

MAINE STATE LEGISLATURE

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MAINE PAID FAMILY & MEDICAL LEAVE



Resolve, Directing the Department of Labor to Study Protection of Paid Family and Medical Leave Benefits Program Funds

Maine Department of Labor

Paid Family & Medical Leave

Augusta, Maine

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Executive Summary

In 2025, the 132nd Maine Legislature enacted Resolves 2025, Ch. 63, “Resolve, Directing the Department of Labor to Study Protection of Paid Family and Medical Leave Benefits Program Funds.” This resolve directs the Department of Labor to study methods to ensure that PFML revenues, including taxes, fees, premiums, fines, and penalties are not diverted for purposes other than their original intent, to provide benefits to eligible individuals.

Maine’s PFML program was signed into law by Governor Janet Mills in July 2023 and is codified in Maine Revised Statutes (MRS) Title 26, §850-A through §850-R. The program provides up to 12 weeks of paid, job-protected leave for qualifying events and is funded through contributions shared by employers and employees. By statute, the fund is administered by the State Treasurer, held in trust, and explicitly separated from the General Fund to ensure that contributions remain available for benefits and administration.

A review of other PFML states reveals a consistent set of statutory protections. Connecticut, Oregon, and Colorado each place premium contributions in dedicated trust funds overseen by the State Treasurer and restricted to program costs. Colorado takes an additional step by designating its PFML division as an “enterprise” under the state’s Taxpayer Bill of Rights (TABOR), classifying premiums as fees and limiting legislative authority to divert revenues without voter approval.

Maine’s experience with other special funds also provides insight into effective protections. The Unemployment Trust Fund is federally administered and therefore insulated from diversion, while the Maine Retirement Investment Trust (MERIT) includes fiduciary oversight and statutory prohibitions against transfers to the General Fund. The Fund for Healthy Maine, established from tobacco settlement revenues, demonstrates the importance of segregated accounts and legislative review of any proposals that affect the fund. In addition, the Maine Constitution contains provisions that safeguard retirement assets, highway revenues, and wildlife funds, offering a model for stronger, long-term protection.

Beyond Maine, states such as Maryland and North Carolina have adopted additional approaches to secure dedicated revenues. Maryland’s Transportation Trust Fund is protected through statutory lockbox provisions and a constitutional amendment requiring a supermajority vote for diversion. North Carolina’s Parks and Recreation Trust Fund incorporate fiduciary oversight through a board of trustees, which allocates revenues for specific purposes and provides ongoing accountability.

Introduction

In 2025, the 132nd Maine Legislature enacted Resolves 2025, Ch. 63, “Resolve, Directing the Department of Labor to Study Protection of Paid Family and Medical Leave Benefits Program Funds.”¹ This resolve directs the Department of Labor to study methods to ensure that PFML revenues, including taxes, fees, premiums, fines, and penalties are not diverted for purposes other than their original intent, to provide benefits to eligible individuals.

This report is prepared for the Joint Standing Committee on Labor in the Maine State Legislature. It analyzes funds within Maine State government including Unemployment Trust Fund, Fund for Healthy Maine, and Maine Retirement Investment Trust (MERIT). It examines other jurisdictions including Maryland Transportation Trust Fund and North Carolina Park and Recreation Trust Fund.

Paid Family and Medical Leave Program is established in Maine Revised Statutes (MRS), Title 26, § 850-B.² It is authorized to pay benefits to eligible individuals and administrative costs. The program is financed through the collection of premium contributions, fines and penalties, and any other money received from any source including grants, gifts, and property or securities acquired through the use of money belonging to the fund.³

MRS, Title 26, § 850-E establishes statutory fund protections including;

Section § 850-E

- The fund is administered by the Treasurer of the State;
- Any funds received under this section are not considered revenue of the state, but must be held in trust for the exclusive benefit of covered individuals eligible for Family and medical leave benefits;
- Funds may not be expended, released, appropriated or otherwise disposed of for any other purpose except to pay family and medical leave benefit to covered individuals.

