

Location	Zoom
Advisory Committee Members	Director, Leave and Care: Justin DeFour Paid Family & Medical Leave Act Ombuds: Edsonya Charles Employer's Interests Representative: Bob Battles Employer's Interests Representative: Christine Brewer Employer's Interests Representative: Julia Gorton (Not present) Employee's Interests Representative: Samantha Grad Employer's Interests Representative: Tammie Hetrick Employee's Interests Representative: Maggie Humphreys Employee's Interests Representative: Joe Kendo Employee's Interests Representative: Marilyn Watkins
Employment Security Department Staff	ESD Commissioner: Cami Feek (Not present) Deputy Director, Leave and Care: Matt Buelow Chief Financial Officer, ESD: Danielle Cruver (Not present) Public Affairs Director, ESD: Clare DeLong (Not present) Leave and Care Treasury Manager: Steve Zawojky Operations Manager, Leave and Care: John Mattes Research & Data Manager, Leave and Care: Rebecca Grady (Not present)
Guests	Economic Analyst 3, Leave and Care: Brian Kennedy Customer Service Manager, Leave and Care: Rob Rohrer Government Relations Director: Caitlyn Jekel Interim Transformation Manager, Leave and Care: Alison Eldridge
Notes by	Allen R. Emerson, Court Reporter

Agenda	<ul style="list-style-type: none"> Introductions Approval of October Minutes Program and Financial Update Current Priorities Employer Access to Data Legislative Session Priorities Workgroup Updates 2023 Meeting Cadence January Meeting Topics Open Comment Adjourn
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MR. BUELOW: It's good to be with you all today. I will talk through the agenda real quickly and then we will go over our meeting structure and do our introductions. We want to talk about legislative session priorities because that is right around the corner, our current priorities, give you some work group updates. We want to talk about meetings next year. We want to talk about

agenda items for next year and then have our open comment period so we can hear from the public. So can we advance the slides, please.

If you are not a presenter or advisory committee member please keep yourself muted until the open comment period at the end if you would like to comment or get instructions on what to do at that time. If we could advance the slides, please. We will take a roll on who is here from the advisory committee and have them introduce themselves. So I'm going to hand it over to whomever I see first on my screen and if you could please pass it on that would be great.

Introductions – Matt Buelow and Advisory Committee Members

MR. BUELOW: Justin will be joining us very soon. I don't think he is on yet. Before we move on I want to briefly acknowledge Marilyn Watkins. This is Marilyn's last meeting as an advisory committee member.

I had the pleasure of really getting to know Marilyn in the last five plus years working on implementing this program and I firmly believe that the program would not be what it is today, in fact we may not exist at all if it weren't for your efforts, Marilyn. So you are going to be missed but do know you are leaving a legacy with this program, with the department, with me personally, with those of us who have been around since the early days. Thank you from the bottom of my heart.

MS. CHARLES: I wanted to add, Marilyn, I know that you are the architect of the program, the godmother of the program. If I were in charge of the program and I am not but if I was in charge it would be the Marilyn Watkins paid family medical leave of

Washington State and I think for today's meeting we should refer to it in that way in your honor. That's my suggestion for today.

MS. WATKINS: Well thank you and all of the rest of you. This has really been a joint community project, decades ago really. I do appreciate all of you, the staff and the other advisory committee members. You have worked so hard and diligently to not only create the program but to work with all of the legislators. It has been a whole community of people, so I thank you and I'll miss you all but I won't be very far.

MR. BUELOW: Thank you, Marilyn. Okay, let's move on to business. I sent out the October meeting minutes and I'm hoping everyone had the opportunity to review those. There was no November meeting because we didn't have a meeting. Does anyone have comment or a motion to approve?

October Minutes were approved unanimously

MR. BUELOW: Alright, well let's jump into our program update. You are going to hear from three folks during this update today, Steve Zawojsky our treasury Manager, Brian Kennedy our forecast and economic analyst as well John Mattes who will give an update too. So with that, I'm going to hand it over to Steve.

Program & Financial Update – Steve Jawojsky, Brian Kennedy, John Mattes

MR JAWOJSKY: Good morning everyone. We will look at these new four slides to give you a brief update on where the trust fund is and where we expect it to be in the next couple of months. So we have our quarter-3 premiums that were due at the end of October and so our maximum negative balance on October 31st was 14.6 million. On the 1st when we received both of the quarter-3 premium payments we actually had the biggest premium deposit in the history of the program, 188.9 million and that took us up well into the positive again. At the end of November we had a positive balance of 97.5 million.

