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| **Location** | Zoom |
| **Attendees** | Paid Family and Medical Leave Director: Lisa KisslerPaid Family and Medical Leave Ombuds: Edsonya CharlesEmployer’s Interests Representative: Bob BattlesEmployer’s Interests Representative: Christine BrewerEmployee’s Interests Representative: Julia GortonEmployee’s Interests Representative: Samantha GradEmployee’s Interests Representative: Tammie HetrickEmployee’s Interests Representative: Joe KendoEmployee’s Interests Representative: Marilyn Watkins |
| **Guests** | ESD Commissioner: Cami FeekChief Financial Officer, ESD: Carole HollandPublic Affairs Director, ESD: Nick DemericeOperations Manager, Leave & Care: John MattesProduct Owner, Leave and Care: Matt BuelowResearch & Data Manager, Leave & Care: Rebecca Grady |
| **Members absent** | * Employee’s Interests Representative: Brenda Wiest
 |
| **Court Reporter** | Sonya L. Wilcox, CCR |
| **Notes Reviewed by** | Laura Hagensick  |
|  |  |
| **Agenda** | IntroductionsApproval of January MinutesCash FlowLegislative UpdateBill Analysis – 5649Advisory Committee EngagementRulemaking UpdatePhone UpdatesAgenda Items for March MeetingOpen CommentAdjourn |

**CASH FLOW**

**MS. HOLLAND:** We have met with a few of you, and you have provided exceptional guidance about what we needed to do to deal with the situation with our potential cash-flow problem. Based on your guidance, we have worked with the Office of Financial Management in developing a proposal, and, essentially, our proposal would be to have a $350 million reserve that would be in a separate account for this biennium. What a reserve would do is give us the ability to be able to cover cash-flow problems as of June 30th, 2023. If we are going to be borrowing money, basically we will need a mechanism to pay it back, and the reserve could be that. And if we don't need the reserve, it's money that can be used either for the program, or at basically the will of the Legislature for other issues. One of the things that I think is important to note is the information has been tracking really closely to what we projected previously. If the solution was just to put money into the account to prevent a cash deficit, the middle ground, which has sort of like the most realistic assumptions, would be about $325 million in terms of the cash reserve, the middle ground, as well as the pessimistic would have about a $347 million ask. And so, it just seemed to make sense to round it out to $350 million in order to have an easier ask, and also because it's not exactly a precise number. We have shared with some of you that there is an ability to borrow from the State's fund balance, and in order to get that authority, we have to write a letter to the Director of the Office of Financial Management. We have to be able to say how much we need to have covered during the course of the biennium and also how we expect the situation would be resolved. Once the Director of the Office of Financial Management authorizes it, a letter would be sent to the Treasury, and whenever our cash situation dips below zero, we would be able to continue to pay premiums and operating costs because of the float or what might be considered an overdraft protection. And one of the amazing things about this provision is that no interest is applied to any advances, and once we get revenues in the account, those revenues would cover any cash advances that had been done previously. Some of the situation is basically a timing issue in terms of when premium payments come in, and when rate increases occur. The biggest issue is that any cash deficit must be resolved by the end of the biennium.

**MR. BATTLES:** I appreciate the fact that you have the ability to take this loan, if need to, for the gap. So, we understand that, but should we be considering now that we know we have at leasta $12 billion surplus in the Legislature right now for the budget. We anticipate those numbers might actually be higher. Should we be asking for money now that can come in and actually just fill that gap as opposed to turning around and having to pay it back?You are just resulting in further drawing from the fund because we don’t know what all of the issues are until we get through these audits and the JLARC Audit Task Force, all of those things, just considering that. What are your thoughts on that?

**MS. HOLLAND:** Sure. I think the cash reserve is very much the same as putting money into the account, and the thing that I am most concerned about is the timing issue, because our current projections show us in early April basically being in a deficit position, and so we do need authority for the overpayment protection. And then it's not really a loan, if it's set up in a separate reserve account that can be used solely for the purposes of the Paid Family and Medical Leave program.

So, it's like doing what I think you are saying. Does that make sense, Bob?

**MR. BATTLES:** It makes sense, but I'm not talking about the reserves. I’m talking about, if there is anything outside of the reserves I look at as your long-term fix and the hills and valleys. I’m talking about you have a gap on March 1st to April 1st. What about that?

**MS. HOLLAND:** It would be wonderful to have a reserve and fill the gap as a finance person. Is that what you're saying?

**MR. BATTLES:** I guess my thing is, if we don't ask, we won’t get.

**MS. HOLLAND:** Right and I can't speak for the agency. I don’t know that we would be opposed to that ask. It’s just we are coming in late in the game with a really big suggestion.

**MS. GORTON:** So, I heard you say it would be great as a finance person to have a reserve, as well as something to deal with the cash deficit. So why isn't that ESD's recommendation?

**MS. HOLLAND:** Because I'm not sure we need it. If we have the reserve, then you would not have a reserve next biennium, if we had to spend it all, but the validity and reliability of our projections beyond the three-month period are not very strong. And so, there's always an opportunity cost for having money that kind of goes aside that could be used for other purposes, if you're not going to need it.

