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Final Report of the Committee to Study the Benefits and Costs For Increasing Access to Family and Medical Leave

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Executive Summary

Family and medical leave laws exist in most states as well as in federal law. The laws provide job protection for a worker who takes leave from a job because of the worker's serious illness, the serious illness of a family member, or the birth or adoption of a child. The laws preserve the worker's job so that he or she can return to that job or a comparable one when the leave ends, but do not require the employer to pay the employee while he or she is on leave.

A report issued by the United States Department of Labor in 1996 indicated that a large number of Americans who needed family or medical leave said that they did not take a leave because they could not afford to do so without being paid. This report, as well as concerns about the changing demographics of workers and research on the importance of early interactions between parents and babies, have led to proposals in many states to provide for income to employees during family or medical leave.

The Maine Legislature created the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave by Joint Order on June 21st, 2001. The Joint Order called for appointment of a 15-member committee, including legislators and a state labor department official, as well as representatives of public and private employers, labor, parents, child care organizations, senior citizens, women's groups and low-income advocacy organizations. One member appointed to represent a large business was not able to attend meetings and resigned her position early in the study process.

The Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families convened in September of 2001 to begin considering the costs and benefits of providing for paid leave in Maine and the various ways in which that income might be provided. The committee reviewed the history of the Maine family and medical leave law, took testimony from employees and employers regarding their experience with the law, reviewed available information on use of family and medical leave and the availability of paid leave in Maine, and reviewed proposals and cost estimates for paid leave being considered in states.

The committee concluded that it needs more information on the costs and benefits of paid leave, as well as needing methodologies and expertise for estimating the costs and benefits before it can make a substantive recommendation on the issue of paid leave. At its last meeting, the committee made the following finding and recommendations.

Finding

> **The committee finds that the lack of adequate data on the costs and benefits of paid family and medical leave in Maine prevents the committee from making a recommendation at this time regarding paid family and medical leave. However, the committee also finds that further study of the issue is merited.**

Recommendation

> **The committee recommends that the current study group be allowed to continue its work in the 2002 interim. Although the committee may need to be recreated through a legislative Resolve, the current membership should be reappointed so that it may carry forward the knowledge gained during this interim.**
>
> **The committee also recommends that it meet once early in the legislative session to discuss information that may be gathered and projects that might be undertaken by others before the committee reconvenes in the spring.**

During the course of its study, the committee sought to understand the costs and benefits of paid family and medical leave. The committee received a significant amount of national data regarding the utilization of family and medical leave and the availability of paid leave. Although this national data has been used in many other states to estimate the cost of various paid leave proposals, the committee believed that additional Maine-specific information was also needed to ensure that the analysis was relevant to Maine. In addition to Maine-specific data, the committee needs the assistance of an expert in economic analysis to understand the significance of the data and to formulate realistic cost-benefit analyses.

Reconvening the committee in the 2002 interim will enable the committee to take advantage of work being carried out by other states and interest groups, which are developing models for analyzing information on costs and benefits of paid leave. The committee is interested in finding out more about estimating costs as well as finding ways to estimate the impact of paid leave on employee retention and productivity, future child development costs, future medical care and nursing home costs, and public assistance costs.

In addition to identifying sources of additional data and expertise, the committee discussed its desire to begin the next phase of its study by developing a set of principles to guide it in determining its course of examination. After developing principles, the committee expects to divide into subcommittees to work. Members emphasized that they remain open to all ideas and that they would enter the next phase of study with no preconceived notions of the outcome.

Since data gathering can be a time-consuming process, and the committee is seeking assistance from other groups to gather the data during the legislative session, the committee anticipates holding an informal meeting early in the session, probably January, to discuss what data is needed and who might gather the data.

I. INTRODUCTION

A. Creation of the Study

The Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave was created by Joint Order of the 120th Maine Legislature, on June 21st, 2001.

The Joint Order called for appointment of a 15-member committee, including legislators and a state labor department official, as well as representatives of public and private employers, labor, parents, child care organizations, senior citizens, women's groups and low-income advocacy organizations. One member appointed to represent a large business was not able to attend meetings and resigned her position early in the study process.

The study was originally proposed as a Resolve in Legislative Document 1466 (LD 1466). The Joint Standing Committee on Labor held a public hearing on LD 1466, approved it with a divided vote, and sent it to the House of Representatives. There, the LD was set aside and the study language, as modified by the committee, was placed into a Joint Order (House Paper 1386, or HP 1386) and passed by the House and the Senate.

A copy of House Paper 1386 is included as Appendix A. A membership list, including the interests represented by each member, is included as Appendix B.

B. The Study Process

The study committee was convened for the first time on September 12th, 2001. Subsequent meetings were held on October 3rd, October 29th and November 19th. The committee reviewed the history of the Maine family and medical leave law, took testimony from employees and employers regarding their experience with the law, reviewed available information on use of family and medical leave and the availability of paid leave in Maine, and reviewed proposals and cost estimates for paid leave being considered in states.

The committee also took testimony from Lissa Bell, of the National Partnership for Women and Families, an organization that advocates for paid family and medical leave. Ms. Bell reviewed activities in other states and suggested people and organizations that might provide assistance to the committee in estimating costs and benefits. In its final meeting, the committee endorsed a recommendation that it be allowed to continue its study after the 2002 legislative session ends.

II. BACKGROUND

A. The Maine and Federal Family and Medical Leave Laws

Family and medical leave laws in Maine and nationally share many common elements. They enable workers to take time off from their jobs when the worker or a family member is seriously ill and when the worker has or adopts a child. The laws preserve the worker's job so that he or she can return to that job or a comparable one when the leave ends and enable the worker to continue receiving benefits such as health insurance.[1] The employer is not required to pay the worker while he or she is on leave.

Maine's FMLA was enacted in 1988, and took effect August 4th, 1988.[2] The 1988 law provided up to 8 consecutive weeks of leave in a 2-year period for employees of the state, local governments and businesses that had 25 or more employees at one work location. Leave could be taken for birth of the employee's child; placement of a child up to 16 years old in connection with adoption; or for serious illness of the employee or a child, spouse or parent of the employee. The law was enacted with an automatic repeal date of July 1, 1990, which was removed in 1990 to enable the law to continue with unlimited duration.

In later years, the law was amended to increase the number of weeks of leave permitted from 8 weeks to 10 weeks in a 2-year period[3] and to lower the threshold for employers subject to the law from 25 employees at a work location to 15.[4] The description of permissible medical leave was also changed from requiring a "serious illness" of the employee or a family member to requiring a "serious health condition," which covers a broader category of circumstances and is consistent with the federal family and medical leave law.[5]

The federal FMLA was enacted in 1993,[6] several years after Maine and many other states passed similar state laws. The federal law differs from Maine law in several respects: only employers with 50 or more employees at one work location are covered, and the law provides for up to 12 weeks in any year. If an employer is covered by both laws, the employer must comply with both laws. Charts summarizing the legislative history of the Maine law and comparing the key provisions of the Maine and federal laws are included as Appendices C and D, respectively.

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[1] Employees may be required, under state law, to pay the cost of the benefit. Federal law requires that the benefit be continued under the same conditions as prior to the leave.
[2] Public Law 1987, chapter 661
[3] Public Law 1991, chapter 277
[4] Public Law 1997, chapter 515
[5] Public Law 1997, chapter 546
[6] PL 103-3

B. Impetus for Paid Family and Medical Leave

Proposals to provide some form of income for persons on family and medical leave have been made in more than half of the states in recent years. Advocates in Maine and nationally cite a number of reasons for the upsurge in proposals.

First, a report issued by the United States Department of Labor indicated that a large number of Americans who needed family or medical leave could not take it because the leave was unpaid and they could not afford to do without an income during the leave. The report included the results of surveys of employers and employees conducted in 1999 and 2000. The surveys found that, while 23.8 million employees (16.5% of all employees) took leave for a reason covered by FMLA during an 18-month period, an additional 3.5 million Americans, or 2.4% of employees, needed leave but did not take it.[7] Of those employees who reported not taking leave, 77% said they did not take leave because they could not afford to.[8] This results in 1.8% of employees or approximately 2.7 million employees directly impacted by the lack of paid leave. Of particular concern is the finding that this number is slightly higher than the number of people who could not afford leave in 1996, when an initial survey was performed.

Second, changing demographics indicate an increasing need for leave. More and more women -- the traditional family caretakers -- are in the paid workforce. Nearly 3 in 4 women with school-aged children work in the paid labor force.[9] In addition, the aging of the American population, coupled with an impending crisis in nursing care workers, means that more and more employees will be needing leave to care for parents. And unlike an employee's own illness or maternity-related disability, which may be covered by paid sick leave or disability benefits, leave to care for a parent is unlikely to be covered by existing employee benefit packages. Statistics already reveal an increase in leave to care for parents: in its 2000 survey, the U.S. Department of Labor survey indicated that 2.4% of female employees and 1.4% of male employees took their longest leave to care for an ill parent, up from 1.8% of female employees and 0.8% of male employees in the 1996 survey.[10] According to Lissa Bell, of the National Partnership for Women and Families, nearly 2/3 of employees expect to give elder care in the upcoming decade.

Finally, recent social science research on early childhood development is showing that the development of a child's brain and the child's ability to learn and develop later in life, occurs earlier in life than was previously thought. This research indicates the importance of quality

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[7] Balancing the Needs of Families and Employers: Family and Medical Leave Surveys; 2000 Update, A report submitted by Westat, funded by the United States Department of Labor, 2001. Table 2.14, page 2-14. This information covers all employees, not just those covered by, or eligible for, federal FMLA.
[8] Supra note 7, Table 2.17, page 2-16.
[9] Lissa Bell, National Partnership for Women and Families
[10] Supra note 7, Table A2-2.8 and A2-2.9, pages A-2-7 and A-2-9

> "Decision makers at all levels of goverment, as well as l as leaders from the business community, should ensure that better public and private policies provide parents with viable choices about how to allocate responsibility for child care during the early years if their children's lives. During infancy, there is a pressing need to strike a better balance between options that support parents to care for their infants at home and those that provide quality, affordable child care that enables them to work or go to school. This calls for expanding coverage of the FMLA to all working parents [and] pursuing the complex issue of income protection …" Executive Summary, p. 8[12]

The State of Minnesota has begun developing more choices by shifting some of its child care subsidy money to a program called "At-Home-Infant-Care" which provides subsidies to income-eligible parents who care for their children at home during the first year of life rather than placing them in child care settings.[13]

C. Currently Available Paid Leave -- Nationally

No state currently requires employers to pay for all family and medical leave. Many employees on FMLA leave are entitled to pay from one or more of a variety of sources provided voluntarily by employers, through collective bargaining agreements and in some cases as required by law: paid sick leave, vacation leave, and individual or employer-funded disability policies.