Coincidentally, the reason for that big deposit on the 1st is because it was the first time in at least four quarters that the premiums due actually occurred on a weekday and in the previous fourth quarter it occurred on a weekend. So in most quarters we tend to get a split between some employers submitting them the previous month and some submitting them the following month, so we tend to get a split. As you see, in January and February we had quite a split there and, as well, in July and August and you will see this one on the slides here.

So these numbers here have not been updated since the end of September but they will be updated for the next advisory meeting in January. This is the slide I was referring to with the monthly premiums. So as you can see here, October, you can see we received 281 million in premium assessed, premium invoices that month, well higher than any previous quarter and you can see in November it dropped significantly down to 19.3 million.

Again, this is primarily due to the fact that the premiums due occurred on a weekday, so we didn't get the split like we did in July and August. We got 231 million in July and another 80 million in August based on that split. But we do expect those trends to continue and we certainly see that, based on the premium assessments this year, we are increased pretty dramatically compared to last year.

Can we move on to the next slide, please.

This slide, of course, covers monthly benefits paid in November, 103.6 million in benefits that is sort of trending right along the one hundred million mark that we have been seeing this year, seven percent higher than last year and a little bit lower than last month but, in general, in 2022 we're seeing a pretty significant increase in benefits paid compared to 2021, thirty percent higher

than last year. We're still waiting to see the historical flow of these payments for the program but right now it's certainly giving plenty of information.

So far in December we have seen through the 14th, we have seen 53 million dollars in benefits paid this month, so we're trending right around the 100 million dollar mark per month in benefits paid.

Alright, I'll pass it over to Brian.

MR. KENNEDY: Thank you. I want to look at some projections here. We extended the projections out to show the biennium. Again we try to be cautious with these because the margin of error can get kind of large. So we are kind of looking at the next term and I put in this last deficit section here because we didn't have a meeting last month and so I'm trying to recap a little bit on what Steve was saying.

We take a negative deficit on October 5th and that maxed out at 27 million, which was kind of right around our baseline projections on that one and it lasted for 27 days until we got those premiums collected on the last day of October.

So we are expecting our next deficit period to happen at the end of the month and we are sitting at an account balance of 42.6 million and it's dropping on average at about 23 million a week. So we should expect that we should see us going into a deficit period at the end of the month. And then, when we start collecting premiums in January we will pull out of that but that will be the last we will be collecting at the 0.6 premium rate that we are assessing currently.

So we expect our next negative balance to be about 50 to 80 million and then, as you can see, the next balance will probably be larger because, again, this is the last time we're collecting at this lower rate and it is a smaller amount typically.

We should be expecting to get positive again right on January 1st because, again, this is another time like last quarter where the end of the day falls upon midweek, so we should expect the bulk of those coming in January, so we will be back in the positive mark on January 1st.

Going to the next one, we have our applications here and as you can see we're still trending high, November we received about a little over 19 thousand applications and that was the 5th highest applications that we have seen on record. I can give you a little context on that, outside of the first month of January of 2020 during program launch, the last four months since August have been the other four, so we're still pushing higher and higher as we go.

It's a little bit less than last month at about 5 percent but it was still thirteen percent higher than November of last year. And you can really start to see that shift towards medical leave types, so we're seeing about 56 percent of those applications coming in as medical and about 44 percent of them as family.

The three-month rolling average is back under 20,000 claim applications. The last month when we sent out the slides and I don't know if you noticed but that was the first time that three-month

average ever surpassed the 20,000 claims but it has kind of fallen back down because November was slightly lower than October.

The next tier we have our approval rates and monthly claims with payments and we're at about an 85 percent approval rate, so we're kind of holding steady, so nothing new on that side of things. Unique leave claims in the last 12 months, you can see unique claims do lag applications, so we're now seeing medical surpass the family in the last 12 months, just barely.

I think that is about 49 percent family and 51 percent medical so we should start to see that pick up a little bit. In November there were about 36,000 total unique paid leave claims happening within the month, which is about 15 percent more than November of last year.

Benefit levels and lengths, the average weekly benefit starts stabilizing around \$937.00 dollars throughout the year, January through November of 2022, which is about 7 percent higher than the same period last year. So that is kind of staying pretty much as we expected. Again, we will see that jump up in January around the 5 percent range over what we're seeing right now. The statewide average annual wage grew around 7 percent from '20 to '21.

