute forms and procedures that are not unduly burdensome to a person claiming benefits.

4. **Notification of employer.** The bureau shall notify the relevant employer within 5 business days of a claim being filed pursuant to this subchapter.

5. **Disclosure of relevant information or records.** The bureau shall use information sharing and integration technology to facilitate the disclosure of relevant information or records to the extent permitted under state and federal privacy and confidentiality laws.

6. **Information confidential.** Information contained in the files and records pertaining to an individual under this subchapter are confidential and not open to public inspection, other than to public employees in the performance of their official duties. The individual or an authorized representative of an individual may review the records or receive specific information from the records upon the presentation of the individual's signed authorization.

§850-J. Leave and employment protection

1. **Restoration to position.** A covered individual who has been employed with the covered individual's employer for at least 120 days prior to the commencement of the covered individual's paid family and medical leave who exercises the right to family and medical leave insurance benefits is entitled, upon return from that leave, to be restored by the employer to the position held by the covered individual when the leave commenced or to be restored to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. Nothing in this section entitles any restored employee to:

A. The accrual of any seniority or employment benefits during any period of leave; or

B. Any right, benefit or position of employment other than any right, benefit or position to which the employee would have been entitled had the employee not taken the leave.

2. **Health care benefits.** During any paid family and medical leave taken pursuant to this subchapter, the employer shall maintain any health care benefits the covered individual had prior to taking such leave for the duration of the leave as if the covered individual had

continued in employment continuously from the date the individual commenced the leave until the date the family and medical leave insurance benefits terminate. The covered individual shall continue to pay the covered individual's share of the cost of health care benefits as required prior to the commencement of the leave.

3. Prohibited practices. An employer or any other person may not interfere with, restrain or deny the exercise of, or the attempt to exercise, any right protected under this subchapter.

4. Discrimination prohibited. An employer, employment agency, employee organization or other person may not take retaliatory personnel action or otherwise discriminate against an individual because the individual exercised rights protected under this subchapter. Such rights include, but are not limited to, the right to request, file for, apply for or use benefits provided for under this subchapter; take paid family and medical leave under this subchapter; communicate to the employer or any other person or entity an intent to file a claim, a complaint with the bureau or courts or an appeal; testify or assist in any investigation, hearing or proceeding under this subchapter, at any time, including during the period in which the individual receives family and medical leave insurance benefits under this subchapter; inform any person about any employer's alleged violation of this subchapter; and inform any person of that person's rights under this subchapter.

5. Employer may not count paid family and medical leave as absence that may lead to adverse action. An employer may not count paid family and medical leave taken under this subchapter as an absence that may lead to or result in discipline, discharge, demotion, suspension or any other adverse action.

6. Covered individuals may enforce rights. Covered individuals may enforce their rights under this section and seek the remedies available pursuant to section 848.

7. Attorney General may bring action. The Attorney General may bring an action in any court of competent jurisdiction to enforce this section and seek the remedies available pursuant to section 848. Any sums recovered by the Attorney General on behalf of a covered individual pursuant to this subsection must be held in a special deposit account and must be paid, on order of the Attorney General, directly to the individual affected. Any sums recovered not paid to a covered individual within a period of 3 years because of inability to do so must be paid over to the Family and Medical Leave Insurance Fund.

§850-K. Coordination of benefits

1. Other family and medical leave laws. Leave taken with wage replacement under this subchapter that also qualifies as leave under the federal Family and Medical Leave Act of 1993, 29 United States Code, Sections 2601 to 2654 or the family medical leave laws in subchapter 6-A runs concurrently with leave taken under those provisions, as applicable.

2. Disability policy or separate leave program. An employer may require that any employee receiving payment or taking leave under this subchapter coordinate such leave or receive payment concurrently with the terms of a disability policy, including a disability policy contained within an employment contract, or a separate leave program that provides leave solely for the purpose of paid family and medical leave. The employer shall give its employees written notice of this requirement.

3. Vacation leave, sick leave or other paid time off. Notwithstanding subsection 2, an employee may not be required to use or exhaust any accrued vacation leave, sick leave

or other paid time off prior to or while receiving family and medical leave insurance benefits under this subchapter. An employee may use any accrued vacation leave, sick leave or other paid time off while receiving family and medical leave insurance benefits under this subchapter, unless the aggregate amount a covered individual would receive would exceed the covered individual's average weekly wage. Nothing in this subsection requires an employee to receive or use additional paid time off as described in this subsection.