**MS. GORTON:** I do have a couple of other questions, as well. The middle-ground scenario, can you talk about what assumptions went into developing that number?

**MS. HOLLAND:** I will defer to Rebecca Grady, who is much more proficient at this than me.

**MS. GRADY:** That baseline was our typical fund balance projections with the assumptions that we covered last summer, and we can send out a copy of the briefer that we had sent around at that point, if that would be helpful. The middle-ground scenario includes a 31 percent increase in benefits in 2022 over 2021, and then it is a 36 percent higher premium than last year compared to the baseline 64 percent higher premium than last year.

**MS. GORTON:** And then when you're developing the three-month reserve number, is that essentially just taking the projected benefits and dividing them by 12 to get a month worth of estimated reserve cost, or are we looking at the cyclical nature of benefits? Are we looking at what the three highest benefit payment months are, or what goes into those estimates?

**MS. GRADY:** We look for the three months that we have put together for these slides, we were looking at the average projected monthly payment for fiscal year '23. We don't have too much. At this point, we have some early indication of what our cyclical patterns will be, but we don't really have solid evidence of what our cyclical patterns will be at this point in terms of throughout the year.

**MS. GORTON:** Do you see much variance from month to month in benefit payments, or do they tend to be pretty consistent?

**MS. GRADY:** They tended to be pretty consistent, following patterns kind of lagging a little bit from when we see leave applications or leave claims submitted, first increase, and then there will be kind of a natural increase in payments as we get the weekly claims from those. There is also some likely increase throughout the year, each year, as the benefit amounts increase because of the increase in statewide wage from the prior year and the cap. That increases every year. It’s not a jump up in January, but as more claims with claim years established in January or in the new year come onboard and the claims with claim years established in the prior year get to their end, we will see the benefit amounts increasing, as well.

**MS. WATKINS:** This follows up a little bit of Julia and Bob's earlier questions and comments. I heard you say something a little different from what I had understood previously, Carole. So, I wanted to confirm that the baseline is your sort of actual best estimate, and the middle ground is a little above that? That’s what I understood previously, but that's not what I heard you say today. I just wanted to check on what that is. So, I will start there.

**MS. HOLLAND:** Sure. The middle ground – do you want to answer that, Rebecca?

**MS. GRADY:** Our middle ground is our best conservative estimate. The baseline was as we had been projecting. The pessimistic had been a 10 percent higher benefit, 10 percent lower premiums, and it's potentially a realistic pessimistic in the short-term. But if we are bringing it out for two full years, 10 percent lower in premiums, in particular, seems like probably not that realistic of a conservative estimate. So, the middle ground is a more realistic conservative estimate with still being 10 percent higher benefit payments than the baseline, but only 3.7 percent lower premiums than the baseline increase, and that 3.7 percent is based on the optimistic-pessimistic variance in the Economic Revenue Forecast Council wage projection.

**MS. WATKINS:** That answers my question. I understand the distinction you're making now.

My second question then is based on your response to what Julia asked about how you calculated that three-month reserve amount and again going back to Bob's statement. So, it seems like projecting for 2023 when, if, in fact, this could become the long-term reserve that I think we all understand we need to have in this fund -- there is the task force, and we will make recommendations later -- but if this is the base of that reserve, why not be projecting what we are going to need in '24/'25 for the amount, projecting that there will be a gradual increase. Maybe we should be at least starting that ask for the reserve amount for what it is going to need going forward rather than as just to cover this current situation?

**MS. HOLLAND:** It was my understanding that would be the work of the actuary that OFM would be commissioning in the short-term and also the work of the state actuary moving forward. And there is a component of the actuarial work that OFM would have the state actuary providing some guidance on with the JLARC performance audit and then establishing an Office of Actuarial Services within ESD. I think one of the challenges, which will get resolved over time, is we have a very limited period of data from which to make projections. And during this entire time, we have had the COVID situation. I think in the future, it will be much easier to project further out once we have some more stability to the program.

**MR. KENDO:** I want to chew on a little bit more the $350 million as a flexible capital reserve versus the ask around, a cash-flow solutions set and a capital reserve. If we can get a sense as to why it is and how it is you threaded a needle between those two things in developing your ask.

**MR. DEMERICE:** Part of this is we think there is a multi-step solution here, and the task force that has envisioned 5649 is really going to dig into a lot of the long-term sustainability, the actuarial analysis, the time and space that we have to be able to better understand the structure, solvency, and performance of the program over time, as well as the data. When we were trying to figure out what to ask for this year, and even back when we were working within the governor's budget, it was about how do we get through this next small window of time, and what we expanded it to was through fiscal year 2023. I remember when we spoke last time, that estimate had gone up from about $80 million to about $125 million. But many of you also gave us this feedback of don't ask for the bear minimum. Nobody wants to ask the Legislature to come back for a special session just to give us more money if something else happens. What we did was combine the ask of fix the short-term problem, and we are pretty confident still in that 125, but there is a ton of volatility in these numbers because we don't have a benefit of length of time with the numbers, and then a couple of extra months to either start to establish a long-term reserve for the program or be that emergency security blanket. Should something happen over the course of the next year, year and a half, that we are not comfortable with, it really helps ameliorate the risk that the Legislature would have to take additional action before the work of the task force and the actuarial analysis, and everything else in 5649 can sort of come to fruition.