Length of leave, we're still seeing about 7.4 percent on average per claim. We are starting to see the average per claim falling slightly in recent months and the timing is kind of coinciding with those changes from medical and bonding rates. So we're kind of keeping an eye on that to see how those play out and we're going to kind of keep a look at the claim's year as well, because those ones tend to lag behind what is happening at the claim level because that kind of expands further out and we don't see those changes as quickly.

So we just want to call attention to it in that way. We are noticing that these are dropping slightly, so we're going to keep an eye on it and kind of dig a little bit deeper to find out if that is truly the culprit but it's likely that it's relating to this medical bonding situation.

I will hand it off to John.

MR. MATTES: Thank you, Brian. I'm John Mattes and I'm the operations manager for the Paid Family & Medical Leave Program. What you see in front of you is our time from application submission to first payment that we have been sharing out this year. You will see in October it was the same payment as September, so no real change from September to October.

In November we did have a slight increase both in the average and median weeks and that is probably due to a few factors, the first of them being that October was the second highest application volume coming in that we have had this year. We just had a lot of applications come in October. In November we also had three holidays and a one day outage for a cloud upgrade and so that kind of plays into this as well.

The cloud transition also – while we're very excited about the opportunity that brings, it did come with an interface upgrade to our platform, so when we do those kind of upgrades we do see that

it takes staff time to get familiar with the new interface. So we do think that contributed to a little bit of that, adjusting to the new system that they were working on.

In addition we do have a few vacant positions that have opened up over the last few months that we are looking to fill and we expect to have them all filled starting in January but I think that is contributing a little bit there to the press in time as well. We are continuing to prioritize our work and making sure we're working on the highest priority items and we have been offering people overtime to help mitigate the slight increase.

Can we have the next slide, please. You will see that October was pretty consistent over what we had seen in recent months with an increase in the queue times for paid leave in the month of October. In November that slight increase just continued there and the similar factors that I talked about on the previous side I think contributed to this.

It is taking them slightly longer to do some of their work and we saw that at this time in post call, after the calls, in the month of November when they're kind of making their notes and wrapping up from the previous call. Again, those are not trends that we expect to continue I think it's just as a result of the interface with the cloud. Maggie?

MS. HUMPHRIES: Alright, no one has asked this before or at least I can't remember, the calls into queue, is that indicating that 19 percent of calls are calls that can't even get through or is that just sort of an option that callers often queue. Previously we had issues where people we not even able to get into the waiting line to be answered. I just wanted to clarify that.

MR. MATTES: Thank you, that's a really good question. Previously we did have callers who were not able to get into queue because they were getting what we call the high call volume message. I don't think anyone is getting a high volume message currently. There are some calls that don't ever get into queue whether that be the customer hanging up before they make a selection on the phone tree or robot calls or some of those things but no, we don't believe anyone is getting high call volumes currently.

Any other questions? I will hand it over to Matt.

MR. BUELOW: Thanks John. I'm going to talk about our current program priorities and then I'm going to invite Rob Rohrer one of our customer service managers to talk to you all about the work that we have been doing to increase access for folks who have limited English proficiency, so I'm excited to have that shared with you.

So can we advance the slides, please. We are, not surprisingly, finishing up 1099's for December of this year. We are doing a weekly benefit amount increase that goes into effect January 1 and the new premium rate that takes effect in January and the new wage cap along with the social security. So we actually are deploying that technology tonight along with many other things and so I'm excited about that. We don't anticipate any problems, so it should be good-to-go.

We are working on continuing to migrate different components with the cloud but that is not happening tonight. We just did our customer relationship management system, which we talked about and we're now working on our financial system but it's going to be a while before that goes live and I don't have an exact date yet but probably next summer, something like that. And then we're still working on the small-employer premium opt-in and Alison Eldridge will give us an update on that shortly. Marilyn?

MS. WATKINS: Just a question about the weekly benefit amount increase. My understanding is if people apply in December but take most of their leave in 2023, they will still be getting the 2022 benefit rate and if they waited until January 1 they would be at the somewhat higher 2023 rate.

Is there any communication about that? Is it just what it is and people don't know about it or is that something that is actually explicitly stated in the information publicly available on the website?

MR. BUELOW: I'm going to ask my team to help me on that one, I don't know off the top of my head. John or Alison, do you know if there are any procedures or anything out online, anything that will tell people where they can contact us?

MR. ROHRER: Matt, I think I can help with that.