While there is no law requiring employers to offer paid sick leave, some states require employers to provide temporary disability insurance, either through a state program or by the purchase of insurance in the private market.[14] Some states require that an employer allow an employee to use any sick leave he or she has to take care of sick children.[15]

In the 2000 survey, the U.S. Department of Labor reported that 65.8% of employees had received at least some pay during their longest leave.[16] The greatest percentage (61.4%) received pay through sick leave, followed by vacation leave (39.4%), personal leave (25.7%), parental leave (7.7%), temporary disability insurance (18%), and other (11.4%).[17]

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[11] See From Neurons to Neighborhoods: The Science of Early Childhood Development. The Institute of Medicine. The National Academy Press. 2000.
[12] Ibid. Executive Summary, p.8
[13] The At-Home Infant Care Program (Minn. Stat. 119B061) provides subsidies to families at or below 75% of the state median income to care for a child at home for up to 12 months.
[14] New York, California, New Jersey, Rhode Island, Hawaii and Puerto Rico have temporary disability insurance programs or require employers to provide such insurance.
[15] California, Minnesota and Washington, according to National Partnership for Women and Families
[16] Supra note 7, Table 4.4, page 4-5
[17] Supra note 7, Table 4.5, page 4-6

D. Use of FMLA in Maine and Current Opportunities for Paid Leave

Maine-specific data on the use of family and medical leave and the provision of income during leave do not exist. To enable the committee to get a sense of the situation in Maine, the committee collected anecdotal information from employers and employees, and reviewed information from the Maine Department of Labor and the Maine Center for Economic Policy, in an attempt to understand who currently takes family and medical leave, who receives pay, and who does not.

1. Employer Testimony

The study committee received testimony from representatives of 5 Maine employers:

- Anne Marsh of UNUMProvident, a disability insurance company with over 3600 employees in Maine;
- John Babb of J&S Oil, a chain of retail gasoline stations with approximately 150 employees;
- Cathy McKeown of Northeast Health, a health services group that includes a hospital, nursing homes, and home health care and physician practices, and has 1300 employees in the State;
- Elaine Gallant of Employment Specialists of Maine, which provides staff for community rehabilitation programs, and has fewer than 100 employees; and
- Simone Engelhart of Cianbro, a Maine construction company.

Anne Marsh, of UNUMProvident, did not provide numbers of how many employees take officially-designated FMLA leave. However, she did explain that the company provides a number of benefits that can be used to provide income during an employee's leave for FMLA purposes. The compan - time-off" which is a block of time that employees may take for any purpose, including vacation or any FMLA purpose. The amount of time depends on length of service, and ranges from 17 to 30 days. Employees may donate paid-time-off to another employee with extraordinary needs. The company also offers a short-term disability benefit, which provides up to 100% of an employee's wage and is often used for maternity-related disability. Approximately 76% of leaves from UNUMProvident are covered by short-term disability, according to Ms. Marsh. She believes that elder care will be a growing cause for leave in the future, since many UNUMProvident employees are from Maine, and have parents living in Maine who will be seeking care.

John Babb, of J&S Oil, explained that a large percentage of his workforce is entry level and paid on an hourly basis. The company offers paid sick leave and vacation, but no short-term disability. He estimated that more than half the leaves taken under FMLA are for maternity. Mr. Babb believes that FMLA has not been

a positive factor in his workplace. The procedures are confusing and the company has incurred additional costs to hire a staff person to help with FMLA and other governmental regulations. Prior to passage of FMLA, Mr. Babb says that the company accommodated employee needs on an ad hoc basis, and that seemed to work well.

Cathy McKeown of Northeast Health testified that FMLA is not a burden for her company. Close to 90% of employees on FMLA leave are placed in Northeast Health's self-administered and self-funded short-term disability benefits program. The problem with a statute providing pay for employees on FMLA leaves would be confusion over what source of funds would be the primary payor.

Elaine Gallant of Employment Specialists of Maine says that her company can often provide alternative work schedules so that employees can continue to work and still meet family care responsibilities. The company provides sick leave to employees, but also makes benefit programs available to employees, which they can fund with pre-tax dollars. For example, employees can purchase short-term disability coverage, with a cost that varies depending on the person's current income, how long they want to be covered, and for what percent of pay. Ms. Gallant says that it is advantageous for her company to hold positions open for staff to return after an FMLA leave because they often devote substantial resources to train staff to be qualified to fill their positions and it makes more sense to have that staff person return than to train another person to fill the position.

Cianbro is a major construction company in the state. An injured or ill employee may qualify for the company's self-funded and self-administered medical leave program, according to Simone Engelhart, a representative of the company. They may also purchase a short-term disability policy, funded partly by the company and partly by the employee. Cianbro also offers flexible schedules, which enables employees to meet family responsibilities while continuing to receive income.

2. Maine Department of Labor Survey of Benefits

The Maine Department of Labor conducted a survey of employers in the State in September of 2000 to determine what benefits are typically offered to employees.[18] The survey found that 61.6 % of private employers offer paid sick leave to their full-time employees and 30.9% offer such benefits to part-time employees. Most offer less than 5 days per year.

Just over half of employers (51.1%) offer short-term disability to their full-time employees, although only 22.9% offer short-term disability to part-time employees.

[18] A summary of results from the survey is included as Appendix E.

Twenty-nine percent of employers said they offered paid maternity/paternity leave to full-time employees, and another 10% said they offered paid family leave beyond the FMLA leave.

3. Maine Center for Economic Policy Survey

The Maine Center for Economic Policy is a private, non-profit organization formed in 1994 that provides policy-makers with information, analysis and solutions for economic and fiscal challenges affecting Maine. As part of a program on livable wages and family support, the center conducted a survey of welfare recipients to get a sense of how people are managing since welfare reform. The study committee invited Lisa Pohlmann, Associate Director of the Center, to present information from the survey that might shed light on the availability of paid FMLA leave among lower-income workers.

Ms. Pohlmann reported that the Center is still working on analyzing the data gleaned from the survey, but that she could give some preliminary results. Fifty-eight percent of those surveyed were working for pay. Of those, 38% received some amount of paid sick leave, although among those who worked fewer than 35 hours a week, the portion was only 16%. Less than half of those who are covered by the Family and Medical Leave Act (46%) had paid sick leave. Almost all of those in the survey (96%) were women, and almost all (92%) had a child under the age of 18 living with them.

Ms. Pohlmann explained that the Center hopes to have completed its review of the survey by the end of this year.

4. Employees

Bath Iron Works union representative Kevin Perry explained to the committee that non-salaried BIW employees do not get paid family leave, although salaried employees apparently do. Employees are eligible for compensated time off, which combines sick leave and vacation leave. The union provides accident and sickness insurance for employees, paid partly by BIW and partly by the union. In addition, the union raises money through raffles and has a fund that can help pay bills in some situations. However, these programs are not guarantees for employees and are not uniformly available.

Committee members reported experiences of other employees who were not able to attend the meeting. One employee whose 14-year-old daughter had bone cancer was not able to take leave because she was the family's breadwinner. Although she tried to work out part-time hours, she was unable to do so and had to leave her job altogether. Another woman submitted written testimony explaining that she was badly injured in a car accident. Her income was not available to the family and her husband could not stay at home to take care of her

without having some sort of income. She coped by staying in bed all day without care and by imposing on relatives who did not want to take care of her. With some form of income, her husband could have taken care of her.

E. Options for Providing Paid Benefits

A number of options for providing paid leave have been explored in Maine and in other states. They include the following.

1. Extend unemployment compensation benefits to new parents

Recently-adopted federal regulations[19] allow states to use the unemployment compensation system to provide benefits to parents of newborns or newly-adopted children. The unemployment insurance program, or "UI" is a joint federal-state program funded through employer taxes. At least 15 states have considered using the unemployment compensation system for this purpose, but so far, none have chosen to do so.

Under a "Baby UI" program, as it is often called, any employee who is otherwise eligible for unemployment compensation[20] may receive benefits while away from work to care for a child within the first year after birth or adoption. States have flexibility in determining the amount and duration of the benefit. An employee's leave is not guaranteed under a "Baby UI" program the employer must agree to the leave - and there is no job protection component.

Laura Boyett, Director of Maine's UI program and a member of the study committee, pointed out some misconceptions about the program. Many states have assumed that the UI system could be used to fund any type of FMLA leave. But the federal regulation is limited to birth or adoption of a child, and any attempt to use the system for other purposes can have dire consequences. A UI system that is not in conformity with federal law risks losing federal funds to administer a state UI program -- Maine's administrative grant was $14.3 million in 2000. In addition, state employers may lose their ability to credit the taxes they paid to the federal government for the UI program, resulting in a possible loss of more than $200 million of credits for Maine employers. The U.S. Department of Labor has made it clear to states that they may piggyback additional benefit programs onto the administrative structure of the UI system, but they must fund the cost of benefits and administration of those separate programs from a source other than UI taxes.

The federal government will evaluate the "Baby UI" program after at least 4 states have at least 3 years of experience with it. The program was adopted with the

[19] 20 CFR Part 604 (2001)

[20] There are several eligibility criteria, found in Maine in 26 MRSA §1041 et. seq. For example, an employee must have earned a certain amount of money within a "benefit year"

goal of testing whether enabling parents to have time with their newborns or newly adopted children by providing partial wage replacement would promote long-term attachment to the workforce.

In addition, the regulations allowing Baby UI programs have been challenged in court by the U.S. Chamber of Commerce, 2 small employers and 2 other interest groups. They allege that the regulations violate procedural and substantive federal laws, including the Administrative Procedures Act and the Federal Unemployment Tax Act. A court decision on the challenge had not yet been reached at the time this report was prepared.

2. Require Temporary Disability Insurance programs

Five states and Puerto Rico require employers to provide temporary disability coverage. Temporary Disability Insurance (TDI) programs provide partial wage replacement for employees with non-work-related injuries or illnesses (workers' compensation would cover work-related injuries and illnesses). In 3 of the states, employers may elect to participate in a state-run program or to purchase private insurance or to self-insure with programs that meet state standards. In Rhode Island, all employers must participate in the state program. In Hawaii, there is no state program and all insurance is purchased on the private market or is self-insured. Most programs require an employee contribution as well as an employer contribution toward the cost of coverage.

The benefit amount and duration of benefits varies among the states. The most common duration is 26 weeks, after a 7-day waiting period. Benefit amounts range from 50% to 85% of average weekly wages.

Six states considered proposals in 2001 to create temporary disability insurance programs or to extend existing programs to FMLA leaves other than an employee's own illness or injury.

3. Use General Fund Dollars for Benefits or for Tax Credits for Employers who Provide Benefits

Four states in 2001 considered using General Fund money to provide income during FMLA leave.

Two states currently have General Fund programs that provide income when parents stay home to care for newborn children. Minnesota's "At-Home-Infant-Care" program provides subsidies for low-income parents to stay at home with children during the first year of life. The state of Missouri has a similar program. Both are funded with a portion of the money that the State sets aside for child care subsidies to low-income parents.

A General Fund program could be designed in a variety of ways, with several options for eligibility, duration, amount of benefits, etc. Rather than providing benefits directly to employees, the State could also provide tax incentives for employers to provide benefits to employees on leave. Two states – Hawaii and Missouri – considered providing tax credits to employers who provide for paid leave for maternity or all purposes.