**MS. GORTON:** I'm not sure that I would be able to repeat back what point you were making, Nick.

**MR. DEMERICE:** Maybe I can give you the elevator pitch part of it. I think the goal is, what do we need to be able to get through 2023, and if we overestimate the 2023 timeframe, we know, based on our estimates, at a minimum it's $125 million. So, we are going to do that, plus a whole bunch of padding, and whatever we don't end up using can be the start of a reserve, or the Legislature could come back and take it and do something else with it down the road. But in the meantime, we feel that 350 is the safe number, so that we wouldn't require additional intervention by the Legislature before the end of fiscal 2023, which also lines up well with the work of the task force and the long-term look around the program structure that is envisioned in 5649.

**MS. GORTON:** I'm not getting where you're pulling the $125 million number from, because I thought the cash deficit was close to $300 million.

**MR. DEMERICE:** $125 million was the new version of the 83 that we talked to the governor's office about, and that's because we reset the floor at one week reserve of benefit of cash and just the difference that has happened in the multiple months since we first started this conversation. You will see that up in the "prevent cash deficit baseline assumption," the 125. That is the minimum that we established for this work. I don't think anybody feels comfortable with the volatility in these numbers and the relative immaturity of the models at this point to say the minimum seems safe for the next year and a half. We then took the middle ground of the three-month and thinking we may end up needing to use one of those three months or some version of that or some percentage of that for this cash-flow thing, but at the same time, we will have a reserve established or the start of a reserve established for the program.

**MS. GORTON:** And then I think what Bob's original comment was, say that we have the $350 million, and according to your baseline projections, the fund runs out of money, and we are essentially using the OFM account option. Once we get funds at the April 30th quarter payment deadline, we get in a bunch of money and then have to pay that $125 million back and have $175 million as a buffer.

So, I think there is a general misunderstanding about this idea that we would at one point need $50 million or $100 million to sort of flow through, but, Rebecca, can you speak to that, briefly?

**MS. GRADY:** We have periods pretty much at near the end of every quarter, pretty much right before we get the new premiums in, where we are projecting anywhere between a couple weeks and up to several weeks of negative fund balances. And so, how the float idea would work is that we would be able to use these other temporary, borrowed funds, if you will, to supplement during those negative months, and then as soon as we got the premiums in, that would be used to kind of pay back.

Once we had enough money in the fund, that would be used to pay back, and then any additional need, if there was at the end of the biennium to pay back that float, could be drawn from the reserve that we have been talking about. So, there is more of an ebb and flow through the next couple of years.

**MR. DEMERICE:** Right. And ultimately, we could always ask for more, right? We could have asked for more money based on how you drew the line, but what we were trying to provide to you all, to OFM, was our recommendation based on our understanding of the situation now. And we also want to be careful with the Legislature of not over asking, and then have money. -- To Carole's good point, every dollar that is not put to other priorities or put into use immediately becomes an opportunity cost for them, and they have other things they want to spend money on, too. So, because there is so much instability here or so much, we don't know in these models yet, to ask for, $600 million that we may only use $100 million of for the next 18 months didn't seem appropriate. So, we tried to find a healthy middle ground where we felt this was a strong recommendation, and that's where we landed.

**MS. WATKINS:** This is a little bit of a two-part question. To what extent do you need to have legislative language, either incorporated into 5649 or as a budget proviso, around sidebars and process on when which pot of money gets drawn from and what the flow is of paying back money?

Where is that language going to live, has it been developed yet? I think we are all struggling a little bit with trying to envision which money is going to go where when, and what's going to be the ultimate impact on benefits, the fund, and future premiums. So, seeing something in writing where we can actually see that this is the plan, this is going to happen in this case, and then this will happen... Actually, seeing that in writing, presumably, you are going to have that plan. So, does that have to happen between now and before the budget gets adopted, or is that something that happens in rules? When can we see some kind of draft that we might be able to comment on?

**MS. HOLLAND:** Let me go ahead and take a high-level shot at it and recognize I think that's an excellent point to get in writing what the ask is. Part of it is we wanted to make sure the ask was acceptable. The loan provisions don't require any proviso. It’s basically under the authority of the Budget and Accounting Act that the Director can just say, if there is a cash deficit, then you continue to pay bills. So, for that we don’t need any. For the reserve, I would recommend that there be a fund set up. A specific reserve fund solely for the purpose of that would take a statute, and I do not believe you can do that in a budget proviso. So, that's a really good point, Marilyn. And then the budget proviso, is probably important, as well, and I'm just not sure how much -- you might be able to get it all in terms of setting up the fund and the requirements of the fund and how it would work. Because then it goes into the Fund Reference Manual, and it's all consistent with OFM practice and authority. And with that, I will turn it over to Cami.