So, Marilyn, that is a great question and we're actually doing a couple of things to make sure that our customers are aware of the change in the effect it may have on the applications that come in right at the change of year. There is some information going up on the website for making adjustments and also to the benefit estimator calculator.

But in addition to that, in the customer care team, we're actually flagging applications where we see a difference between an application date and requested start date that could affect the benefit that they would be approved for and reaching out to their customers to educate one-on-one with them about the different options they have and kind of the consequences of the decisions that they might make so they can make the best informed decisions for themselves.

MR. BUELOW: Thank you. Okay and with that, Rob, I was about to hand it over to you anyway. So if you just want to keep the mic. go right ahead.

MR. ROHRER: Alright, thank you Matt, appreciate it. So my name is Rob Rohrer, customer service manager, Paid Family and medical Leave. I'm really excited to be here and talk a little bit about some of the things we have done to continuously improve access for our customers with limited English proficiency. We have done a couple of things about that surrounding written document translation, oral interpretations and some different kind of process flow and organization to the customer care team to facilitate that.

Let's go to the next slide. So there are quite a few different things that have been done. First of all we have our benefit application available in 19 languages that we can send to folks who need those. We have taken all of our standard letters, benefit decision letters, fact finding letters and

others and forms and translated those into Spanish so that those are available on demand for our customers and our customer care team.

We have improved the document translation process. We work with our vendor and we work on some things internally in customer care and have pretty significantly decreased the amount of time it takes to translate a document into the appropriate language. And so that has resulted in quite an improvement in turn-around times for customers.

We also have added some instructions in the languages to explain the next steps to take for weekly claims and to kind of provide instructions and assistance in filing the weekly claim for folks who may not have that information quite as readily available in other ways. So they are getting direct communication to assist with that.

We have improved and expanded our website translation into a number of different languages which you can see on the screen there. There are some pretty exciting things that have improved access for our customers.

You mentioned paper benefit applications being translated into 19 languages. So we have a list of those languages up there. I just wanted to give folks an idea about the applications that we have received through the year in those different languages.

As you can see and as most of you would expect, paper benefit applications, the number one demand there was in Spanish, 960 of those came in followed by English, Chinese and Somali, kind of the big four as far as the number of those that are coming in and as soon as they come in they get entered into our system then to our customer care team.

As far as the oral language services, we have done some things that I'm really excited about to help our customers have better access here. The first really big change that I want to talk about and we're really excited about, we have had some dual language staff in the care teams of 2020. We took those folks and consolidated them into a dual language team so that they're all working and collaborating together in one team.

In addition to that we have added dual language staff members to our customer response teams, which are teams that are primarily focused on the phone and doing that has manifested pretty significant advantages and advancements in our ability to respond to our customer needs.

We have updated the phone tree to better assist our customers. When folks come into the phone tree they can ask to speak directly with a Spanish speaking specialist and be routed into a queue where our dual language team can respond. So they will get a Spanish speaker on the phone with them each time they hop into that queue.

And then we have also updated some of our outbound call SOPs so that when we're making an outbound call to a customer who has a preferred language other than English and our specialists

are prepared with that information and have an interpreter on the phone who is ready when they make the phone call.

So rather than try to make a phone call and communicate in English and getting an interpreter, they are already there and ready to have the conversation or leave a voice mail. So that just makes for an overall much better experience for our customers.

I wanted to share queue times for our different callers as I just mentioned. We have established a Spanish speaking queue for folks who have asked for that and as you can see, we compared the overall queue times for paid leave with the queue times for dual language queues and we are coming in with lower wait times in the dual language queues than the overall average for other general queues. So we're pretty excited about the ability to be that responsive to our customers.

MR. BUELOW: Maggie?

MS. HUMPHRIES: The four dual language staff, is it the in-house building where the capacity is still Spanish only or are those additional staff members bringing an additional building for their expertise in a language other than Spanish?

MR. ROHRER: That's a great question. Right now the dual language team is all Spanish speaking but we have had conversations about what it might look like to take the additional steps. Right now we're trying to really get good at -- and I think we're getting there, helping the Spanish speaking customers to that staff but that is definitely on the radar for something that we want to look into.

MS. HUMPHRIES: So is the dual language queue wait times for callers with Spanish as their preferred language only rather than all callers who need an interpreter?