4. Disability policy paid for solely by covered individual. Notwithstanding subsection 2, an employer may not require that payment made or paid family and medical leave taken under this subchapter be made or taken concurrently with payment made or leave taken under any disability insurance policy in which the premiums are paid for solely by the covered individual.

5. Collective bargaining agreement, employer policy, employment contract or other law. This subchapter does not diminish:

A. The rights, privileges or remedies of an employee under a collective bargaining agreement, employer policy or employment contract;

B. An employer's obligation to comply with a collective bargaining agreement, employer policy or employment contract, as applicable, that provides greater leave or more generous benefits than those provided under this subchapter; or

C. The rights, privileges or remedies of an employee under any law that provides greater leave or more generous benefits than those provided under this subchapter.

6. Employer policy may not diminish employee's right to benefits. An employer policy adopted or retained after the effective date of this subchapter may not diminish an employee's right to benefits under this subchapter. Any agreement by an employee to waive the employee's rights under this subchapter is against public policy and is void and unenforceable.

7. Unemployment compensation and workers' compensation. A covered individual may not receive benefits under this subchapter concurrently with benefits under chapter 13 or Title 39-A for total incapacity. A covered individual may receive benefits under this subchapter concurrently with benefits under Title 39-A for partial incapacity, and benefits under this subchapter may not be reduced by benefits received under Title 39-A for partial incapacity.

§850-L. Notice

The bureau shall publish a program notice that details the program requirements, benefits, claims process, payroll deduction requirements, right to job protection and benefits continuation under section 850-J, protection against retaliatory personnel actions or other discrimination and other pertinent program information. An employer shall post the program notice in a prominent location in the workplace and notify its employees of the program, in writing and by e-mail, upon hiring and when the employer acquires knowledge that an employee's leave may be for a qualifying reason under section 850-D. The bureau shall provide the information required by this section in a manner that is culturally competent and linguistically appropriate and shall provide program notices in any language requested by an employer in compliance with this section. The program

notice must be posted in English and any other language that is the primary language of at least 3% of employees of that workplace.

§850-M. Appeals

1. System for review and determination of claims. The director shall establish a system for administrative review and determination of claims for family and medical leave insurance benefits.

2. Appeal. An aggrieved individual may file an appeal from any determination of that individual's claim for family and medical leave insurance benefits with the bureau within 60 days of receiving notice of the determination.

3. Judicial review. Following receipt of the bureau's final determination on appeal, an aggrieved individual may seek judicial review under Title 5, section 11001.

§850-N. Erroneous payments and disqualification for benefits

1. False statement or misrepresentation. A covered individual is disqualified from family and medical leave insurance benefits for one year if the individual is determined by the director to have willfully made a false statement or misrepresentation regarding a material fact, or willfully failed to report a material fact, to obtain benefits under this subchapter.

2. Repayment of benefits. If family and medical leave insurance benefits are paid erroneously or as a result of willful misrepresentation, or if a claim for family and medical leave insurance benefits is rejected after benefits are paid, the bureau may seek repayment of benefits from the recipient. The director shall exercise discretion to waive, in whole or in part, the amount of any such payments if the recovery would be against equity and good conscience.

§850-O. Elective coverage

1. Self-employed person. A self-employed person, including an independent contractor, sole proprietor, partner or joint venturer, may elect coverage under this subchapter for an initial period of not less than 3 years. The self-employed person must file a notice of election in writing with the director, as required by the bureau. The election becomes effective on the date of filing the notice. As a condition of election, the self-employed person must agree to supply any information concerning wages that the bureau considers necessary.

2. Withdrawal from coverage. A self-employed person who has elected coverage may withdraw from coverage within 30 days after the end of the 3-year period of coverage, or at such other times as the director may prescribe by rule, by filing written notice with the director. A withdrawal may not take effect sooner than 30 days after filing the notice.

3. Tribal government. A tribal government may elect to be covered under this subchapter, or to terminate coverage, in the same manner as provided in subsections 1 and 2, subject to such procedures as the bureau may require by rule.

4. Person no longer self-employed. A person who has elected coverage under this section and is no longer a self-employed person must be excused from that person's obligations under this section, as the bureau prescribes by rule.