**MS. FEEK:** One of the things I will highlight in terms of how we are thinking about this model is in our unemployment insurance program, the Federal Treasury, which is the equivalent of OFM here, has an option where we can draw down funds when we need them, as we need them, if we are overspent, so that we don't not pay benefits.The thinking is that, as we have these little dips that right now look like they are, little multi-week cash flow issues in between the quarters, because this is a tight fund and we are projecting based on, some pretty high claim levels, that it may be that the fund can pay that back, and we won't have to use the reserve.The reserve would come into play towards the end. If that’s not a sustainable cycle, and we are getting too far behind with being able to get that short-term loan and pay it back, then we would dip into the reserve and bring that in in a more significant way to stay within the program.If we got to the end and that money wasn't used, potentially it could be used for some other purpose that you all could recommend to the Legislature to invest in the program in some way, or maybe, that might be a permanent reserve.But the timing of looking at that would be in context of this other body of work that's really important and that I think a lot of really bright minds, including all of yours, are going to come together around looking at data that these actuarial studies create that will help look at that fundamental structure overall to figure out and work with some of the policymakers on that task force to say, with this data and what we now know, is there a policy change or anything we want or need to do structurally around rates, around a reserve, around anything that would need that permanent change in the law.So, that's how I have been looking at it, and the way that we arrived at those numbers was through the analysis we know today, creating a cushion, knowing that my job depends on us not getting to a spot where we said there couldn't be a special session but turns out we made a big mistake. That’s not this, we have put together some really good data. So, I think, there could be a case in which, at the end, some of that reserve would have to pay back that cash-flow amount through sort of the treasury, that we are pulling out, if we need it, as we need it that gets repaid.And so, I just wanted to provide some of that clarity. I don’t know if that helps ormakes it worse. I know it's confusing having these two pots of money, and I understand Marilyn's question. I think it raised some really good things to think about where the OFM pot is very proscriptive and there's lots of rules, and if we do a separate fund, that might take some other action that we want to get in the works.

**MS. HOLLAND:** I'm not sure we have to absolutely have the fund set up in a bill because of the way that the governor’s budget constructed where money was set aside in the back of the budget under the purview of the governor's office or once a certain condition had been met, and OFM could approve disbursement of the funds. That could be another option that would certainly simplify this, if we didn't have to change any of the current bills going on. So, we will work with legal counsel to make sure we have the appropriate action and then write a briefing for you folks.

**MR. BATTLES:** I appreciate what you're saying but remember the governor's budget is not the budget that will pass. So, whatever happens has to be in the budget that is going to be the one. It never is the governor's budget. I think what you are hearing from everybody's concern is that we don’t miss the mark on what we ask for now, knowing that there is a lot of review and assessment that has to happen to know what we are going to need down the road, but we don't want to miss the mark now during the session.

**MR. BUELOW:** Do we have any further questions or conversation about cash flow before we move on?

Now, we are going to give a high-level legislative update. Stacia could not make this meeting, so Nick Demerice will be doing this part of the update, and then I will come back on to talk about the bill analysis for 5649.

**LEGISLATIVE UPDATE**

**MR. DEMERICE:** As you know, we are in a very intense moment in session coming up on house of origin cutoff. Cutoffs are coming fast and furious right now, making sure that bills remain in scope, making sure that things that you need keep moving forward. We are in an intense moment, and it really requires a whole lot of due diligence from us to keep an eye on what is important, how are those things moving forward, and how fast are things changing across the board. There are just a few bills that we are going to talk about here. 5649 is, the biggest bill that we have the most engagement on right now. So, we want to take you through some slides on the different components of that, as well as some of the fiscal analysis. This is where we were talking about the task force, some of that actuarial support, really the bigger picture of things that we are talking about right now currently exists in 5649. And from my understanding, that bill is currently in that prime position to be able to be considered before cutoff. 1613, this is our ESD request bill. You have heard about this before. This is just clarifying around some of the data sharing and privacy of some of the information for our programs that we pull together, a pretty non-controversial bill. 5959, that is the temporary rate buy-down bill. This was the Wilson Bill. It doesn’t appear to be moving as its own bill, but I know that a lot of the concepts that were introduced in that bill are still part of the various conversations around the long-term support and solvency of the PFML program. So, we are obviously keeping an eye on that. 5873 and 2031 are the rate buy-down bills. PFML no longer exists in the version that is moving forward. So, these are primarily unemployment insurance bills at this point, but like anything, we just keep an eye on it and make sure, from a PFML standpoint, that nothing changes and that we make sure we know what is happening there. And then 2076 is the transaction network drivers. I will say we have had really heavy direct engagement on this bill with stakeholders, with the sponsor, across the agency, because this is an issue how we interact with the CNC companies. These are primarily companies like Lyft, Uber, those sorts of companies and their employees and their workers that drive for them, a lot of conversation to be had for that in various forms. So, we are engaging very closely on that. As that bill continues to evolve, we will make sure and keep all of you up to date as it continues to move. And then the budget bills, which unless anybody hears differently, I think we are expecting to see before too long, because time is going to eventually run out. And so, I would expect to see these bills, within the next week or so and we will have a better sense of the state of play at that point. In addition to that, we are tracking Candy's confirmation. That is currently on the floor or on the floor calendar for confirmations, as well as a number of larger, overarching, executive branch bills we are keeping an eye on and participating in.