The Maine Paid Family and Medical Leave Benefits Authority, established under Maine Revised Statutes (MRS), Section 850-O, serves as the governing body responsible for the financial, programmatic, and administrative oversight of the PFML program. The 15-member Authority holds quarterly public meetings that include programmatic updates and hearings. These meetings are open to the public, recorded, and posted on the Maine Department of Labor’s website. The Authority holds a fiduciary duty to safeguard the PFML Trust Fund and ensure its long-term sustainability. Eleven of the fifteen members are nominated by the Governor and subject to confirmation by the Maine State Senate.

¹ <https://legislature.maine.gov/backend/App/services/getDocument.aspx?documentId=119653>

² Title 26, §850-B: Paid family and medical leave benefits program established

³ Title 26, §850-E: Paid Family and Medical Leave Insurance Fund

In addition, Section 850-E of the statute requires an annual actuarial study to evaluate the financial health of the PFML Trust Fund.⁴ This recurring evaluation provides both the Authority and the Legislature with an ongoing assessment of the fund's stability and the program's fiscal soundness.⁵

Other PFML Funds

Maine became the 13th state to enact Paid Family and Medical Leave, with similar statutory protections in Connecticut, Oregon, and Colorado, among all the other states.

Oregon law establishes the Paid Family and Medical Insurance Fund in the State Treasury as a trust fund, separate from the General Fund, consisting of contributions, penalties, fees, revenues, and interest.⁶ Connecticut establishes the Family and Medical Leave Insurance Trust Fund under Section 31-49i, held by the State Treasurer apart from the General Fund, with contributions, deposits, gifts, grants, and earnings dedicated to benefits, administration, and education.⁷

Colorado established the Family and Medical Leave Insurance Fund (FAMLI) under Section 8-13.3-518, consisting of premiums, bond revenues, and transfers, restricted to benefits, repayment of loans, employer reimbursements, administration, and outreach, with interest remaining in the fund and no reversion to the General Fund.⁸ Uniquely, under the FAMLI Act and Taxpayer Bill of Rights (TABOR), Colorado FAMLI premiums are classified as fees, not taxes, and the Division is designated an "enterprise," further insulating the fund from legislative raids without direct voter approval.⁹

Together, these states demonstrate common statutory protections: placing the fund under the State Treasurer, keeping it separate from the General Fund, and requiring all revenues to remain in the fund for the sole purpose of paying benefits to eligible individuals.

Other Maine Funds

Unemployment Trust Fund

The Unemployment Trust Fund is codified in federal law at 42 U.S.C. §1104, which directs the U.S. Secretary of the Treasury to receive and hold all state UI contributions in trust.¹⁰ Each state has a separate account within the federal Unemployment Trust Fund, maintained as an interest-bearing account and segregated from other federal funds. Monies deposited in these accounts may be withdrawn only for the payment of unemployment compensation.¹¹

⁴ Ibid

⁵ Ibid.

⁶ oregonlegislature.gov/bills_laws/ors/ors657B.html

⁷ Chapter 557 - Employment Regulation

⁸ C.R.S. 8-13.3-518 – Family and medical leave insurance fund

⁹ C:\188_01.txt

¹⁰ 42 U.S. Code § 1104 - Unemployment Trust Fund | U.S. Code | US Law | LII / Legal Information Institute

¹¹ Ibid.

enterprise fund are transferred to the General Fund or to any other fund of the State or are otherwise encumbered or used for any other purpose.” 5 M.R.S. § 173(1)(P) ¹⁶

MERIT operates from an enterprise fund (Maine Retirement Savings Program Enterprise Fund), 5 M.R.S. § 178(1).¹⁷ The purpose of the enterprise fund is specifically to cover the costs of administration of the MERIT plan. The funds received from individual employee contributions go into individual Roth IRA accounts and, therefore, are not considered State revenue subject to the appropriation process.¹⁸ Essentially, the program serves as administrator for purposes of creating the individual retirement accounts and passing on employee contributions to those accounts. Thus, the State cannot access or use the funds in the retirement accounts for State purposes.