§850-P. Reimbursement of advance payments

1. Reimbursement by fund. Except as provided in subsection 2, if an employer has made advance payments to an employee that are equal to or greater than the amount required under this subchapter, during any period of paid family and medical leave for which the employee is entitled to the benefits provided by this subchapter, the employer is entitled to be reimbursed by the fund out of any benefits due or to become due for the paid family and medical leave, if the claim for reimbursement is filed with the fund prior to the fund's payment of the benefits to the employee.

2. Private plan. If an employer that provides family and medical leave insurance benefits through a private plan approved pursuant to section 850-V makes advance payments to an employee that are equal to or greater than the amount required under this subchapter, during any period of paid family and medical leave for which the employee is entitled to the benefits provided by this subchapter, the entity that issued the private plan shall reimburse the employer out of any benefits due or to become due for the paid family and medical leave, if the claim for reimbursement is filed with the entity that issued the private plan prior to the private plan's payment of the benefits under the private plan to the employee.

3. Process for reimbursement. The director by rule shall establish a process for reimbursement of advance payments made under this section.

§850-Q. Rules

1. Bureau to adopt rules. The bureau shall adopt rules to implement this subchapter. Rules adopted pursuant to this subchapter are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

2. Initial rules. Initial rules necessary for implementation of this subchapter must be adopted by the director by January 1, 2025.

§850-R. Income tax

1. Notice. If the United States Internal Revenue Service determines that family and medical leave insurance benefits under this subchapter are subject to federal income tax, the bureau or the entity administering a private plan approved under section 850-V shall inform an individual filing a new claim for family and medical leave insurance benefits, at the time of filing the claim, that:

A. The United States Internal Revenue Service has determined that benefits are subject to federal income tax; and

B. Requirements exist pertaining to estimated tax payments.

2. Benefits not subject to state income tax. Benefits received pursuant to this subchapter are not subject to state income tax.

3. Rules. The director, in consultation with the Department of Administrative and Financial Services, Bureau of Revenue Services, shall adopt rules regarding tax treatment and related procedures regarding family and medical leave insurance benefits and the sharing of necessary information between the bureau and the Bureau of Revenue Services.

§850-S. Family and Medical Leave Insurance Fund; establishment, investment and use

The Family and Medical Leave Insurance Fund is established within the bureau to facilitate the implementation of this subchapter. The fund must be used for the repayment of bonds issued pursuant to Title 30-A, section 6006-I, including associated financing and administrative costs, ancillary obligations and the funding and replenishment of debt service reserves, to provide benefits to covered individuals and to pay the start-up, administrative and enforcement costs of the bureau incurred pursuant to this subchapter. The fund is a special, dedicated, nonlapsing fund, and any interest generated by the fund is credited to the fund. The bureau shall administer the fund. The bureau shall deposit into the fund premiums paid pursuant to section 850-G, fines and penalties collected under this subchapter and amounts transferred from the Maine Municipal Bond Bank following issuance of revenue bonds in accordance with Title 30-A, section 6006-I. The bureau is authorized to facilitate the placement of a lien on an amount in the fund or an account of the fund to secure bonds issued in accordance with Title 30-A, section 6006-I and any associated ancillary obligations. The bureau may establish separate accounts within the fund. The bureau may seek and accept gifts, grants and donations, including program-related investments and community reinvestment funds, to finance the costs of establishing and implementing the program.

During the period in which bonds issued in accordance with Title 30-A, section 6006-I are outstanding, money in the fund must be held and applied to the payment of bonds issued by the Maine Municipal Bond Bank pursuant to Title 30-A, section 6006-I, referred to in this section as "the bonds," and any ancillary obligations secured by the fund as the bonds and ancillary obligations become due and payable and for the retirement of the bonds, including costs of administering the fund, the bonds and the ancillary obligations and the payment of any redemption premium required to be paid when the bonds are redeemed or retired before maturity or for the payment of ancillary obligations. The bureau in consultation with the Maine Municipal Bond Bank shall determine the amount of money in the fund in excess of the current need to pay principal, interest, reserves and costs of the bonds and ancillary obligations as determined in accordance with the bond resolution pursuant to which the bonds were issued. After paying the amount required for current repayment of principal, interest and costs of the bonds, reserves and ancillary obligations, the balance must be available to the bureau to pay program costs and benefits pursuant to this subchapter. The amount, timing and frequency of transfers from the fund to the Maine Municipal Bond Bank for repayment of revenue bonds and related costs must be in accordance with the bond resolution pursuant to which the bonds were issued. Immediately upon retirement of all outstanding bonds and ancillary obligations secured by the fund, all funds within the fund at that time and all funds received by the fund thereafter are available to the bureau for the purposes set forth in this subchapter, and may not be transferred, encumbered or removed for any other purpose. Notwithstanding any provision of law to the contrary, the Treasurer of State, the State Controller, the Commissioner of Labor and the Maine Municipal Bond Bank shall cooperate to ensure the efficient management and transfer of funds to advance the purposes of this section, including the establishment of separate accounts as necessary to implement the provisions of this section.