**MS. KISSLER:** I was going to add, 1613 did pass in the house this week.

**MR. DEMERICE:** That bill did move forward, and I believe 5873 So, we will keep our eyes on those.

**Bill Analysis – 5649**

**MR. BUELOW:** I'm going to go through the different topics that 5649 touches and give a high level of what those things do and how we are viewing those, and then we can have discussion around any of those components that you would like. So, let's move forward and talk about the compassionate end to benefits. This will allow benefits to continue for seven days for people who are caring for or bonding with a child that passes away or for birthing parents that have a miscarriage or still birth of their child. In the construction of the law today, people are not eligible for leave when their child, who they are bonding with, passes away, and for a miscarriage or still birth, it would require a serious-health-condition certification from a doctor, and that would not be required here. Then it also adds the concept of postnatal, which clarifies that, for a parent who gives birth, the first six weeks of leave are medical, unless the employee chooses otherwise, and there is no requirement for -- in fact, it specifies that we can't require a certification of a serious health condition for medical leave during this postnatal period. So, a birthing parent, who has a child, could collect six weeks of medical leave first with without a certification and then start leave after that. The bill would also sunset the collective bargaining provision. So, all employees who are covered by a collective bargaining agreement would be a part of the program starting. January 1, 2024, even if they are covered by a collective bargaining agreement that has not expired, been reopened, or renegotiated. Voluntarily-plan employers, this would have us publish and maintain a list of all employers with the voluntarily plan on our website, which we would absolutely do. The bill creates an Office of Actuarial Services within ESD, and it would require some periodic reporting to the Legislature and to all of you from that office. It has a requirement that we ask benefit applicants whether their leave is related to the COVID pandemic in the application process. So, if passed, we would add that to our application. It requires different reporting. It creates a legislative task force that looks at the premiums to issue a report, make recommendations for legislative modifications to the governor by December 30th of 2022, which is one of the reasons why we were talking about our timing through fiscal year '23. It requires a report to the Legislature regarding the condition of the trust fund, any recommended changes in comparison with other states' trust funds by the end of 2023, and JLARC, the agency and the advisory committee together, would conduct a joint performance audit, followed with recommendations by October 1, 2024. So, we have a lot of different bodies looking into different areas that would help us look at how we sustain this program long-term. We’re excited to have those conversations. If there aren’t any question at this point, I’ll move on to the implementation-cost slides, and, in fact, I'm going to hand it over to Rebecca to share that information with you.

**MS. GRADY:** This is information from our fiscal note. A couple key things that we have gotten questions about- One is the implementation costs, and you can see that, over the next couple fiscal years, there's the biggest amount in fiscal year '23, and then that drops down, and the ongoing costs are largely related to that department, actuarial services, being created. Most of the rest of these changes are short-term implementation costs. And then the rate impacts are another -- the rate and cash receipt impacts are another thing that has been definitely of concern. And so, we wanted to pull that out to show the baseline projections versus what is projected under if we include the changes for this bill. And if you look in that right-most column, for the most part, we don't see any changes. And then starting in 2027, there is a change in which year and how much of the solvency surcharge we see, but it is kind of net zero if you look through the next ten years. In 2027, it's 0.1 higher; the next year, it's 0.2 lower; the following year, 0.2 higher, then the 2030, 0.1 lower. So, it just bounces around which years and how we see a projected solvency surcharge, but it isn’t the kind of net increase that we would see the premium rates to be through the next ten years.

**Advisory Committee Engagement**

**MS. KISSLER:** I want to talk with you all about our plans on refreshing and revisiting our engagement advisory committee and some next steps on that. We want to connect with each of you one to one, and we are setting the target date for April 15th, because we know everybody is busy right now, and we will make sure we are being sensitive to everybody's schedules. So, the goal on those conversations is to get an understanding from you about what's working, what's not working, what else have you seen elsewhere that you love or things you don't want, to make sure we don't replicate. And then we want to bring all of that feedback back, talk about it with the group, and collect any group feedback at our advisory committee in May, then come back in June with recommendations and discussion around the charter refresh for advisory committee. So, we’re a few months out, but we also want to make sure we are being really thoughtful about it as we revisit how we are approaching this work, that we do that in a really thoughtful way and that we can look at some best practice models and bring some of those best practices to advisory committee for PFML. I have participated in the Long-Term Services and Support Trust Commission. There's a lot of things I have seen happening there that I feel like there is maybe a better way to do this or a better model and would love to see us find the pieces of those Boards and Commissions and Advisory Committees across outside state government that are working best and bring those here. Any questions or thoughts about that?

**MR. BATTLES:** First of all, I caution us referring to Long-Term Care as the example that we should be using out there.