F. Estimating Costs and Benefits

1. Estimating Costs

Several states have prepared estimates of the cost of providing paid FMLA leave for one or more of the types of leaves allowed under the law (i.e., birth or adoption of a child, family illness or the employee's illness). They range from $.11 per week per covered worker to $1.45 per week per covered worker, depending primarily on who is covered, the type of leave covered, the duration of leave and the amount of the benefit. [21]

Generally, estimates are prepared by taking the following steps:

1. Determine the number of eligible employees (e.g., all employees eligible for unemployment compensation; all employees who work for FMLA-covered employers; all employees both UI-eligible and FMLA-covered)

2. Multiple the number of eligible employees by the rate at which they take leave for reasons covered by the proposed program;

3. Eliminate the portion of leave-takers who are already being paid while on that type of leave;

4. Add the percent of people who did not take leave because they couldn't afford to go without pay, but who said that they would take leave if it was paid;

5. If there is a waiting period (e.g. 7 days), eliminate the portion of leaves that do not extend beyond the waiting period; and

6. Multiply the number of leaves by the benefit amount by the expected average duration of leave.

While the steps seem fairly simple, there are a number of factors that make an accurate estimate difficult. Most of the data on rates and duration of leave-taking are national numbers. At least one estimate, prepared as part of the Master's

[21] See Appendix G for charts summarizing the results of cost estimates prepared for other states. The data in those summaries has not been evaluated by the study committee.

Degree program at the Kennedy School of Government at Harvard University, adjusted national figures by state-specific demographics and experience to more accurately reflect the likely usage and cost of a benefit program in the state of New Hampshire.[22] Also, states that have existing Temporary Disability Insurance programs, such as New Jersey, can and do use their experience in those programs to adjust national figures.

The wealth of national data is a starting point for preparing cost estimates, and methodologies are developing for predicting cost estimates. Preparing an accurate cost estimate for a Maine proposal will require, first, that the details of a program be proposed, that available information be collected and analyzed, and that gaps in available information be filled.

2. Estimating Benefits

Measuring the benefits of providing paid family and medical leave is more difficult than measuring the cost to provide paid leave, since many of the benefits are intangible and are not immediate. Benefits that are predicted include the following.

(a) Increased employee retention

Lissa Bell from the National Partnership for Women and Families addressed the study committee at its October 29th meeting. Ms. Bell cited national surveys reporting that over 4 in 5 employers say that the benefits from FMLA outweigh or offset the costs, with the primary cost savings coming from decreased turnover costs such as training costs. Some companies are tracking cost savings resulting from increased employee retention – Aetna Insurance Company, for example, found that when they implemented paid maternity leave, their retention rate increased from 77% to 88%. Other companies may help provide evidence of the impacts. Ms Bell suggested that the committee collect information from other companies that are tracking the results of work-life benefits, as well as keeping in touch with the Institute for Women's Policy Research, which is developing methodologies for estimating benefits of paid FMLA.

(b) Lowered rates of children with developmental problems

As described in Section B of this background section, recent research shows the importance of brain development in babies and the importance of early relationships. One way to improve child development may be to enable more parents to have some time at home with babies, rather than placing them in child care settings.

[22] The Campaign for Family Leave Income: New Hampshire's efforts to Make Family and Medical Leave More Affordable. Prepared by Julie Kashen for the National Partnership for Women and Families. July 12, 2000.

(c) Decreased public assistance expenditures

Employees who are not paid by their employers while they are on family or medical leave may turn to public assistance programs to tide them over during the leave. National figures indicate that nearly 9% of employees who were not fully paid by their employers while on leave did rely on public assistance.[23] Judy Williams, Director of the Bureau of Family Independence at the Maine Department of Human Services, provided the committee with a brief outline of the types of public assistance for which such employees may be eligible. A chart outlining the key public assistance programs, the cost of such programs to various levels of government, and the key eligibility criteria for each is included as Appendix H. The committee reviewed some examples of employees on leave, and the benefits for which they may be eligible, but did not perform a comprehensive review of such costs or discuss whether it was more appropriate for employers to provide benefits.

(d) Decreased health and nursing home costs

Advocates of paid leave suggest that employees without paid leave benefits may defer medical treatment for a medical problem until it becomes a major health issue, resulting in higher medical costs. In addition, they suggest that providing income during leave so that an employee can care for an ill, elderly parent at home rather than placing the parent in a nursing home would benefit the parent and the employee as well as saving nursing home costs. Facilitating care of the elderly at home may also alleviate the strain on resources that is predicted to occur as a result of shortages of nursing home staff and a growing elderly population.

[23] Supra note 7, Table 4.8, page 4-9.

III. RECOMMENDATIONS

Finding

> **The committee finds that the lack of adequate data on the costs and benefits of paid family and medical leave in Maine prevents the committee from making a recommendation at this time regarding paid family and medical leave. However, the committee also finds that further study of the issue is merited.**

Recommendation

> **The committee recommends that the current study group be allowed to continue its work in the 2002 interim. Although the committee may need to be recreated through a legislative Resolve, the current membership should be reappointed so that it may carry forward the knowledge gained during this interim.**
>
> **The committee also recommends that it meet once early in the legislative session to discuss information that may be gathered and projects that might be undertaken by others before the committee reconvenes in the spring.**

During the course of its study, the committee sought to understand the costs and benefits of paid family and medical leave. The committee received a significant amount of national data regarding the utilization of family and medical leave and the availability of paid leave. Although this national data has been used in many other states to estimate the cost of various paid leave proposals, the committee felt that additional Maine-specific information was also needed to ensure that the analysis was relevant to Maine. In addition to Maine-specific data, the committee needs the assistance of an expert in economic analysis to understand the significance of the data and to formulate realistic cost-benefit analyses.

Reconvening the committee in the 2002 interim will enable the committee to take advantage of work being carried out by other states and interest groups, which are developing models for analyzing information on costs and benefits of paid leave. The committee is interested in finding out more about estimating costs as well as finding ways to estimate the impact of paid leave on employee retention and productivity, future child development costs, future medical care and nursing home costs, and public assistance costs. Proposed legislation to recreate the study committee is included as Appendix I.

In addition to identifying sources of additional data and expertise, the committee discussed its desire to begin the next phase of its study by developing a set of principles to guide it in determining its course of examination. After developing principles, the committee expects to divide into subcommittees to work. Members emphasized that they remain open to all ideas and that they would enter the next phase of study with no preconceived notions of the outcome.

Since data gathering can be a time-consuming process, and the committee is seeking assistance from other groups to gather the data during the legislative session, the committee anticipates

holding an informal meeting early in the session, probably January, to discuss what data is needed and who might gather the data.

APPENDIX A

Authorizing Document (House Paper 1386)

H.P. 1386

JOINT STUDY ORDER ESTABLISHING THE COMMITTEE TO STUDY THE BENEFITS AND COSTS FOR INCREASING ACCESS TO FAMILY AND MEDICAL LEAVE FOR MAINE FAMILIES

WHEREAS, employees in Maine experience family and medical challenges that impose stress on the employee and the employee's family; and

WHEREAS, stress on the employee and employee's family generates the potential for difficulties in the workplace, to the detriment of the employee and the employer; and

WHEREAS, family and medical leave programs have impacts on employers; and

WHEREAS, information is needed regarding the potential benefits and costs of providing paid medical leave; now, therefore, be it

ORDERED, the Senate concurring, that the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families is established as follows.

1. Committee established. The Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families, referred to in this order as the "committee," is established.

2. Committee membership. The committee consists of 15 members:

A. Seven members appointed by the President of the Senate as follows:

(1) One Senator;

(2) One representative of employers in the health care industry;

(3) One representative of employers in the insurance industry;

(4) One representative of municipal employers; and

(5) Three members representing labor, women's groups and senior citizens;

B. Six members appointed by the Speaker of the House of Representatives as follows:

(1) One member of the House of Representatives;

(2) One representative from the low-income advocacy field;

(3) One representative of a child care organization;

(4) One parent or educator; and

(5) Two members of the business community, one representing a large business and one representing a small business; and

C. The President of the Maine State Chamber of Commerce or the president's designee.

The Commissioner of Labor or the commissioner's designee is requested to participate as a member of the committee.

The Senator and the member of the House of Representatives may not be members of the same political party.

3. Chairs. The Senate member is the Senate chair of the committee and the House of Representatives member is the House chair of the committee.

4. Appointments; meetings. All appointments must be made no later than 30 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once the appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee no later than August 15, 2001.

5. Duties. The committee shall study the benefits and costs of providing family and medical leave benefits.

A. In conducting the study, the committee shall examine:

(1) The expected number of employees who would use paid family and medical leave;

(2) The percentage of family and medical leaves of absence that employers currently fund in full or in part;

(3) The impact of implementing a state program of paid family and medical leave on these employer policies;

(4) The impact of providing paid family and medical leave on other state-funded programs, including temporary assistance for needy families, unemployment compensation and Medicaid payments to nursing homes;

(5) The public health costs of not providing paid family and medical leave, including the frequency and cost of deferring medical treatment and the impact on infant care;

(6) The impact on employers of providing paid family and medical leave, including the impact on overall employment, retention, recruitment and training costs and productivity; and

(7) The feasibility of providing paid family and medical leave through existing systems, such as unemployment compensation, or through alternative systems, such as a state temporary disability insurance program or a family and medical leave insurance fund.

B. In examining the issues set out in paragraph A, the committee may hold up to 4 meetings. At those meetings, the committee may:

(1) Hold informational sessions for discussions with knowledgeable persons;

(2) Conduct, summarize and analyze the results of a literature search;

(3) Procure and analyze relevant data;

(4) Conduct legal research and prepare opinions on legal questions within the scope of the study; and

(5) Determine and summarize the legislative actions or governmental programs undertaken in other jurisdictions related to issues within the scope of the study.

6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. Members of the committee who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and

reimbursement for necessary expenses incurred for their attendance at authorized meetings of the committee. Other members of the committee are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings of the committee only if sufficient outside funds are received for this purpose in accordance with section 9 of this order.

8. Report. The committee shall submit its report, together with any necessary implementing legislation, to the Second Regular Session of the 120th Legislature no later than December 5, 2001. If the committee requires a limited extension of time to conclude its work, it may apply to the Legislative Council, which may grant the extension.

9. Budget; grants. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council shall promptly provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds. The chairs of the committee may seek and accept grants and other outside funding on behalf of the committee. Prompt notice of solicitation and acceptance of such funds must be sent to the Legislative Council. All funds accepted must be forwarded to the executive director, along with an accounting that includes amount, date received, from whom, purpose and limitation on use of the funds. The executive director administers any funds received.

Passed by the House of Representatives June 21, 2001 and the Senate June 21, 2001.