Money in the fund may be used only to repay revenue bonds issued pursuant to Title 30-A, section 6006-I and any associated financing and administrative costs including ancillary obligations and the funding and replenishment of debt service reserves; to reimburse employers who pay family and medical leave insurance benefits directly to employees in accordance with section 850-P, subsection 1; and to pay benefits under and

administer the program pursuant to this subchapter, including technology costs and outreach services developed under section 850-U.

§850-T. Reports

Beginning in 2027, the bureau shall submit a report by February 1st of each year to the joint standing committee of the Legislature having jurisdiction over labor matters that includes, but is not limited to, projected and actual program participation under each category in section 850-D, subsection 2, genders of beneficiaries, average weekly wage of beneficiaries, other demographics of beneficiaries as determined by the bureau, premium rates, current and projected fund balances, outreach efforts and, for leaves taken under section 850-D, subsection 2, paragraph B, family members for whom leave was taken to provide care.

§850-U. Public education

By January 1, 2025, and for as long as the program continues, the bureau shall develop and implement outreach services to educate the public about the family and medical leave insurance program and availability of paid family and medical leave and benefits under this subchapter for covered individuals via a variety of outlets, such as print media and social media. The bureau shall provide the information required by this section in a manner that is culturally competent and linguistically appropriate and in any language that is the primary language of at least 1% of all residents of the State. The bureau may, on its own or through a contract with an outside vendor, use a portion of the money in the fund to develop, implement and administer outreach services.

§850-V. Substitution of private plans

1. Application for approval of private plan. An employer may apply to the bureau for approval to meet its obligations under this subchapter through a private plan. In order to be approved, a private plan must confer all of the same rights, protections and benefits provided to employees under this subchapter, including, but not limited to:

- A. Allowing paid family and medical leave to be taken for all purposes specified in section 850-D, subsection 2;
- B. Providing family and medical leave insurance benefits to a covered individual for the maximum number of weeks required in section 850-E, subsection 1 in a benefit year;
- C. Allowing paid family and medical leave under section 850-D, subsection 2, paragraph B to be taken to care for any family member;
- D. Allowing paid family and medical leave under section 850-D, subsection 2, paragraph C to be taken by a covered individual with any serious health condition;
- E. Allowing paid family and medical leave under section 850-D, subsection 2, paragraph E to be taken for any safe leave purposes;
- F. Providing a wage replacement rate for all family and medical leave insurance benefits of at least the amount required by section 850-F, subsection 1, paragraph A;
- G. Providing a maximum weekly benefit for all family and medical leave insurance benefits of at least the amount specified in section 850-F, subsection 1, paragraph B;

H. Allowing a covered individual to take intermittent leave as authorized by section 850-E, subsection 3;

I. Imposing no additional conditions or restrictions on family and medical leave insurance benefits, or on paid family and medical leave taken in connection with those benefits, beyond those explicitly authorized by this subchapter or rules adopted pursuant to this subchapter;

J. Allowing any employee covered under the private plan who is eligible for family and medical leave insurance benefits under this subchapter to receive benefits and take paid family and medical leave under the private plan; and

K. Providing that the cost to employees covered by a private plan may not be greater than the cost charged to employees under section 850-G.

2. Additional requirements. In order to be approved as meeting an employer's obligations under this subchapter, a private plan must also comply with the following provisions:

A. If the private plan is in the form of self-insurance, the employer must furnish a bond to the State with a surety company authorized to transact business in the State, in the form, amount and manner required by the bureau;

B. The plan must provide coverage for all employees of the employer throughout their period of employment with that employer; and

C. If the plan is in the form of a 3rd party that provides for insurance, the forms of the policy must be issued by an insurer approved by the State.