**MS. KISSLER:** I'm not talking about the structure of the Trust Commission, to be clear.

**MR. BATTLES:**  I'm sorry. Is this how you wanted to handle the whole board, or how we are going to implement some of the statutes or the legislation that's coming through?

**MS. KISSLER:** This is more about how we are going to structure the advisory committee and continue to make sure that there is productive participation. I think one of the things that is in my head is figuring out ways to hone in on some of these key issues and bring in some other subject matter experts and stakeholders as we dig into those things and have you all engaged in that in a more effective way. So, when I talk about the Trust Commission, one of the things I have seen that I think is a really interesting idea is the idea of subcommittees where there can be some prior participation and still participation from advisory committee -- those are open public meetings -- to build recommendations collectively on some of these key issues, which could include some of the things coming out of this legislative session. So, that's not set in stone, but just an idea.

**MR. BATTLES:** I appreciate you thinking about these things going forward and knowing that some of the legislation is also going to require us to be looking at things, there are task forces in there that are going to have to be set up immediately. You know, we as the members of the advisory board, have met monthly, if not twice a month at times since 2017, and we stand ready to continue to meet for whatever it's going to take to make this program work. We are committed to that. I see you have connecting individually with folks in April. If we need an advisory board meeting in April, as well, I don’t think that should prevent us doing that. More information is better than no information or less information, and I appreciate you trying to find ways to engage and connect with us all and get us all engaged, so that we aren't caught off guard.

**MR. KENDO:** I echo that. I really appreciate that sentiment from Bob and look forward to the engagement between now and April. You know, we have all sat on similar bodies and have learned lessons about what works well and what doesn’t. I think we will all have lots of good ideas for blending models and coming up with something that is the right fit for this program. Thank you.

**MS. GRADY:** I would just echo both of those things and say, to Joe's point, we all sit on some configuration of multiple ones of these committees, and there are not many where I would say, yes, I would be willing to meet more, but here is one that I would say I would be willing to meet more consistently if that is helpful to the program. We all are very committed to doing whatever you need to make sure this is successful.

**MS. KISSLER:** I appreciate that, I just want to reinforce that I have never found that, when we needed to connect with you all, that you weren't available. So, I really appreciate that engagement, both in these meetings, as well as outside the meetings. My goal is always to be the best at things. So, I would like us to have the best advisory committee in state government, which I think means bringing all the best parts of what is working well elsewhere and all the best people, which I feel like we already have, so we can do all the good things for this program, and then everybody will say, "We want an advisory committee like Paid Family and Medical Leave."

**RULEMAKING UPDATE**

**MR. BUELOW:** I'm going to give an update on some rulemaking that we have underway, and then we will continue on. We are doing some rulemaking regarding the waiting week, and what these rule changes will do is clarify that medical leave taken upon the birth of a child is not subject to a waiting week, not just bonding leave under family leave, and that the hours claimed during a waiting week are not deducted from the employee's total leave available. We are cognizant of the impacts of 5649 and the postnatal leave, and we are doing everything we can in looking at how to make those things come together at the same time, so more to come on that. We will share our implementation plan, but we are striving to make that happen. We have heard you all on that as well, just so you know. I want to go over a couple other changes in rulemaking. So, small business assistance grants -- currently, the way that it's designed is that, once an employer gets a small business assistance grant, they must pay the employer portion of the premiums for the next three years. And our current rules say they have to reach out to us to opt out of that after three years. We are changing the rule, so that it automatically will end the employer's obligation to pay the employer portion once they have hit three years. And then we are also updating our Commissioner Review Office rules. If someone files an appeal to the Commissioner's Review Office, and they are in line with changes that unemployment insurance is making in how they accept appeals in person, what address, email address, etc. Any questions or comments on the rulemaking?

**MS. HETRICK:** I just want to make sure I heard you clearly on the opting in. After three years, what is going to happen again?

**MR. BUELOW:** Let me tell you what is happening now, and then I will tell you what will happen in the future. Right now, we haven't had the program for three years with small business assistance grants. Today’s rule says an employer has to contact us and say, "I no longer want to pay the employer portion of the premium. I have paid for at least three years that I'm required to since I got my last grant." The rule change would just make it so an employer doesn't need to do anything. They automatically will stop being charged the employer portion when they hit the three-year expiration.

**MS. HETRICK:** Here is my question: There are several employers who have just chosen to opt in and are paying premiums, even though they don't have workers on Paid Family Leave, so how will this impact them?

**MR. BUELOW:** We don't have the ability for employers to pay a premium that they don't owe. So, right now, there is not an ability for employers to say, “I want to pay more than I owe under the statute.”

**MS. GORTON:** This is surprising, the intent of the program is that small businesses who have fewer than 50 employees have the option to figure out whether or not they can afford to take this cost on, and for those that do, they can pay into the program. As an incentive to bring small businesses in, they are offered the small business grants and everything that comes along with that. So, it shouldn't be -- at least when we were designing the program, we weren't thinking that the only reason a small business would be opted into the program was to receive a small business grant. There were lots of businesses who wanted to participate in this program and help provide employees the benefit, but just couldn't afford to do so. The program gives them an option to do that, and so, we need to figure out a way that small businesses can opt in and start paying these premiums, and it aligns perfectly with the goal that we all have of making sure that this fund is sustainable. I think this is a major disconnect here we might be having.