APPENDIX B

List of Members

COMMITTEE TO STUDY THE BENEFITS AND COST FOR INCREASING ACCESS TO FAMILY AND MEDICAL LEAVE FOR MAINE FAMILIES

Joint Order, H.P. 1386

As Of Wednesday, August 29, 2001

Appointment(s) by the President

Sen. Betheda G. Edmonds 122 Hunter Road Freeport, ME. 04032 (207)-865-3869	**Chair**	Senate Member
David Brenerman UNUM Provident / Government Relations 2211 Congress Street, P318 Portland, ME 04122-0545		Representing Employers in the Insurance Industry
Paul Camp 38 N. Main Street Orono, ME 04468		Representing Senior Citizens
Joseph Derouche 9 Kimball Street Mexico, Maine 04257		Representing Municipal Employers
Laura A. Fortman 10 Oyster Creek Lane Nobleboro, ME 04555		Representing Women's Groups
Mary Mayhew Maine Hospital Association 150 Augusta, ME 04330		Representing Employers in Health Care Industry
Ned McCann 340 Water Street, Apt. #2 Hallowell, ME 04347 (207)-622-3531		Representing Labor

Appointment(s) by the Speaker

Rep. Gerald M. Davis 15 Hamlin Road Falmouth, ME 04105 (207)-797-5309	**Chair**	House Member
Ms. Lu Bauer PO Box 457 Windham, ME 04062		Representing Small Business
Connie LaPointe Brennan People's Heritage Bank P.O. Box 9540 Portland, ME 04112 (207)-828-7544		Representing Large Business
Christine Hastedt Maine Equal Justice Project P.O. Box 5347 Augusta, ME 04332 (207)-626-7058		Representing Low-income Advocates

Ms. Elizabeth Mahoney
9 Longmeadow Road
Cumberland, ME 04110

Representing Parents

Ms. Patti Wooley
KVCAP
101 Water Street
Waterville, ME 04901

Representing Child Care Organizations

Commissioner of Dept. of Labor or Designee

Laura Boyett
Director of the Bureau of Unemployment
54 State House Station
Augusta, ME 04333-0054
(207)-287-2316

President, Maine State Chamber of Commerce

Peter Gore
Maine State Chamber of Commerce
7 University Drive
Augusta, Maine 04330

Representing the Maine State Chamber of Commerce

Staff: Deb Friedman, OPLA, 287-1670

APPENDIX C

Legislative History of the Maine Family and Medical Leave Act

Maine's Family and Medical Leave Act

Title 26, Maine Revised Statutes, Chapter 7, Subchapter VI-A

Enacted in 1988 by Public Law 1987, Chapter 661 and amended by Chapter 861
Effective August 4, 1988

The Act granted up to 8 consecutive weeks of leave in a 2-year period for employees of:

- The state
- A city, town or municipal agency that has 25 or more employees
- A business entity that has 25 or more employees at one location

(A person employed at a permanent work site with fewer than 25 employees is not eligible)

The Act entitled the person to restoration to the same or a comparable position at the end of the leave and required the employer to "make it possible" to continue employee benefits at the employee's expense. Leave may be unpaid.

Permissible reasons for taking leave were:

- Birth of the employee's child
- Placement of a child 16 or younger in connection with adoption
- Serious illness of the employee or serious illness of a child, parent or spouse
  (serious illness is defined as an accident, disease or condition that (a) poses imminent danger of death, (b) requires hospitalization involving an organ transplant, limb amputation or other procedure of similar severity, or (c) requires constant in-home care (mental or physical condition).

The Act contained a provision requiring the Committee on Labor to review the Act before March 15, 1990 and a provision repealing the law on July 1, 1990, unless legislation was introduced to continue the Act.

Amended in 1990 to delete the July 1, 1990 repeal date *(PL 1989, chapter 738)*

Amended in 1991 to extend the period of leave from 8 weeks to10 weeks; to allow the employer and employee to negotiate for employer payment of benefit expenses during the leave; and to allow certification to be provided by accredited practitioners of religious treatment. *(PL 1991, chapter 277)*

Amended in 1997 to change the permissible reasons for taking leave relating to "serious illness"; changed the term from serious illness to "serious health condition." "Serious health condition is defined as an "illness, injury, impairment or physical or mental condition that involves (a) inpatient case in a hospital, hospice or residential medical care facility; or (b) continuing treatment by a health care provider". This definition is the same as the federal FMLA. *(PL 1997, chapter 546)*

Amended in 1997 to lower the threshold for non-governmental employers covered by the Act from those with 25 or more employees at one location to those with 15 or more employees at one location. *(PL 1997 chapter 515; also errors bill PL 1999, chapter 127, section D-2.)*

APPENDIX D

Comparison of Maine and Federal Family and Medical Leave Acts

Comparison of Major Provisions of the Maine and Federal Family and Medical Leave Laws

ISSUE	FEDERAL LAW	MAINE LAW
Employers covered	Employers of 50 or more, if they have or had had employees working each work-day for at least 20 calendar work-weeks in the current or proceeding calendar year	Private employers with 15 or more employees at one location; state government; local governments with 25 or more employees
Employees eligible	Employed by that employer at least 12 months and worked more than 1,250 hours in the last 12 months	Employed by that employer at least 12 months
Reason for leave	Serious health condition that makes the employee unable to perform job functions; serious health condition of the employee's spouse, child or parent; birth of child or adoption of a child under 18 years of age or disabled	Serious health condition of employee or employee's spouse, child or parent; birth of child or adoption of child under 16
"Serious health condition"	Means an illness, injury, impairment, or physical or mental condition that involves in-patient care in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider	Means an illness, injury, impairment, or physical or mental condition involving in-patient care in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider
Amount of leave	12 weeks total during any 12 month period	Up to 10 consecutive weeks in any 2 year period
Intermittent Leave or Reduced Hours	Allowed for serious health condition when medically necessary; not permitted for birth or adoption unless employer agrees	Unclear; law calls for consecutive weeks
Substitution of paid leave	Employee may elect or the employer may require accrued paid leave to be substituted in accordance with employer's leave plan	Paid leave to be substituted in accordance with employer's leave plan
Leave requests	Must be made at least 30 days in advance or as soon as practicable, if the need for leave was foreseeable	Must be made at least 30 days in advance, unless prevented by medical emergency
Reinstatement rights	Must be restored to same or equivalent position in all terms and conditions	Similar provisions

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Prepared by the Office of Policy & Legal Analysis for the
Committee to Study the Benefits and Cost for Increasing Access to Family and Medical Leave for Maine Families
September 2001

Key employee exception to reinstatement rights	Exempt salaried employees if among the highest 10% by pay	No specific provision
ISSUE	**FEDERAL LAW**	**MAINE LAW**
Maintenance of health benefits during leave	Health insurance must be continued under same conditions as prior to leave	Benefits may be continued at employee's expense; or at employer's expense if agreement so provides
Medical certification for leave	May be required by employer for leave due to serious medical condition. Employer may request second opinion by employer-selected health care provider and may require third opinion to resolve conflicts. Employer may require recertification.	May be required by employer for leave due to serious medical condition
Medical certification for return to work	May be required by employer to certify employee's fitness to return to work	No specific provision
Impact on collective bargaining agreements	Employer is obligated to comply with collective bargaining agreement providing greater rights. Collective bargaining agreement may not diminish rights provided by this law.	Similar provision
Prohibited acts	Employer may not interfere with exercise of rights under leave law. Employer may not discharge or discriminate against individual for opposing practice made unlawful by leave law or for filing charges, giving information or testifying in any inquiry related to a right provided under the leave law	Employer may not interfere with exercise of rights under the leave law. Employer may not discharge or otherwise discriminate against individual for opposing unlawful practices. Employer may not discharge, discipline or otherwise discriminate against an employee for exercising a right provided under this law
Enforcement	By U.S. Department of Labor or private action. In private action, may recover actual damages, liquidated damages, equitable relief and attorney fees	By private civil action. Relief may include equitable relief such as injunctions and liquidated damages of $100 per day

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APPENDIX E

Maine Department of Labor, Summary of Survey Results on Fringe Benefits Provided by Maine Employers

MAINE
DEPARTMENT OF
LABOR
Labor Market Information

Maine Fringe Benefit Study
Summary of Findings

Released July 2001

Dear Employer,

Thank you for participating in the ***Maine Fringe Benefit Study.*** This Summary of Findings has been prepared for interested participants like yourself who requested a complimentary copy of the survey results. We hope you'll find this report on fringe benefits offered by Maine employers both timely and useful.

To give you an overview, we mailed 1,943 surveys to private employers (reportable units) and local governments in September of 2000, of which 1,467 responses were returned (75.5%). Of these respondents, we were able to use 1,356 (69.8%). This summary version contains analysis for private employers only (1,215). From this group, 1,162 units reported having full-time employees and 892 units reported having part-time employees. The percentages shown here represent the number of employers with full-time employees (or part-time employees) who responded "Yes" to a particular question. Other figures shown represent an average of the data values provided.

In the coming months, we intend to produce a more detailed publication containing in-depth analysis of the results aggregated by the size class, major industry type, and geographic location of the employer. We'll send you an announcement when this becomes available.

Questions may be addressed to: Ms. Suzanne Thivierge, Maine Department of Labor, Labor Market Information Services, P.O. Box 259, Augusta, ME 04332-0259, (207) 287-5294 or suzanne.thivierge@state.me.us

Very truly yours,

Ray A Fongemie

Raynold A. Fongemie, Director
Labor Market Information Services

PRELIMINARY

Q-1	Number of employers reporting **full-time employees.** 1,162
Q-2	Number of employers reporting **part-time employees.** 892

Note: Full-time = 35 hours or more
Part-time = less than 35 hours

PAID LEAVE	FULL-TIME	PART-TIME
Q-3 Do you offer paid **holidays?**	Yes 86.8%	Yes 50.8%
Q-4 If yes, how many **days** do you offer per year?	Under 7 days 30.8% 7-9 days 36.3% 10-11 days 25.6% 12+ days 7.3%	Under 7 days 36.2% 7-9 days 27.2% 10-11 days 30.0% 12+ days 6.6%
Q-5 Do you offer **paid sick** leave?	Yes 61.6%	Yes 30.9%
Q-6 If yes, how many **paid sick days** do you offer per year?	Under 5 days 46.1% 6-9 days 30.9% 10-14 days 15.9% 14+ days 7.1%	Under 5 days 51.9% 6-9 days 27.6% 10-14 days 13.8% 14+ days 6.7%
Q-7 Can sick time **accumulate** from yr. to yr.?	Yes 26.9%	Yes 15.9%
Q-8 Do you offer **paid vacation** leave based on years of service?	Yes 83.2%	Yes 43.9%
Q-9 If yes, how many **paid vacation days** are provided after the completion of each of these years of service?	½ yr. 2.0 days 1st yr. 8.0 days 5th yr. 12.7 days 10th yr. 15.5 days 15th yr. 17.1 days 20th yr. 17.8 days 25th yr. 18.3 days 30th yr. 18.5 days	½ yr. 2.5 days 1st yr. 7.9 days 5th yr. 11.7 days 10th yr. 13.9 days 15th yr. 15.1 days 20th yr. 15.9 days 25th yr. 16.4 days 30th yr. 16.5 days
Q-10 If not based on years of service, how many **paid vacation days** do you offer?	11.4 days	10.4 days
Q-11 Can vacation time **accumulate** from yr. to yr.?	Yes 30.3%	Yes 20.7%
Q-12 Do you offer a **"cash-in-lieu-of-vacation"** option?	Yes 28.7%	Yes 15.5%
Q-13 Do you offer paid **funeral/bereavement** leave?	Yes 71.3%	Yes 44.2%
Q-14 Do you offer paid **jury duty** leave?	Yes 64.5%	Yes 45.5%
Q-15 Do you offer paid **military duty** leave?	Yes 37.0%	Yes 27.6%
Q-16 Do you offer paid **maternity/paternity** leave?	Yes 29.3%	Yes 19.3%
Q-17 Do you offer paid **family** leave? (beyond Family Medical Leave Act)	Yes 10.9%	Yes 6.6%
Q-18 Do you offer paid leave for **education/training?**	Yes 30.4%	Yes 17.6%