3. Withdrawal of approval. The bureau shall withdraw approval for a private plan granted under subsection 1 when terms or conditions of the plan have been violated. Causes for plan termination include, but are not limited to, the following:

A. Failure to pay benefits;

B. Failure to pay benefits timely and in a manner consistent with this subchapter;

C. Failure to maintain an adequate surety bond under subsection 2, paragraph A;

D. Misuse of private plan money;

E. Failure to submit reports or comply with other requirements as required by the director by rule; or

F. Failure to comply with this subchapter or the rules adopted pursuant to this subchapter.

4. Rights retained. An employee covered by a private plan approved under this section retains all applicable rights under section 850-J.

5. Appeal. A contested determination or denial of family and medical leave insurance benefits by a private plan is subject to appeal before the bureau and any court of competent jurisdiction as provided by section 850-M.

6. Violations. Employers and entities offering private plans that violate this section are subject to a fine of \$100 per violation. The director shall transfer any fines collected pursuant to this subsection to the fund. The director by rule shall establish a process for the assessment and appeal of fines under this subsection.

7. Cost of administration. The director shall annually determine the total amount expended by the bureau for costs arising out of the administration of private plans. An entity offering a private plan pursuant to this section shall reimburse the bureau for the costs arising out of the private plan in the amount, form and manner determined by the director by rule. The director shall transfer payments received pursuant to this subsection to the fund.

Sec. 3. 30-A MRSA §6006-I is enacted to read:

§6006-I. Paid Family and Medical Leave Start-up Trust Fund

1. Establishment; purposes. The Paid Family and Medical Leave Start-up Trust Fund, referred to in this section as "the start-up fund," is established in the custody of the bank to provide initial capital for the family and medical leave insurance program established by Title 26, chapter 7, subchapter 6-C. The purpose of the start-up fund is to provide a fund to finance costs incurred in the establishment and initial operation of the family and medical leave insurance program, including costs of initial staffing, procurement of technology and administrative systems, professional assistance, education and outreach and such other costs that the Department of Labor, Bureau of Labor Standards determines may be necessary to advance the purposes set forth in Title 26, chapter 7, subchapter 6-C.

2. Administration. The bank shall administer the start-up fund. The start-up fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The start-up fund must be established and held separate from any other funds or money of the State or the bank and used and administered exclusively for the purposes of this section. The start-up fund consists of the following:

A. The proceeds of notes or bonds issued by the State for the purpose of deposit in the start-up fund;

B. The proceeds of notes or bonds issued by the bank for the purpose of deposit in the start-up fund;

C. Sums that are transferred to the start-up fund from time to time by the Department of Labor, Bureau of Labor Standards pursuant to Title 26, section 850-S for the purposes of retiring or repaying paid family and medical leave revenue bonds and any associated financing and administrative costs including ancillary obligations and the funding and replenishment of debt service reserves; and

D. Other revenues or funds including:

(1) Grants and awards made to the State or an instrumentality of the State for any of the purposes for which the start-up fund has been established, if so permitted by the terms of such grants or awards. These amounts must be paid directly into the start-up fund without need for appropriation by the State;

(2) Interest earned from the investment of start-up fund balances;

(3) Private gifts, bequests and donations made to the State for any of the purposes for which the start-up fund has been established; and

(4) Other funds from any public or private source received for use for any of the purposes for which the start-up fund has been established.

When issuing bonds or notes and administering the start-up fund, the bank is authorized to consult with financial advisors and implement such financing structures it finds may be useful and appropriate for furthering the purposes of this section, including but not limited to partial capital appreciation bonds, deferred interest bonds, bond anticipation notes, a debt service reserve fund, memorandums of agreement, resolutions, indentures and other financial structures and instruments.

3. Uses. The start-up fund may be used only for the following purposes:

A. Repayment and retirement of bonds issued pursuant to this section and any associated financing and administrative costs including ancillary obligations and the funding and replenishment of debt service reserves;

B. At the request of the Department of Labor, Bureau of Labor Standards, transfer funds to the Family and Medical Leave Insurance Fund established by Title 26, section 850-S to fund start-up costs of the family and medical leave insurance program;

C. To invest available start-up fund balances and to credit the net interest income on those balances to the start-up fund; and

D. To pay the costs of the bank and any fees associated with issuing, financing and retiring the bonds and the bank's costs to administer the start-up fund.