Fund for a Healthy Maine

The Fund for Healthy Maine was established in 1999 for the purpose of receiving and managing tobacco settlement funds awarded by the Kennebec County Superior Court in *State of Maine v. Philip Morris, et al.*, Docket No. CV-97-134. Money held in the fund is specifically earmarked to make allocations to health-related programs specifically set forth in the statute including smoking prevention and cessation.¹⁹

The fund contains separate accounts allowing for the segregation of funds received that have conditions attached making the funds available for certain identified purposes. The law states restricted funds are to be used solely for the restricted purposes. State agencies and any contractor or vendor that receives money from the fund has to keep the money in a separate account and report to the Commissioner of Administrative and Financial Services how the funds were used or slated to be used.

Any legislative proposal that would affect the fund, including a budget bill, is reviewed by the joint standing committee of the Legislature having jurisdiction over the proposal. If a majority of that committee supports the proposal, the proposal would then be reviewed by the joint standing committee that has jurisdiction over health and human services. The Health and Human Services Committee would conduct a review and report its conclusions to the joint standing committee of the Legislature with jurisdiction over appropriations and financial affairs.

Other than language restricting the use of the money in the fund and identifying purposes for which the revenue can be allocated, the statute for the Fund for Healthy Maine does not appear to contain other safeguards to protect the revenue from future use for other purposes. The statute allows transfer of funds to the General Fund as long as there is specific legislative approval.

¹⁶Title 5, §173: Duties of board; requirements of program

¹⁷ Title 5, §179: Accounting and annual report

¹⁸ Ibid.

¹⁹ Title 22, §1511: Fund for a Healthy Maine established

Constitutionally Protected Funds

Laws that establish programs funded by specialty fees dedicated to a particular purpose, like the Paid Family and Medical Leave law, often include language to create funds, including special revenue funds or enterprise funds, that include restrictions on how the funds can be spent. *See* 5 M.R.S. § 1667-B for the premise that funds in special revenue, internal service, and enterprise accounts are to be spent in accordance with the enabling statute and for no other purpose.²⁰

These provisions essentially are advisory in nature and express legislative intent since a sitting or future legislature can choose to change the law. *See Me. Const. Art. IV, pt. 3, § 1 stating "The Legislature...shall have full power to make and establish all reasonable laws and regulations...not repugnant to this Constitution, nor to that of the United State."*²¹ As a result, one mechanism occasionally used for restricting the expenditure of certain funds is through an amendment to the State Constitution.

Article IX of the Maine Constitution includes three sections placing limitations on the use of funds. Section 18 limits the use of funds held by the Maine Public Employees Retirement System (MEPERS) declaring the appropriated funds to be used exclusively for the provisions of retirement benefits. The section goes on to say the assets are assets of MEPERS and cannot be "diverted or deappropriated by any subsequent action."

Section 19 requires that revenues from motor vehicle fees and taxes be expended for construction, maintenance and repair of highways and bridges and enforcement of traffic laws. As with the retirement system, the amendment prohibits the diversion of highway fund revenue to other purposes.

Section 22 relates to revenues for fisheries and wildlife. Funds appropriated to the Department of Inland Fisheries and Wildlife cannot be less than the total revenues collected by the Department from various sources including license and permit fees, fines and penalties, and the sale, lease, or rental of property. Funds are to be expended solely for purposes provided by law.

Other States' Trust Funds

Maryland Transportation Trust Fund

The Maryland Transportation Trust Fund (TTF) was established by Maryland Code, Transportation §3-216.²² The statute created a dedicated special fund for transportation purposes, including the financing of highways, transit, aviation, ports, and motor vehicles.²³ Revenue sources for

²⁰ Title 5, §1667-B: Allotment in excess of legislatively authorized allocations

²¹ 10674

²² Laws - Statute Text

²³ Ibid.

TTF include motor fuel taxes, titling taxes, registration fees, operating revenues, bond proceeds, and federal aid.²⁴

The statute provides that no part of the fund may be transferred or diverted to the General Fund unless approved by the General Assembly through legislation passed by a three-fifths majority of the standing committees assigned the bill in both the House and Senate and enacted into law.²⁵ Any funds diverted must be repaid within a pre-approved timeframe, and diverted funds may only be accessed through an emergency order issued by the Governor by Executive Order.²⁶

In 2014, additional protections were adopted through a constitutional amendment codified in Article III, Section 53 of the Maryland Constitution.²⁷ This provision prohibits use of TTF revenues for non-transportation purposes unless the Governor declares a fiscal emergency and a three-fifths supermajority of both chambers of the General Assembly approve the transfer. The Constitution further provides that funds may only be used for purposes of paying the principal of and interest on transportation bonds as they become due, or for other transportation-related purposes defined by law.