MR. ROHRER: So the queue that we have selected right now that goes into being answered by the dual language team is Spanish. There is also a queue, and I'm going to double check with John here, that is either in the planning stage or may have already launched where there are other general requests for languages other than English, so we can be prepared to have an interpreter on the phone. John do you know if that is something that has gone live as yet?

MR. MATTES: Yeah, so there is on the phone a tree option, there is an option where customers can select, if they need interpreter service for a language other than Spanish. So that is a selection that customers can make. I don't remember the exact routing on how that works internally but we can kind of follow up on that and that is something that we're continuing to always look at because of the phone tree option, making sure that we're making the needed improvements in the routing of those. Also, the instructions on how to do that are also on the landing pages that Rob mentioned earlier, so if you go to one of those other language landing pages online it does give instructions on how to select on that landing page in that language.

MS. HUMPHRIES: John is that still at the very bottom of the landing pages or has it been moved? I found it hard to find originally.

MR. MATTES: That I don't remember off the top of my head but I can take a look real quick.

MS. HUMPHRIES: And relating to the phone tree upgrade I'm excited to see that go forward. We have all been talking about it for a while. Is there a plan to put some options in language for some of the primary languages other than Spanish like Mandarin or Somali or Vietnamese?

MR. MATTES: Yeah, I mean we're always having conversations about how to improve that and I know that has been part of the conversation, how granular can we get and where do the efficiencies begin. If we have different options for specific languages, that is something we have talked about. We're not, I don't think, there yet but it is part of the conversation.

MS. HUMPHRIES: I just have a couple more questions or comments. Are the paper applications in the various languages, are those available at all statewide WorkSource centers or is that something your team has talked about, WorkSource Centers?

MR. MATTES: I can take that one, Rob. So for the languages we have planning stages online, so paper applications are available online there. They are not currently available in WorkSource Centers across the state but that is a project that we're actually working on, is how do we better integrate paid family and medical leave into WorkSource Centers and that is a topic that will come up as part of that work organizing to figure out how we can better partner with WorkSource to provide access to paid leave across the state.

MS. HUMPHRIES: Thank you. Access to a printer could be very limited and so having multiple locations across the state where people can go and pick up these applications they might need would be very helpful for distributing those resources.

MR. MATTES: Thank you for that idea as well. We can confirm the instructions are at the top of the landing pages but the actual link to the landing pages is at the bottom of the page and I think we're in the planning phases of kind of looking to change that right now.

MR. ROHRER: So this kind of gives us a snapshot of the total calls that we're getting in and using interpreter services to help with the languages that are the most common that we're getting requests for. If there are any other questions I would be happy to take them, otherwise I'll hand it back to Matt.

MR. BUELOW: Thanks, Rob. I want to talk to you today about employer access to data and the reason we want to talk about this today is because it's a topic that we have been hearing a lot about from the employer community and I know many of you have as well, some of you have talked to us about that on the committee as well. I know Edsonya has heard about it and so we want to just talk through where the privacy provisions are today just for conversation, we're not looking for any particular outcome or anything like that, we just want to be sure that the committee is aware of where things stand today and why they are where they are.

So I want to walk through a little bit of the history of the privacy provisions in Paid Family & Medical Leave. So back in 2019 a new chapter was created, the privacy chapter for paid leave. The

original bill did not contain its own privacy chapter. So that was added back in 2019 before benefits went live and then in 2020 there was a bill that made a minor technical change to the privacy chapter and then last year there were some amendments made to the chapter because in our implementation we need additional data sharing authority with different partners that we did for Paid Family & Medical Leave. So no significant overhaul or anything like that.

Now in front of you are some snippets of the statutory language that I wanted to highlight for you. So the general provisions, the way we view it, it says everything is private except for the following things. So we start at a place of assuming everything is private. Later in the chapter it talks about what an employer can have access to, which is its own records relating to a claim determination, which makes sense. Its records and information relating to premium assessments. When it comes to benefit claims and information, data that we may have or having been given to us by an employee, the statute says that we will give records and information relating to a decision to allow or deny benefits, hence the decision based on material information provided by the employer. So there are a lot of words there to kind of work through.

I wanted to give you sort of a real life example of how this would play out, so if we could advance the slides. It's a totally made up scenario but let's just say that Ralph from Ralph's Plumbing calls the department and asks for specific information about one of Ralph's employee's paid leave claim. Under the statute we cannot share that information with the employer because there is no material information provided by the employer on our decision to allow or deny in that particular scenario. We do send out letters during the application process and the approval process to employers, whether the current employer, if the employee applied for benefits and whether these benefits were approved or denied.