For purposes of this section, "ancillary obligations" has the same meaning as in Title 26, section 850-B, subsection 2 and "start-up cost" has the same meaning as in Title 26, section 850-B, subsection 21.

4. Bond terms; authorized levels. Bonds issued pursuant to this section may not have terms of more than 20 years. The aggregate principal amount of bonds issued pursuant to this section may not exceed \$50,000,000 except that paid family and medical leave revenue bonds may be issued to refund previously issued paid family and medical leave revenue bonds if the issuance of those refunding bonds results in net present value savings and those refunding bonds have a final maturity date that is not later than the date that is 20 years after the date of issuance of the paid family and medical leave revenue bonds being refunded. The bank is authorized to determine the bonds' payment schedule and other terms and provisions to facilitate their creditworthiness.

5. Issuance amount. The bank shall consult with the Department of Labor, Bureau of Labor Standards in order to determine the amount of bonds to be issued by the bank and the timing of one or more issuances as required to provide funding for the start-up costs set forth in subsection 1, subject to the maximum authorized level set forth in subsection 4 and considering the revenue projected to be received pursuant to Title 26, section 850-G.

6. Pledge. When carrying out the purposes of this section, the bank is authorized to pledge the payroll premium revenue required by Title 26, section 850-G and with the full cooperation of other state officials to make that revenue available for the purpose of securing revenue bonds as set forth in this section.

7. Not pledge of faith and credit of State; not debt or liability of State. Bonds issued pursuant to this section are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any debt or liability on behalf of the State or constitute a pledge of the faith and credit of the State. All paid family and medical leave revenue bonds issued by the bank, unless funded or refunded by bonds of the bank, are payable solely from revenues or funds pledged or available for their payment as

authorized in this section. Each bond must contain on its face a statement to the effect that the bank is obligated to pay the principal, interest and redemption premium, if any, solely from the revenues pledged for those purposes and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal, interest or redemption premium, if any, on bonds issued pursuant to this section.

8. Bond proceeds. Except as may otherwise be provided under the indenture of trust or resolution of the bank authorizing the bonds, the net proceeds from any sale of bonds must be deposited into the start-up fund. The bank may retain capitalized interest and debt service reserve funds within a dedicated account.

9. Agreements with financial institutions. The bank may enter into an ancillary obligation or other agreement or contract with a commercial bank, trust company or banking or other financial institution within or outside the State that is necessary, desirable or convenient in the opinion of the bank to provide any services to the bank to assist the bank in effectuating the purposes of this section. The bank may enter into, amend or terminate any ancillary obligation or other agreement as the bank determines to be necessary or appropriate. The ancillary obligation or other agreement may include, without limitation, contracts commonly known as interest rate swap agreements, forward purchase contracts or guaranteed investment contracts and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts may be entered into by the bank in connection with or incidental to entering into or maintaining any agreement that secures bonds issued under this section or any investment or contract providing for investment of reserves or similar facility guaranteeing an investment rate for a period of years not to exceed the underlying terms of the bonds. The determination by the bank that an ancillary obligation or other agreement or the amendment or termination of an ancillary obligation or other agreement is necessary or appropriate as provided in this section is conclusive. An ancillary obligation or other agreement may contain provisions regarding payment, security, default, remedy, termination and payments and other terms and conditions as determined by the bank, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and to any other criteria as may be appropriate.

A bond or any ancillary obligation or other agreement made pursuant to this subsection may contain a recital that it is issued or executed, respectively, pursuant to this section. The recital is conclusive evidence of the validity of the bond or ancillary obligation or other agreement and of the regularity of the proceedings relating to them.