INSURANCE	FULL-TIME	PART-TIME
Q-19 Do you offer **health insurance** to employees?	Yes 85.2%	Yes 36.7 %
Q-20 If yes, what **percent** is paid for by the employer?	77.8%	68.8%
Q-21 Do you offer **dependent health insurance?**	Yes 76.6%	Yes 32.7%
Q-22 If yes, what **percent** is paid for by the employer?	67.6%	62.1%
Q-23 Do you offer a **dental** plan to employees?	Yes 54.7%	Yes 26.1%
Q-24 Do you offer an **eye care** plan to employees?	Yes 29.4%	Yes 13.1%
Q-25 Do you offer **short-term disability?**	Yes 51.1%	Yes 22.9%
Q-26 Do you offer **long-term disability?**	Yes 45.4%	Yes 21.1%
Q-27 Do you offer **"cafeteria style"** benefits where an employee selects from several options?	Yes 32.4%	Yes 20.3%
Q-28 Do you offer a **prescription drug** plan to employees?	Yes 70.7%	Yes 33.0%
Q-29 Do you offer **life insurance** to employees?	Yes 65.5%	Yes 29.9%

RETIREMENT	FULL-TIME	PART-TIME
Q-30 Do you offer a **retirement** plan to employees?	Yes 66.5%	Yes 45.4%
Q-31 If yes, what **type** is it?		
(Plan specifies employee's contributions)	Defined contribution 69.5%	Defined contribution 68.4%
(Plan has a formula to measure employee's benefits)	Defined Benefit 30.5%	Defined Benefit 31.6%
Q-32 If yes, who **pays** the contribution? (Please check all that apply.)	Employer paid 23.6% Employee paid 10.5% Shared 65.9%	Employer paid 24.9% Employee paid 9.7% Shared 65.4%

OTHER BENEFITS	FULL-TIME	PART-TIME
Q-33 Do you offer **flexible** work hours?	Yes 56.5%	Yes 64.8%
Q-34 Do you offer a **work-at-home (telecommuting)** option?	Yes 9.6%	Yes 8.7%
Q-35 Do you offer **employee discounts** (services/mdse)?	Yes 54.9%	Yes 55.3%
Q-36 Do you offer a **profit sharing** or **stock ownership** plan?	Yes 26.9%	Yes 20.4%
Q-37 Do you offer **incentive/production bonuses?**	Yes 42.4%	Yes 29.8%
Q-38 Do you offer a **recruitment** incentive?	Yes 26.8%	Yes 25.6%
Q-39 Do you offer **education/training** tuition reimbursement?	Yes 55.7%	Yes 34.9%
Q-40 If yes, **who** pays the cost?	Employer 57.3% Shared 42.7%	Employer 50.2% Shared 49.8%
Q-41 Do you offer **in-house** training?	Yes 84.8%	Yes 81.8%
Q-42 Do you offer **uniform/tool** allowances?	Yes 35.2%	Yes 27.5%
Q-43 Do you offer **child care** assistance?	Yes 6.5%	Yes 6.5%
Q-44 Do you have **on-site child care?**	Yes 2.3%	Yes 2.6%
Q-45 Do you pay for all or part of **wellness program** participation?	Yes 20.0%	Yes 16.7%
Q-46 Do you offer **on-site recreation** facilities?	Yes 9.4%	Yes 10.5%
Q-47 Do you offer an **employee assistance** program (e.g., counseling)?	Yes 33.4%	Yes 30.9%
Q-48 Do you have **shiftwork?**	Yes 37.1%	Yes 36.0%
Q-49 If yes, what is your shiftwork **differential** (premium)?		
Second shift	$.65	$.71
Third shift	$.95	$1.04
Q-50 Do you reimburse for **business expenses** (e.g., mileage, hotel, food)?	Yes 86.4%	Yes 74.8%
Q-51 Do you offer **relocation** assistance?	Yes 29.1%	Yes 13.5%
Q-52 Did you offer a **pay increase** in the last 12 months?	Yes 91.8%	Yes 86.7%
Q-53 If yes, what **type** of pay increase was it? (Please check all that apply.) (Note: Employer may have selected more than one)	Cost of living 35.4% Merit 69.7% Longevity 24.4%	Cost of living 33.6% Merit 68.0% Longevity 24.1%

Thank you!! Your contribution to this effort is greatly appreciated.

APPENDIX F

Highlights of the 2000 U.S. Department of Labor Report, National Partnership for Women and Families

National Partnership
for Women & Families

Highlights of the 2000 U.S. Department of Labor Report

Balancing the Needs of Families and Employers:
Family and Medical Leave Surveys

Edited by Nicole Casta
National Partnership for Women & Families

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Highlights of the 2000 U.S. Department of Labor Report

Balancing the Needs of Families and Employers: Family and Medical Leave Surveys

The following selected findings[†] were compiled and edited by Nicole Casta of the National Partnership for Women & Families from the U.S. Department of Labor report, *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys 2000 Update*.[1] These findings are based on two surveys: one representing all employees and one representing private-sector establishments. A glossary of terms can be found at the end of this document.

I. Usage

How Many People Have Taken Family and Medical Leave?

- More than 35 million employees have taken leave under the Family and Medical Leave Act (FMLA) since it was enacted in 1993.[2]

Why Do People Take Family and Medical Leave?

Reasons—

- 52% of leave-takers take time off to care for their own serious illness.
- 26% of leave-takers take time off to care for a new child or for maternity disability reasons.
- 13% of leave-takers take time off to care for a seriously ill parent.
- 12% of leave-takers take time off to care for a seriously ill child.
- 6% of leave-takers take time off to care for a seriously ill spouse.[3]

Reasons by Sex—

- Male Leave-Takers
  - 58% take time off to care for their own serious illness.
  - 23% take time off to care for a new child.
  - 11% take time off to care for a seriously ill parent.
  - 10% take time off to care for a seriously ill child.
  - 8% take time off to care for a seriously ill spouse.[4]
- Female Leave-Takers
  - 49% take time off to care for their own health conditions.
  - 29% take time off to care for a new child or for maternity disability reasons.
  - 15% take time off to care for a seriously ill parent.
  - 12% take time off to care for a seriously ill child.
  - 6% take time off to care for a seriously ill spouse.[5]

[†] Unless otherwise noted, findings reported here describe the behavior and opinions of all employees and of private-sector establishments during the 18-20 month survey period.

Who Takes Family and Medical Leave?

By Sex—

- 42% of leave-takers are men.
- 58% are women.

By Income—

- 27% of leave-takers earn less than $30,000.
- 51% of leave-takers earn between $30,000 and $74,999.
- 22% of leave-takers earn $75,000 or more.

For How Long Do People Take Family and Medical Leave?

- The median length of leave is 10 days.
- 80 percent of leaves are for 40 days or fewer.

II. Coverage and Eligibility

Under the FMLA, an employee is *eligible* if she or he has worked for an employer for at least 12 months; has worked for 1,250 hours over the 12 months before leave is needed; and works at a location with 50 or more employees within 75 miles. A *covered establishment* is a business at a particular location in which there are 50 or more employees within 75 miles.

How Many Private-Sector Establishments Are Covered Under the FMLA?

- 11% of private sector establishments are covered under the FMLA.

How Many Employees Work for Covered Establishments?

- 77% of employees work for covered establishments.[6]

Coverage by Sex—

- 50% of covered employees are male.
- 50% are female.

Coverage by Income—

- 29% of covered employees earn less than $30,000.
- 48% earn between $30,000 and $74,999.
- 23% earn $75,000 or more.

How Many Employees Are Eligible Under the FMLA?

- 62% of employees work for covered establishments and are eligible.

Coverage and Eligibility By Sex—

- 52% of covered and eligible employees are male.
- 48% are female.

Coverage and Eligibility By Income—

- 24% of covered and eligible employees earn less than $30,000.
- 51% earn between $30,000 and $74,999.
- 25% earn $75,000 or more.

How Many Establishments With 25-49 Employees Voluntarily Provide Family and Medical Leave?

- 60% of non-covered establishments with 25-49 employees provide leave for all FMLA reasons.

III. Incidence of Paid Leave versus Unpaid Leave

How Many People Receive Compensation During Leave Taken for Family and Medical Reasons?

(Note that the FMLA guarantees employees unpaid leave only.)

The following data refer to each respondent's *longest leave*.

- 34% of employees receive no pay at all.
- 66% of leave-takers receive some form of compensation, regardless of length or amount.
- Of the 66% who receive compensation,
  - 61% receive compensation from paid sick leave.
  - 39% receive compensation from paid vacation leave.
  - 26% receive compensation from paid personal leave.
  - 18% receive compensation from temporary disability insurance.
  - 11% receive compensation from other benefits.
  - 8% receive compensation from paid parental leave.[7]

How Does Compensation Affect a Person's Ability to Take Leave?

- During the period of the survey, 3.5 million people needed leave for family and medical reasons but were not able to take it.[8]
- 78% of those who needed leave but did not take it, did not take leave because they could not afford it.
- 9% of leave-takers receiving less than full pay during their longest leave have to go on public assistance to cover their lost wages.

IV. Support for Family and Medical Leave

How Do Employees Feel About Family and Medical Leave?

- 81% of employees agree that every worker should be able to have up to 12 weeks of unpaid leave per year for family and medical reasons.[9]

V. FMLA Rights and Responsibilities

How Well Do Employees Understand Their Rights to Family and Medical Leave?

- 62% of employees at covered establishments do not know if the FMLA applies to them.

How Well Do Employers Understand Their Responsibilities Under the FMLA?

- 16% of covered establishments do not know whether they are covered under the FMLA or mistakenly report that they are not covered when, in fact, they are.

VI. The Impact of Family and Medical Leave on Employers: Costs and Benefits

Costs—

Does the FMLA Have a Harmful Effect on Business Performance?

- In 84% of covered establishments, the FMLA has either no effect or has a positive effect on *productivity.*
- In 90% of covered establishments, the FMLA has either no effect or has a positive effect on *profitability.*
- In 90% of covered establishments, the FMLA has either no effect or has a positive effect on *growth.*

Is Administering the FMLA Costly to Employers?[10]

- 89% of covered establishments experience either no increase or only a small increase in *administrative costs* due to the FMLA.
- 89% of covered establishments experience either no increase or only a small increase in the *cost of continuing benefits* (e.g., health plans) during leave.
- 93% of covered establishments experience either no increase or only a small increase in *hiring and training costs.*

Is Intermittent Leave for Family and Medical Reasons a Problem for Employers?