Other than the statutory lockbox provisions and the constitutional amendment requiring supermajority approval and limiting the scope of eligible uses, no additional safeguards appear in statutes to prevent transfers or diversions of TTF revenues. The constitutional Amendment was passed by voters in 2014.²⁸

Legislative Created Oversight Boards

North Carolina Parks & Recreation Trust Fund (PARTF)

In 2011, the North Carolina General Assembly established Parks and Recreation Trust Fund in the State Treasurer's office.²⁹ This special revenue fund "consists of gifts and grants to the Trust Fund, monies credited to the Trust Fund". In conjunction with the creation of the Fund, the General Assembly established the North Carolina Parks and Recreation Authority and is administered by the Department of Natural and Cultural Resources.

The Fund is overseen by a twelve-member Board of Trustees, with appointments divided equally among the Governor, Senate President Pro Tempore, and House Speaker.³⁰ Trustees are selected for their expertise in land management, serve staggered initial terms followed by six-year renewable terms, and the Governor designates the Chair. The Board meets at least annually,

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ [Maryland Constitution - Article III - Legislative Department](#)

²⁸ [Maryland-Transportation-Fund-Amendment 2014.pdf](#)

²⁹ [NC Gen Stat § 113-77.8 :: 113-77.8. Natural Heritage Trust Fund Board of Trustees. :: 2011 North Carolina General Statutes :: US Codes and Statutes :: US Law :: Justia](#)

³⁰ [G.S. 143B-135.200](#)

receives staff support from the Department, and members are compensated per diem and travel expenses from the Fund.³¹

The use of the North Carolina Parks and Recreation Trust Fund includes, but is not limited to, capital projects, facility repairs and renovations, local government matching grants, and limited administrative expenses. A 12-member Authority is charged with allocating funds for these purposes and has the power to distribute grants and approve specific projects.

Maine Paid Family and Medical Leave Benefits Authority

Maine Paid Family and Medical Leave Authority is established in MRS, Title 26, Sections §850-O. This authorizes the Authority to “monitor the program on an ongoing basis to ensure the program's efficacy and performance, including its fiscal accountability and its financial solvency; owes a fiduciary duty to the program and shall monitor and issue recommendations regarding the program's financial solvency; propose changes to or advise the administrator on the laws, rules, administrator policies and other significant issues...” and provide policy oversight and recommendations on the administration and structure of the program”.³²

Conclusion

The Department appreciates the opportunity to consider various alternatives for ensuring revenue which comprises the Maine Paid Family and Medical Leave Insurance Fund remains dedicated to provision of benefits to eligible workers and administration of the program. After careful consideration of possible options, it appears the most effective method for protecting the assets of the Fund is through a constitutional amendment prohibiting a diversion of funds without voter approval.

³¹ Ibid.

³² Title 26, §850-O: Paid Family and Medical Leave Benefits Authority

APPENDIX A

**Copy of enacted Resolves 2025, Ch. 63, Resolve, Directing the Department of Labor to
Study Protection of Paid Family and Medical Leave Benefits Program Funds.**

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
H.P. 796 - L.D. 1221

**Resolve, Directing the Department of Labor to Study Protection of Paid
Family and Medical Leave Benefits Program Funds**

Sec. 1. Department of Labor to study methods of protecting paid family and medical leave benefits program funds. Resolved: That the Department of Labor shall study methods to protect all revenues derived from taxes, fees, premiums, fines and penalties relating to the paid family and medical leave benefits program under the Maine Revised Statutes, Title 26, chapter 7, subchapter 6-C from being expended for any purpose other than the paid family and medical leave benefits program. The department shall submit its report, including any suggested legislation, to the Joint Standing Committee on Labor no later than January 15, 2026. The Joint Standing Committee on Labor may report out a bill to the Second Regular Session of the 132nd Legislature.