**MR. BATTLES:** I have to tell you, right now, I am very upset that we are still talking about this two years into the program. Again, there is no reason that they cannot pay into the system. My company doesn't have the triggering event, unless we have somebody on Paid Family and Medical Leave. Yet, we made a decision very cautiously that we wanted to opt in immediately, all the effort that went into it, and what you're telling me is we can't do that, and that was never the intent to say that you couldn't opt in? They need to be able to do it. An individual that is a sole proprietor should be able to opt in if they want to and have that assurance to know they are already in the system. I understand that they got the ability to opt in afterwards, but this is another thing. We keep hearing about how some people think the employers don't care. We care, and we want to be part of it, and then we are not even allowed to.

**MS. HETRICK:** I'm curious, do we feel like we need a fix in order to do this, because I know, for us, it’s the same thing. We are a small organization, but we wanted to pay into it, and I know I have other businesses who wanted to pay into this, as well. And so, I'm curious, does this need a fix?

**MR. BUELOW:** I don't think there is anything that says we would need a law to allow someone to pay us something. I will say, I thought we talked about this when we did small business assistance grants. So, I apologize if this is coming across as a surprise to you all. As far as I'm aware, we have not had an employer reach out to us and say, "I want to pay you more in premiums." It’s not something that our customers have been asking for from us as we have been prioritizing our work.

**MS. HETRICK:** That's not easy, though, because my bookkeeper, when he completes this, he puts the hours in, and then he was just getting a report that told him what we needed to pay. So, I don’t think it's really clear to employers if they are opting in or not. There might be some more things we need to do around that.

**MR. BUELOW:** Let's have that conversation for sure.

**MR. BATTLES:** Matt, you're saying you don't have customers reaching out to you. It’s because you have just told me they can't be your customer until they have a claim, and that's what we are hearing.

**MR. BUELOW:** We have a disconnect here, Bob, I think. People are participating in the program. Employers are filing the wage report and transmitting the premiums that they are withholding from employees' paychecks. We are not charging the employer.

**MR. BATTLES:** I understand that. You are not charging the employer. My point is employers are ready and willing to do that, and you're not giving them the ability to do it.

**MS. CHARLES:** I have not had any idea that employers want to pay the employer portion and aren't able to. That is not the intent, so, that's what the issue is now, right?

**MS. WATKINS:** I appreciate what Julia, Bob, and Tammie have all said. My organization also wanted to opt in. And my memory of, not just what is in the law and what we all agreed the law should be, but my memory is, early on, before premiums even began to be collected, was a report I think from you, Matt, saying that we have not prioritized the ability to collect from small businesses yet, because that's not an essential thing in order to launch the program, so that is going to come later. And my understanding has been that has always been on the list to come later. And, you know, even though we instructed our accountant at EOI to start paying premiums, we have not been able to do that. So, I would completely concur that we were, explicitly told that this is coming soon, but we just haven't prioritized this before program launch. I think you are hearing pretty loud and clear we all think this should be part of what is integrated into the continuing updating and improvement of the software.

**MR. BUELOW:** Absolutely.

**MS. KISSLER:** It's definitely still on the list of things that we know and acknowledge as something that is of interest and that, based on your input, there are employers who are interested in participating in that way. So, we definitely don't want to make that sound like we don't have an intention do that. We definitely do have an intention do that. I think in the grand scheme of things, it's a relatively small thing to clarify –that this would be the employer's portion. Like Jim was talking about, when somebody comes in to pay the premiums assessed that they get, if you are a small employer, it's just the employee share. And being able to provide somebody with the right context for what to pay may be as simple as that to make sure that those who want to participate can do that effectively.

**MS. GORTON:** I think you are also hearing from the advisory committee maybe drawing back that rule and keep businesses that are paying in the program.

**MS. KISSLER:** Would it make sense to do some sort of confirmation or we just let employers proactively notify us? Which is the current rule?

**MS. GORTON:** Notify us.

**MR. BATTLES:** I don't have a problem, if you wanted to notify, you have met your three years, but to have an automatic opt out, I think that is a decision they have to make versus giving the option to tell them when they could opt out. Maybe they will, but maybe they won't, but we are dealing with a program with which solvency is critical.