10. Remedies of holders of bonds. If the bank defaults in the payment of principal of or interest on any issue of bonds after the principal and interest become due, whether at maturity or upon call for redemption or otherwise, and that default continues for a period of 30 days, or if the bank fails or refuses to comply with this section or defaults in an agreement made with the holders of an issue of bonds under this section, the holders of 25% in aggregate principal amount of bonds then outstanding, by instrument or instruments filed in the office of the clerk of courts of Kennebec County and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders. The trustee, in the trustee's own name, by mandamus or other suit, action or proceeding at law or in equity, shall enforce all rights of the bondholders or holders of the ancillary obligations or other agreements and require the bank to carry out any other agreements with the bondholders or holders of such ancillary obligations or other

agreements and to perform the bank's duties required under this section, as long as the bonds are limited revenue obligations. Payments of the principal, redemption premium, if any, and interest on the bonds must be made solely from amounts transferred to the fund pursuant to Title 26, section 850-S or as otherwise authorized by this section.

11. Constitutional finding. The Legislature or the people acting in their legislative capacity find that the issuance of revenue bonds set forth in this section and the use of proceeds from those bonds do not violate the terms of the Constitution of Maine, Article V, Part Third or any other provision of the Constitution of Maine.

12. Taxability. The bank shall determine the rate or rates at which the bonds issued pursuant to this section bear interest and whether such interest is intended to be includable in or excludable from the gross income of the bond owners for federal and state income tax purposes pursuant to the United States Internal Revenue Code of 1986, as amended.

13. Establishment of accounts. The bank may establish accounts and subaccounts within the start-up fund as it determines desirable to effectuate the purposes of this section.

14. Coordination. Notwithstanding any provision of law to the contrary, the Treasurer of State, the State Controller and other agencies and officials of the State shall coordinate and assist with the execution of the provisions of this section and enter into any memorandums of agreement or employ mechanisms as needed to ensure the fulfillment of the purposes of the Paid Family and Medical Leave Insurance Act.

SUMMARY

This initiated bill enacts the Paid Family and Medical Leave Insurance Act. It provides that beginning July 1, 2026, an individual has the right to take paid family and medical leave and to receive family and medical leave insurance benefits while taking paid family and medical leave if the individual is a covered individual and is caring for a child during the first year after the birth, adoption or placement through foster care of that child; is caring for a family member with a serious health condition; has a serious health condition; has a need for qualifying exigency leave because of the fact that a family member is on active duty in the armed forces or has been notified of an impending call or order to active duty; or has a need for safe leave. "Safe leave" is defined as any leave taken because the covered individual or the covered individual's family member is a victim of violence, assault, sexual assault, stalking or any act that would support an order for protection from abuse.

The maximum number of weeks for which a covered individual may take paid family and medical leave and for which family and medical leave insurance benefits are payable for any particular qualifying need in a benefit year is 12 weeks. The maximum number of weeks in the aggregate for which a covered individual may take paid family and medical leave and for which family and medical leave insurance benefits are payable in a benefit year is 16 weeks.

The weekly family and medical leave insurance benefit is calculated as the portion of the covered individual's average weekly wage that is equal to or less than 50% of the state average weekly wage replaced at a rate of 90% and the portion of the covered individual's average weekly wage that is more than 50% of the state average weekly wage replaced at a rate of 65%. The maximum weekly benefit is the state average weekly wage, except that for paid family and medical leave beginning before July 1, 2027, the maximum weekly benefit is \$1,000.

The Paid Family and Medical Leave Insurance Act is administered by the Department of Labor, Bureau of Labor Standards. The Family and Medical Leave Insurance Fund is established to facilitate the implementation of the Act. Payroll premiums are used to finance the payment of family and medical leave insurance benefits and administrative costs. From July 1, 2025 through December 31, 2027, the premium amount is 0.86% of wages per employee. Annually, for the 2028 calendar year and each calendar year thereafter, not later than October 1st, the Director of the Bureau of Labor Standards is required to set the premium for the coming calendar year based on a percentage of employee wages and at the rate necessary to obtain a total amount of premium contributions equal to 135% of the benefits paid during the previous fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the previous fiscal year, less the amount of net assets remaining in the fund as of June 30th. Premiums are not required for employees' wages above the contribution and benefit base limit established annually by the federal Social Security Administration for purposes of the federal Old-Age, Survivors, and Disability Insurance program. An employer with 15 or more employees may deduct up to 50% of the premium required for an employee from that employee's wages and must remit 100% of the premium to the fund. An employer with fewer than 15 employees may deduct up to 50% of the premium required for an employee from that employee's wages and must remit 50% of the premium to the fund. A self-employed person may elect coverage for paid family and medical leave. A self-employed person who elects coverage must pay only 50% of the premium required for an employee on that person's income from self-employment.