- In 81% of covered establishments, intermittent family and medical leave has no effect on *productivity.*
- In 94% of covered establishments, intermittent family and medical leave has no effect on *profitability.*

Benefits—

Do Employees Return to Their Employer After Taking Leave for Family and Medical Reasons?

- 98% of covered and eligible employees return to work for the same employer after taking leave for family and medical reasons.

Does the FMLA Save Businesses Money?

- 8% of covered establishments experience cost savings due to the FMLA.
- 77% of those covered establishments experiencing cost savings cite decreased turnover as the reason for these savings.

What Impact Does the FMLA Have on Employee Morale?

- In 89% of covered establishments, the FMLA has a neutral or positive effect on employee morale.

VII. Costs: The Fears of Uncovered Employers Versus the Experience of Covered Employers

How Do the Anticipated Effects on Businesses of Complying with the FMLA Compare to the Actual Effects?

The fears of those establishments not covered by the FMLA are shown to be largely unfounded when compared with the experiences of those establishments already complying with the FMLA.

Effects of Complying With the FMLA on Business Productivity—

- 51% of non-covered establishments anticipate a negative effect.
- While only 16% of covered establishments experience a negative effect.

Effects of Complying With the FMLA on Business Profitability—

- 51% of non-covered establishments anticipate a negative effect.
- While only 10% of covered establishments experience a negative effect.

Effects of Complying With the FMLA on Employee Productivity—

- 40% of non-covered establishments anticipate a negative effect.
- While only 17% of covered establishments experience a negative effect.

Effects of Complying With the FMLA on Employee Morale—

- 24% of non-covered establishments anticipate a negative effect.
- While only 11% of covered establishments experience a negative effect.

Effects of Complying With the FMLA on Administrative Costs—

- 71% of non-covered establishments expect their administrative costs to increase.
- While 89% of covered establishments experience either no or only a small change in administrative costs.

Endnotes

[1] *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys 2000 Update*, conducted by Westat for the U.S. Department of Labor, Washington, DC, 2000, < http://www.dol.gov/dol/asp/public/fmla/main.htm>. This report is based on two surveys, one of employees and one of establishments. These surveys were conducted from July to mid-October of 2000 (Ch. 1, p.3).

The 2000 Survey of Employees was conducted with a sample of individuals aged 18 or older in U.S. households who had been employed since January 1, 1999 (a period of between 18 and 20 months, depending on when the interview occurred). The sample was drawn from the universe of all known U.S. households with telephones. The sample frame represented all employees that had a telephone. It included individuals employed in both the public and private sectors (Ch. 1, p. 4).

The 2000 Survey of Establishments surveyed private business establishments. It excluded government and quasi-governmental organizations (e.g., schools and post offices). For purposes of the sample, an "establishment" was defined as the business located at a particular address or location. Data were collected with respect to this location, even if the employer had other locations. The human resources director or the person responsible for the company's benefits plan was selected to be the respondent for each establishment (Ch. 1, p.4).

[2] This constitutes 27% of all civilian employees in the U.S., according to calculations by the National Partnership for Women & Families. (The percentage was derived based on the average number of civilian employees in the years 1993-2000. Data on number of civilian employees from the "Employment Level Civilian Labor Force," Series ID: LFU11000000, from the *Labor Force Statistics from the Current Population Survey*, Bureau of Labor Statistics, Washington, DC, Accessed on April 10, 2001, <www.bls.gov>. The 1993 date was used as the beginning date because the FMLA was enacted in that year.

[3] These total more than 100% because some people took more than one leave during the survey period.

[4] These total more than 100% because some people took more than one leave during the survey period.

[5] These total more than 100% because some people took more than one leave during the survey period.

[6] This number is from Table A2-3.1 and is based on employee responses. Table 3.1 provides a different number for the percent of employees at FMLA-covered establishments. The numbers in Table 3.1 are based on the responses of establishments rather than employee responses.

[7] These total more than 100% because some respondents receive compensation from more than one source.

[8] The interviews for the *Survey of Employees* began in July and ended in mid-October of 2000. Respondents were asked about the period of time from January 1, 1999 through the time of their interview—a period of 18 to 20 months depending on when the interview occurred (C-20 and Section A of the Employee Survey).

[9] The U.S. Department of Labor's *2000 Survey of Employees* shows strong support for unpaid leave for all workers. Other surveys have shown strong support not only for leave but for compensation during leave. Eighty-nine percent of parents of young children and eighty-four percent of all adults support expanding disability or unemployment insurance as a vehicle for paid family leave (*What Grown-Ups Understand About Child Development: A National Benchmark Survey*, conducted by DYG, Inc., for Civitas, the Brio Corporation and Zero to Three: The National Center for Infants, Toddlers and Families, Washington, DC, October 2000, <http://www.zerotothree.org/fullreport.pdf>). Seventy-nine percent of working women and men aged 18-34 support expanding FMLA to cover more employees and eighty-two percent support expanding the FMLA to provide paid leave (*High Hopes, Little Trust: A Survey of Young Workers and Their Ups and Downs in the New Economy*, conducted by Peter D. Hart Research Associates for the AFL-CIO, Washington, DC, September 1999, < http://www.aflcio.org/articles/high_hopes>).

[10] The Families and Work Institute asked a similar question in their *1998 Business Work-Life Study*. They found that, for eighty-four percent of employers, the benefits of providing leave offset or outweigh the costs. Of that eighty four percent, forty-two percent of employers experience a positive return from providing leave and forty-two percent find providing leave to be cost-neutral. Only seventeen percent experience a negative return (total exceeds 100% due to rounding) (*1998 Business Work-Life Study*, The Families and Work Institute, New York, NY, <https://swww.igc.apc.org/fwi/pubs/worklife.html>).

Glossary

This glossary provides definitions used by the authors of *Balancing the Needs of Families and Employers.*

Covered Establishment: An establishment that "employ[s] 50 or more employees [who have worked] for at least 20 workweeks in the current or preceding calendar year at one or more worksites within 75 miles" (Ch. 3, p. 1). [Editor's Note: The authors survey only private sector establishments.]

***Eligible Employee*:** "An employee is eligible if he or she: works for a covered employer; has worked for that employer for at least 12 months; has worked for at 1,250 hours over the 12 months before leave is needed; and works at a location with 50 or more employees within 75 miles" (Ch. 3, p. 1).

Employer: (See: *Establishment.*) [Editor's Note: The report's authors use employer and establishment interchangeably in this report.]

Establishment: An establishment is "a business located at a particular address or location" (Ch. 1, p. 4).

Family and Medical Leave Act (FMLA): "An Act that provides covered and eligible workers with up to 12 weeks of job-protected, unpaid leave so they can care for a seriously ill child, spouse or parent; stay home to care for their newborn, newly adopted or newly placed child; or take time off when they [themselves] are seriously ill" (p. viii).

FMLA: (See: *Family and Medical Leave Act.*)

FMLA Leave: Leave taken under the FMLA. "To take such a leave, an employee must not only take leave for a[n] FMLA-qualifying reason, but must also work for a covered employer and meet certain eligibility requirements" (Ch. 3, p. 1).

Intermittent Leave: To take intermittent leave is "to alternate between use of leave and being at work" (Ch. 2, p. 10).

Leave for Family and Medical Reasons: "Leave for a reason that is covered by the FMLA, regardless of [an employee's] eligibility for the law or whether their employer is covered by the provisions of the Act" (Ch. 2, p. 1).

Leave-Needer: "Employees who reported needing leave for a reason covered under the FMLA yet [who] were unable to take this leave" (Ch. 2, p. 13). [Editor's Note: It appears that "Leave-Needers" include all employees, not just those who work for a covered establishment and are eligible under the FMLA.]

Leave-Taker: "All employees who took leave for a reason that is covered by the Family and Medical Leave Act, regardless of their eligibility for the law or whether their employer is covered by the provisions of the Act" (Ch. 2, p. 1).

Longest Leave: [Editor's Note: The report's authors do not define this term. Editor's Definition: Some employees took multiple leaves and leaves of varying lengths during the survey period. The Authors use the term "longest leave" when presenting data about the longest leave that an employee took during the survey period.]

Personal Leave: [Editor's Note: The report's authors do not define this term. Editor's Definition: Personal leave is paid leave granted to employees that can be used at the employee's discretion.]

Temporary Disability Insurance (TDI): [Editor's Note: The report's authors do not define this term. Editor's Definition: Temporary Disability Insurance provides an employee time off with pay for an illness or injury not incurred on the job.]

APPENDIX G

Cost Estimates of Paid Leave Programs in other States

National Partnership
for Women & Families

SUMMARY CHARTS:

ESTIMATED COSTS OF EXPANDING STATE UNEMPLOYMENT INSURANCE (UI) OR TEMPORARY DISABILITY INSURANCE (TDI) PROGRAMS TO COVER PERIODS OF FAMILY AND MEDICAL LEAVE

Since its enactment in 1993, the Family and Medical Leave Act (FMLA) has enabled more than 24 million Americans to take up to 12 weeks of unpaid, job-protected leave to care for their new babies and sick family members, and to recover from their own serious health conditions. Yet too many working people cannot afford to take the unpaid leave the law provides. Innovative proposals being considered in a number of states would provide some form of income during temporary periods of leave so that workers could afford to take time off when their families need them most.

A number of recent studies estimate the costs of such proposals. Some studies base their assumptions on current legislative proposals, while other studies create their assumptions and methodology from scratch. The variation in methodological assumptions and eligibility requirements, in any case, has produced a wide range of final estimates. The purpose of the following charts is to summarize those studies in a format that permits cross-state comparison. Chart 1 summarizes cost estimates for adding family and / or medical leave coverage to states' current TDI or UI systems. Chart 2 summarizes studies that have estimated the costs of expanding UI systems in Massachusetts, Vermont, and Washington. And Chart 3 summarizes studies that have estimated the costs of expanding TDI systems in California, New Jersey and New York. Note that dollar figures are not adjusted for inflation.