**MR. BUELOW:** We got that feedback, thank you.

**PHONE UPDATES**

**MR. MATTES:** I just want to update everyone on our work to improve our telephony customer service. This is representative of the last few months.They are updated with the January numbers. You can see continued improvement in the number of calls that are making it into our queue and also the reduction in queue time.We feel pretty confident right now that we are not having many, if any, customers getting the high-volume message. I know that has been a concern raised here about the high-call-volume message. We are continuing to refine that to make sure that we are not having that issue.The reason not all of the calls do not make it into the queue, the reason that 83 percent is not 100 percent, is there is some subset of callers that never make a selection and hang up. So, those don't make it into the queue. We are working to refine and figure out if there is anything going on there, but we have been working to make sure that there are no customers hitting the high-call-volume message.You will see that the percentage of calls that are answered is down. That was anticipated for January. We had a few self-service messages playing in the phone tree to help guide customers to the information that they needed before they had to speak to someone. So, that number, while it does look lower than it had been, was anticipated. There were some messages around 1099s and the Watt Cares delay that were providing self-service without having to speak to a customer services representative, and then the hold time is down, and we will dig into those numbers a little bit. Here you can see the same charts that we have been showing. Again, January volume for incoming calls was high. It is a reporting month. So, that is to be expected, and our calls answered increased, as well. There were about 5,000 initial calls answered in January over our quarter four average, and you can see the average queue time has been continuing to decrease as well. This is the queue time for just the general queue and this is our most popular selection on the phone tree. You can see that our hold times there continue to improve. It has not been as drastic as we are getting some really good marks there. So, it did decrease to just under 13 minutes for January. And I will pause there to see there are any questions on our telephony before I move onto the next topic.

**MS. CHARLES:** Any work or outcome on the hold music and hold messaging, about people thinking they were disconnected, because there's nothing else happening while they are on the call?

**MR. MATTES:** As I mentioned last time, there was a fix that was done that solved it for a lot of customers. It did not completely resolve the issue. Since then, though, we believe we have resolved the issue completely. IT performed another update on the hold music server, and we believe that issue has been resolved for all customers, and we have done some testing on that. We want to update everyone on an upcoming change for our program involving multi-factor authentication. What we are doing is implementing multi-factor authentication for Paid Family and Medical Leave services in Secure Access Washington. What this means is that customers will have to use several forms of verification in addition to their username and password to access their accounts. So, this will impact all of our customers. All customers will have to have multi-factor authentication enabled in order to access their online accounts. This is similar to processes I think all of us are used to in our personal lives dealing with banking institutions and other services that require some sort of multi-factor authentication in order to access our accounts. We are also working on proactively communicating with customers to make sure that they know this is coming, and we are prioritizing those that are likely going to need the most help in order to remove any barriers that could be in effect because of this change. We are implementing it on March 1st. So, here in a couple weeks, we will be going live with this, and why? Again, it's just a really important security protocol. I think this is really a great security measure to help combat fraud and really protect individuals' data. And we are actually required to do this by the Office of Cyber Security by the end of April. The good news with this is why we have been partnering with WaTech, who administers Secure Access Washington, to make sure we are aligning our customer service, so that we can help support customers as they work through this change. In addition, most other state agencies have some form of this already in effect. So, a significant portion of our customers already have this enabled, and they won't see any difference on March 1st.

**MR. KENDO:** One question. Just thinking about the very marginal cases where somebody does not have a cell phone or does not have immediate access to a phone that has data capacity, are there workarounds for folks to use in this those sorts of situations?

**MR. MATTES:** There is also an email version. So, a second email can work instead of getting a text message.

**AGENDA ITEMS FOR MARCH MEETING**

**MR. BUELOW:** A reminder that our next meeting is March 11th, which is a Friday, between 1:00 and 3:00 p.m. Do we have any topics that the committee would like us to bring back next month?

**MR. BATTLES:** March 11th is after the session. Do we feel a need to have a meeting before that?

**MR. KENDO:** My gut is an earlier one might make sense.

**MR. BATTLES:** Legislation is going to be moving fast and there's going to be a need for further discussion.

**MR. BUELOW:** We will take the action item to look at calendars and see what that might look like, and we will send out an email early next week to you all to see whether we want to add a meeting now, or if we just want to have a special meeting.

**MR. KENDO:** One other issue Bob and I wanted to bring up for the advisory committee, is that we are considering the notion of sending in a letter to the Legislature in support of legislative action supporting the program and supporting the budget ask. We wanted to see if there was feedback from other advisory committee members about doing that?

**MS. GORTON:** I think that's a great idea to help the Legislature know it's the recommendation of the advisory committee to provide more support to the Department.

**MS. HETRICK:** I'm absolutely on board, as well.

 **MS. GRADY:** Same.

**MS. WATKINS:** I agree.

**MR. BATTLES:** Again, I'm on board with that, and I'm sure you will confirm with Mackey, as well, or Brenda.

**MR. KENDO:** All good. Thank you.

**MR. BATTLES:** I think the topics are going to need to be what the result of legislation is as we know where it's at. I think that is going to be hard. Your stuff is going to be what does the Robinson Bill require you to do and at what pace, I think sooner than later. I think you have got some concerns that were raised about the ability for folks to sign up with the program. That should be at least a preliminary review of what you need to do, so that we can support that process.

**ACTION ITEMS:**

We will send out an email early next week to you all to see whether we want to add a meeting now, or if we just want to have a special meeting.

**OPEN COMMENT AND ADJOUN:**

**MR. BUELOW:** Any comments? All right. With that, I think we will adjourn a little bit early. Up on the screen now, you will see our website and how to join our list serve, if you want any information. I appreciate everyone's time.