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Chart 1: Summary: Cost Estimates for Adding Family / Medical Leave Coverage to State Unemployment Insurance or Temporary Disability Insurance Systems

State	Insurance System	Estimated Average Additional Weekly Cost Per Covered Worker	New Coverage
Massachusetts	UI	$ 1.25	· Care for newborn or newly adopted children · Care for ill parents, children, or spouses · Care for own serious medical condition
Vermont	UI	$ 0.56 - .63	· Care for newborn or newly adopted children · Care for ill parents, children, or spouses · Care for own serious medical condition
Washington	UI	$ 0.11	· Care for newborn or newly adopted children
		$ 0.20	· Care for newborn or newly adopted children · Care for ill parents, children, or spouses · Care for own serious medical condition
California	TDI	$ 1.45	· Care for newborn or newly adopted children · Care for ill parents, children, or spouses
New Jersey	TDI	$ 0.85-.89	· Care for newborn or newly adopted children · Care for ill parents, children, or spouses
New York	TDI	$ 0.07 - .21	· Care for newborn or newly adopted children · Care for ill parents, children, or spouses

CHART 2: COST ESTIMATES FOR EXPANDING STATE UNEMPLOYMENT INSURANCE (UI) PROGRAMS TO COVER PERIODS OF FAMILY & MEDICAL LEAVE:

SUMMARY OF STUDIES

	Washington[1] 1999 Equal Opportunity Institute Study		Massachusetts[2] Albelda Preliminary Analysis	Vermont[3] 1999 Associated Press Estimate
	Variation 1	Variation 2		
Annual Benefits Paid under Current UI Program	$783.5 million[4]	$783.5 million[5]	$ 801 million[6]	$46 million[7]
Number of Employees Covered by UI	2.6 million	2.6 million	3 million[8]	274,000[9]
Eligibility Requirements for New Benefits	Same as UI	Same as UI	Same as UI	Must be eligible for both UI and Vermont's Family and Medical Leave Law[10]
New Benefits Coverage				
Length of Absences Covered	30 weeks	5 weeks	12 weeks	12 weeks
Purposes for Absences Covered	· Care for newborn or newly adopted children · Care for ill parents, spouses, or children · Care for own serious medical condition	· Care for newborn or newly adopted children	· Care for newborn or newly adopted children · Care for ill spouses, parents, or children · Care for own serious medical condition	· Care for newborn or newly adopted children · Care for ill spouses, parents, or children · Care for own serious medical condition

Estimated Number of Leave-takers Likely to Use New Benefits	16,665[11]	11,279[12]	Not available	Not available
Average Weekly Benefit	$220	$264	$278.09[13]	$207.29[14]
Estimated Length of Leave	7.5 weeks[15]	5 weeks	Not available	Not available
Estimated Total Annual Cost of Expanding UI to Include Family (& Medical) Leave	$27.5 million	$14.2 million	$ 200 million[16]	$ 8 -9 million[17]
New Cost as a Percentage of Total Program	3 percent	2 percent	20 percent	15-16 percent
Average Cost per Covered Worker	$0.88 / month $0.20 / week[18]	$0.46 / month $0.11 / week [19]	$5.56 / month $1.25 / week[20]	$2.43-2.73 / month $0.56-63 / week[21]

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1. Unless otherwise noted, figures and assumptions for Washington are drawn from Economic Opportunity Institute, Paid Family Leave Cost Estimates (November, 1999) (hereinafter EOI Study). This study looked at several options for expanding UI. One option would provide benefits only to parents of newborn or newly adopted babies. Another option would provide benefits for leave taken to care for newborn or newly adopted children, to care for ill spouses, parents, or children, or to care for one's own serious medical condition. Other options would provide benefits similar to the ones mentioned above, but for different periods of time, e.g., for a maximum of 5 weeks instead of 12 weeks. In this chart, we have summarized two of EOI's options: one that offers 30 weeks of benefits for a full range of FMLA-covered leave reasons, and another that provides just 5 weeks of benefits for leave to care for newborn or newly adopted children.

2. Information for this column of figures is drawn from Statement of Randy Albelda in support of S61; House Bill 1890 (April 7, 1999) and Fact Sheet, Senate Bill No. 61; House Bill No. 1890 - An Act to Provide Unemployment Benefits for Family and Medical Leave Recall, Women's Statewide Legislative Network.

3. Information for this column of figures is drawn from Ross Sneyd, "Vermont sought Clinton's family leave directive," Associated Press, May 24, 1999, and S.179, An Act Relating to Unemployment Compensation and Family and Parental Leave. See www.leg.state.vt.us.

4. Division of Fiscal and Actuarial Services, U.S. Department of Labor, UI Data Summary (June 1999).

5. Division of Fiscal and Actuarial Services, U.S. Department of Labor, UI Data Summary (June 1999).

6. Division of Fiscal and Actuarial Services, U.S. Department of Labor, UI Data Summary (June 1999).

7. Division of Fiscal and Actuarial Services, U.S. Department of Labor, UI Data Summary (June 1999).

8. Division of Fiscal and Actuarial Services, U.S. Department of Labor, UI Data Summary (June 1999).

9. Division of Fiscal and Actuarial Services, U.S. Department of Labor, UI Data Summary (June 1999).

10. Employees who do not work for firms that employ more than 10 employees (the threshold for Vermont's family and medical leave law) have some recourse: employees who "would otherwise be eligible for this leave except for the number of employees who work for that employer and who intend to return to that employment within the time frame of the leave permitted by subchapter 4A of chapter 5 of this title" are also covered. S. 179. See www.state.vt.us.

11. The EOI Study derived this estimate in the following manner. Beginning with a pool of 2,606,220 UI-covered workers, the estimate assumes that 13 percent of these workers - 338,809 - take or need FMLA leave. Of those 338,809 workers, 281,472 already take leave (10 percent of the overall covered population), and of those, roughly two-thirds already receive full or partial wage replacement for family and medical leave, leaving 33.7 percent that would benefit from UI-family-leave income. The estimate then assumes that of the remaining 94,856 workers, 57.2 percent would be unlikely to apply for paid family leave because their leaves would last less than 2 weeks (Washington has a one-week waiting period for benefits). Finally, the estimate assumes that one-third of the remaining leave-takers would qualify for benefits, leaving 13,397 workers from the current leave-taker pool. The study also accounts for workers who need but do not currently take leave - it assumes that 59,943 workers (3 percent of the total covered population) are in this category. The estimate then assumes that one-third of these workers will seek benefits (taking into account that there are some leave-needers who decide not to take leave for reasons other than financial need) and that of the remaining 23,138 workers, one third will qualify for benefits, leaving 3,268 recipients. Adding the current leave-takers to the leave-needers yields a final figure of 16,665 leave-takers likely to use the new benefits.

12. Washington has 80,000 births annually and 54 percent of mothers with children under the age of one work, leaving a pool of 43,200 working new mothers. Twenty-three percent of women workers do not have paid sick / vacation leave - thus, the estimate assumes that 23 percent of working new mothers will want family leave benefits and that of the remaining group, one-third will qualify for benefits, leaving 3,279 recipients. The estimate also assumes that an additional 10 percent of new parents (8,000) will want and qualify for benefits, yielding a final figure of 11,279 potential beneficiaries.

13. This figure is drawn from the Division of Fiscal and Actuarial Services, U.S. Department of Labor, UI Data Summary (June 1999) and was not necessarily used to calculate the Massachusetts cost estimate.

14. This figure is drawn from the Division of Fiscal and Actuarial Services, U.S. Department of Labor, UI Data Summary (June 1999) and was not necessarily used to calculate the Vermont cost estimate.

15. This figure is derived from the median length of leave for those who take more than 14 days (59 days) and accounts for Washington's 7 day waiting period, during which benefits are not available.

16. This figure comes from Randy Albelda, University of Massachusetts -- Amherst, November 1998.

17. Ross Sneyd, "Vermont sought Clinton's family leave directive," Associated Press, May 24, 1999.

18. Figures derived by dividing cost of providing new UI benefits ($27.5 million) by total UI-covered workforce (2.6 million).

19. Figures derived by dividing cost of providing new UI benefits ($14.2 million) by total UI-covered workforce (2.6 million).

20. Figures derived by dividing cost of providing new UI benefits ($200 million) by total UI-covered workforce (3 million).

21. Figures derived by dividing cost of providing new UI benefits ($8-9 million) by total UI-covered workforce (274,000).

CHART 3: COST ESTIMATES FOR EXPANDING STATE TEMPORARY DISABILITY INSURANCE (TDI) PROGRAMS TO COVER PERIODS OF FAMILY LEAVE:

SUMMARY OF STUDIES

	New York[1] 1998 Fiscal Policy Institute Study	New Jersey[2] 1998 Williams[1] Study	California[3] 1995 Institute for Women's Policy Research Study
Annual Benefits Paid under Current TDI Program	$562 million (actual 1990 expenditure)	$325 million (actual 1997 expenditure)	$1.7 billion (actual 1990 expenditure)
Number of Employees Covered by TDI	6.3 million (3.3 million covered both by TDI and FMLA)	2.5 million[4]	11.1 million (1989)[5]
Eligibility Requirements for New Benefits	Employees must be eligible for both TDI and FMLA leave (as of 1995, 3.3 million employees were covered by TDI and FMLA)	Employees must be eligible for temporary disability insurance	Employees must be eligible for state disability insurance
New Benefits Coverage			
Length of Absence Covered	12 weeks	12 weeks	12 weeks

Purposes of Absence Covered	· Care for newborn or newly adopted children · Care for ill parents, children, or spouses	· Care for newborn or newly adopted children · Care for ill parents, children, or spouses	· Care for newborn or newly adopted children · Care for ill parents, children or spouses
Estimated Number of Leave-takers Likely to Use New Benefits	28,797-62,208[6]	65-69,100[7]	619,250
Average Weekly Benefit	$136[8] / $284[9]	$259.98[10]	$102.82-193.57[11]
Estimated Length of Leave	1-12 weeks[12]	6.1 weeks (average)[13]	5-10 weeks[14]
Estimated Total Annual Cost of Expanding TDI to Include Family Leave	$ 11.6 - $36.2 million[15]	$110-$116 million[16]	$835 million
New Cost as a Percentage of Total Program	2-6 percent	25-27 percent	34 percent
Average Cost Per Covered Worker	$0.29-.91 / month $0.07-.21 / week[17]	$3.67-3.87 / month $0.85-.89 / week[18]	$6.27 / month $1.45 / week[19]

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1. Unless otherwise noted, this column's figures and underlying assumptions are drawn from Carolyn Boldiston, Fiscal Policy Institute, Technical Analysis: Estimating the Cost of Using New York's Temporary Disability Insurance Program to Provide Partial Pay to Covered Workers During Leaves Taken Under the Family and Medical Leave Act (1998) (hereinafter FPI Study). Data sources for this study include: Commission on Leave, A Workable Balance: Report to Congress on Family and Medical Leave Policies (1996) (hereinafter A Workable Balance); 1995 Current Population Survey; New York State Department of Health, Vital Statistics of New York Health (1995); Disability Benefits Law Claim Statistics, 1989, 1990, 1995, 1996; New York State Statistical Yearbook.

2. Unless otherwise noted, New Jersey figures and assumptions are drawn from Memorandum from Greg Williams on the Impact of Proposed Family Temporary Disability Insurance Legislation (July 24, 1998). Data sources for the memorandum include: A Workable Balance, supra note 1; New Jersey Department of Labor, New Jersey Department of Labor Annual Statistical Review (various years).

3. Unless otherwise noted, this column's figures and assumptions are drawn from Heidi Hartmann, Young-Hee Yoon, Roberta Spalter-Roth, and Lois Shaw, Institute for Women's Policy Research, Temporary

Disability Insurance: A Model to Provide Income Security for Women Over the Life Cycle (1995) (hereinafter IWPR Study).

4. This figure represents only those employees covered by the state TDI plan. Approximately 20 percent of all TDI-covered workers obtain their coverage through private plans, and the Williams Memorandum, see supra note 2, does not address that population.

5. Current numbers are quite similar. According to California's disability insurance website, "[a]lmost 11 million workers contribute to the program." See www.edd.ca.gov.

6. The variation in these estimates depends upon whether national rates of leave (derived from A Workable Balance) are used, or whether New York rates of leave are used. The estimate includes new leavetakers for care for ill spouses, children, and parents. The estimate assumes no new leavetakers for care for newborn or newly adopted children, although it does assume that a certain number of existing leavetakers will extend the lengths of their leaves if new benefits are offered. See infra note 15. The estimate also accounts for New York's one-week waiting period for benefits, eliminating the estimated number of leavetakers who take less than 8 days leave.

7. This estimate is extrapolated from national leave-taking data from A Workable Balance and prorated for New Jersey's TDI-covered population. The estimate takes into account the estimated number of leave-takers who would not receive benefits because they take less than 8 days of leave. The estimate also accounts for leave-takers who did not take leave in the past but who may if benefits are offered, and for leave-takers who may take longer leaves if benefits are offered. [N.B.: the Workable Balance data, on which this estimate draws, were based on an 18-month period and this study treats them as if they were based on a 12-month period. Thus, the estimated number of leave-takers is arguably 33 percent higher than the actual number of leave-takers.]

8. "Estimated average weekly level of benefits for leave-takers covered by the minimum required disability insurance - 1995." FPI Study, supra note 1, T.17.

9. "Estimated average weekly level of benefits for all leave-takers, including both those covered by the minimum required disability insurance and those covered by more generous plans." FPI Study, supra note 1, T.17.

10. This figure is the actual average weekly TDI benefit in New Jersey for 1995.

11. The IWPR study calculated average weekly benefit levels for each category of leavetaker based on wage data for the population predicted to take each type of leave. For leave to care for newborns, IWPR estimated a benefit level of $ 102.82 - $ 181.05 per week, based on the age of the predicted users; for care for sick spouses, it estimated a benefit level of $193.57; for care for elderly parents, IWPR estimated a benefit of $187.32; and for care for sick children, it estimated a benefit level of $156.81 per week for single parent families, and $189.54 per week for two-parent families.

12. The FPI study does not estimate an average length of leave across all categories of leave. The study does take into account the fact that leavetakers may lengthen their leaves if benefits are provided: the study assumes that 33 percent of mothers who currently take at least 6 to 11-plus weeks of pregnancy disability leave would lengthen their leaves by an average of two weeks (up to a total of 12 weeks).

13. Estimate draws on leave-taking data from A Workable Balance, supra note 1, and averages length-of-leave data for a variety of leave reasons.

14. IWPR estimates that leavetakers would use 7 weeks of leave to care for sick spouses and elderly parents, 5 weeks to care for sick children, and 10 weeks to care for newborn or newly adopted children.

15. The variation in estimates depends on whether low or high average weekly benefit figures (see "Average Weekly Benefit" data and notes 8 and 9, supra) and national or New York leavetaking rates are used. This estimate range also assumes that 33 percent of leave-takers who already take **at least 6 weeks of**

leave under New York's TDI program will extend their leaves by an average of 2 weeks (up to a total of 12 weeks) (see supra note 6). FPI also calculated a cost range using the assumption that varying percents of current pregnancy-disability leave-takers would take longer leaves (from 0-100 percent). Using those assumptions, FPI's estimates range from $10.8-38.4 million.

16. The variation in estimates depends on whether the high or low estimate of likely claimants is used (see "estimated Number of Leave-Takers Like to Use New Benefits," above). The lower estimate - 65,000 - makes additional adjustments to the Workable Balance data to take into account New Jersey's actual experience with TDI claimants.

17. Figures derived by dividing the estimated cost of expanding the TDI program by the size of New York's TDI-and-FMLA-covered workforce (3.3 million).

18. Figures derived by dividing the estimated cost of expanding the TDI program by the size of New Jersey's TDI-covered workforce (2.6 million).

19. Figures derived by dividing the estimated cost of expanding the TDI program by the size of New California's TDI-covered workforce (2.5 million).

APPENDIX H

Summary of Public Assistance Programs for Which Employees on Leave May be Eligible

Summary of Public Assistance Programs

Program	Eligibility Basics	Application Process	Assets & Income	Benefit Levels	Additional Information
TANF (Temporary Assistance to Needy Families) / PaS (Parents as Scholars)	Available to income-eligible single-parent families and two-parent families in which at least one parent is disabled or unemployed under program definitions	Written application required. Interview at local DHS office required.	$2000 asset limit. 1 vehicle excluded. Income levels at approximately 47% of Federal Poverty Level (FPL).	Household of 3 with no other income: $485; with other income: $620.	Must assign rights to child support to DHS.
ASPIRE	Participation required of most adult TANF recipients. Job training/preparation required of most participants.	Application automatic with TANF application.	See TANF/PaS.	Support Services, such as clothing, auto repair, dental, eye glasses, child care, etc.	Failure to participate/comply may result in loss of TANF/PaS benefits.
Food Stamps	Available to income-eligible singles/couples/families. Some participation is limited if participant is ABAWD.	Written application required. Interview at local DHS office required. (May be waived in rare cases.)	$2,000/3,000 asset limit. At least 1 vehicle excluded. Income levels at 130% and 100% FPL.	Maximum levels, eff. 10/01: $135 – for 1 $248 – for 2 $356 – for 3	Other household expenses (shelter, medical) may be used in Food Stamp calculation.
State Supplement	Available to SSI recipients and to qualified individuals/couples slightly above SSI income limits.	Application for SSI at Social Security Office includes State Supp. Non-SSI apply at local DHS office.	Assets: $2,000/3,000 Income: $530 (single) $796 (couple) + $75/$100 Disregards.	$10.00 Individual $15.00 Couple $ 8.00 Individual in another's household.	Must be aged (65+) or disabled.
Maine Care	Medical coverage available to persons under 21, over 65, disabled, caretaker relatives of minor children, blind.	Written application required. Interview not required.	No asset test thru 18 yr.; $2,000 for adults. Income: varies up to 300% FPL.	Most services covered. Dental, glasses, hearing aids not covered for adults. Some programs restricted, e.g., Rx.	Premium required for some programs/income levels.
General Assistance	Immediate aid available to help provide basic necessities such as food, shelter, fuel, electricity, medicine to low-income residents of towns/cities.	Written application filed with municipality. Application filed in person.	All assets/income counted in determining eligibility. Based on HUD & varies geographically.	Differs from one county or municipality to another.	Eligibility established for periods of 30 days or less.
Child Support	DHS will collect child support on behalf of TANF/PaS recipients and all other custodial parents.	Request services at local DHS office.	N/A	N/A	Obligation suspended for TANF or SSI recipients.

Information provided by the Department of Human Services – 11/01

(over for information on costs and funding sources)

Monthly Costs and Funding Sources for Public Assistance Programs

TANF:	$5,746,623 (33.6% state, 66.4% federal)	**State Supplement:**	$731,226 (100% state)
ASPIRE:	$2,145,255 (16.8% state, 83.2% federal)	**Maine Care:**	$81,667,000 (33% state, 67% federal)
Food Stamps:	$7,318,609 (100% federal)	**General Assistance:**	$348,764 (paid by municipalities; 61% reimbursed by state)

APPENDIX I

Proposed Legislation

Submitted by the
Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families, pursuant to Joint Order, HP 1386, section 8.

Drafted by Deb Friedman
December 4, 2001

RESOLVE, to Continue the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families Committee was created by Joint Order in the First Regular Session of the 120th Maine Legislature; and

Whereas, members of that committee found that they had insufficient information with which to make a recommendation following their first interim of work; and

Whereas, a thoughtful recommendation based on sufficient information on the issue of paid family and medical leave is important to both employees and employers in the State; and

Whereas, members of the committee desire to continue their work in the interim following the Second Regular Session of the 120th Legislature and to convene as quickly as possible to provide for continuity of the study; and

Whereas, passage of a Resolve will enable the committee to submit legislation to the 1st Regular Session of the 121st Legislature; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore be it

1. Committee established. Resolved: That the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families, referred to in this resolve as the committee, is established**; and be it further**

2. Committee membership. Resolved: That the committee consists of 15 members:

A. Seven members appointed by the President of the Senate as follows:

One senator;

One representative of employers in the health care industry;

One representative of employers in the insurance industry;

One representative of municipal employers; and

Three members representing labor, women's groups and senior citizens;

B. Six members appointed by the Speaker of the House of Representatives as follows:

One member of the House of Representatives

One representative from the low-income advocacy field;

One representative of a child care organization;

One parent or educator; and

Two members of the business community, one representing a large business and one representing a small business;

C. The President of the Maine State Chamber of Commerce or the president's designee; and

D. The Commissioner of Labor or the commissioner's designee.

The Senator and the member of the House of Representatives may not be members of the same political party.

3. Chairs. Resolved: That the Senate member is the Senate chair of the committee and the House of Representatives member is the House chair of the committee.

4. Appointments; meetings. 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 the appointments have been made. When the appointment of all members has been completed, the chairs of the

committee shall call and convene the first meeting of the committee no later than July 1, 2002.

5. Duties. **Resolved:** That the committee shall study the benefits and costs of providing family and medical leave benefits. In conducting the study, the committee shall

A. Review and consider information gathered by the committee during the 2001 interim;

B. Continue to examine the issues set forth in the Joint Order creating the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families, House Paper 1386, section 5, paragraph A;

C. Identify or develop additional sources of Maine-specific data on use of family and medical leave and the availability of paid leave;

D. Obtain information from other states and interest groups that are conducting studies or developing methodologies for estimating costs and benefits on paid family and medical leave;

E. Arrange for the assistance of experts in economic analysis to prepare costs and benefit estimates for the committee; and

F. Invite testimony from experts on early childhood development, including experts on bonding between children and parents, to assist the committee in considering potential long-term benefits of providing paid leave so that parents will be able to take leave following birth or adoption of a child.

6. Staff assistance. Resolved: That upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. Resolved: That members of the committee who are legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the committee. Other members of the committee are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings of the committee only if sufficient outside funds are received for this purpose in accordance with section 9 of this order.

8. Report. Resolved: That the committee shall submit its report, together with any necessary implementing legislation, to the First Regular Session of the 121st Legislature no later than December 1, 2002. If the committee requires a limited

extension of time to conclude its work, it may apply to the Legislative Council, which may grant the extension.

9. Budget; grants. Resolved: That the chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council promptly provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds. The chairs of the committee may seek and accept grants and other outside funding on behalf of the committee. Prompt notice of solicitation and acceptance of such funds must be sent to the Legislative Council. All funds accepted must be forwarded to the executive director, along with an accounting that includes amount, date received, from whom, purpose and limitation on use of the funds. The executive director administers any funds received.

Emergency clause. In view of the emergency cited in the preamble, this Resolve takes effect when approved.

SUMMARY

This Resolve is the recommendation of the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families, which was created by Joint Order in the First Regular Session of the 120th Legislature. The committee recommended that it be allowed to continue its work for another interim, since the lack of sufficient data prevented members from reaching a conclusion in 2001 regarding the costs and benefits of paid family and medical leave in Maine. Several states and interest groups are working on creating models for estimating costs and benefits of paid family and medical leave, which the committee may be able to use in 2002. Also, committee members intend to identify interest groups and experts in Maine to gather data for the next phase of the study and to provide economic analysis expertise necessary to use that data.