I'm going to stop, that was actually the end of my presentation anyway and see whether anyone on the committee has any questions or comments or any discussion around this at all.

MR. BATTLES: Matthew, this is Bob Battles. I appreciate your scenario but if the employer is trying to determine whether benefits, applied for benefits, and whether to challenge something, because they have the right to challenge, how do you do that because you haven't provided them with any information to challenge the legitimacy of the claim. I don't know if that was our intent when we did that. The privacy would have been if you used it to determine not just what the employer provided but if you used it to determine eligibility then that is part of the reason why they are entitled to a claim and people need to look at that.

You may just be creating a dilemma for employers to question something when they wouldn't if they knew what the basis was.

MR. BUELOW: Absolutely. That is one of the reasons why we wanted to have this conversation with you because what we can share is very limited and we continue to hear – and I completely understand it, if there is additional data that would be helpful for employers to administer not just the benefit but the job protection and the leave itself.

MR. BATTLES: And Matt, we're getting comments from folks, more than just anecdotal, we're getting a lot of comments. Even their own employees are getting mixed messages about what lead they have, what lead they don't have and nobody can determine it because they can't get access to the data. I'll say that we may have drafted incorrectly but that was never our intent to make the data impossible to use by the parties outside so they could at least look at it. Everything is private and I understand that you don't want to deal with HIPAA information but that is not what I think the intent was. I'll stop there for a minute.

MR. BUELOW: Thanks Bob. Christine?

MS. BREWER: I would like to hear from Edsonya as to what she is hearing from her perspective about that. Also, does the department have recommendation or thought on how you would like to do it moving forward?

MR. BUELOW: We do not have a formal recommendation today for you. This came up again very recently and so we wanted to add it to the agenda to tee-up the conversation for you all to kind of understand where we are. Currently, with the constraints of the law we want to acknowledge that we understand how that restrains the employer's ability to do some things but we don't have a policy position or anything like that but there are, of course, legislative changes that would need to be made if we were to accept. Tammy?

MS. HETRICK: I would like to hear from Edsonya.

MS. CHARLES: This is Edsonya. As I said in my previous ombuds report, probably the number one complaint that I get from employers – and just as a background, the letters that go to employees have the dates that it has been approved, the number of hours, a lot of information that the employers don't get.

Employers get a notice when somebody has applied for leave and the date that the employee wrote on their application that they informed the employer of their intent to take leave. So that gives the employer notice if they want to contest whether or not they were given the 30 day appropriate leave. Then they get another notice when the decision is made on whether it's approved or denied. The approve or denial letter doesn't give any reason.

The approval letter says this employee has been approved for medical or family leave from this date to this date. The problem employers have with intermittent leave, they don't know when exactly employees are taking leave – and this is a problem that I brought up. Employees don't understand about bonding leave. If you ask for the entire first year of a child's life, that application can be approved with a start date.

If you ask for the entire first year of a child's life, that application can be approved with a start date. If we start today it would be approved with a start date of December 15th, 2022 to December 14th, 2023.

Obviously they can't take a year off without pay but people often don't understand that once you have lost your bank of hours that you're out of time. So when that happens the department changes the leave end-date to when the leave is exhausted.

No letter will go out in that case unless there is a request for the letter but that also causes some confusion because employers are like how did somebody get approved for a year when they have already been approved before but employees will request the letter or employers will request the letter and what I say to employers, there is nothing in the statute that prohibits an employer from requesting an employee to provide information that the department has given them.

MR. BUELOW: Tammy?

MS. HETRICK: Thank you. Edsonya I appreciate that feedback because that is really what I'm hearing as well. It's a challenge for our employers who are not only dealing with paid family leave but also family leave and when we negotiated this we wanted those to run concurrent but there were some questions on that. Also employers just aren't aware of what leave is being taken, especially when it's intermittent. I think that even though we're trying to protect that information the employer really needs to have access to what is being authorized and what period of time so they can manage that properly. It's a big challenge and we're hearing that as well.

MR. BUELOW: Bob?

MR. BATTLES: And what I'm hearing here about the letters – and I thank you Edsonya, I appreciate what you're saying about that information but that is not statutory and there has been a decision by the department not to send certain letters to employers saying hey, the leave is done here, unless you request the letter, that's not required, that is not statutory as I read it.

I think we need to be sending information to employers, status changes or hey, your dates have changed on it – and I heard this too, employees will say I've got a years-worth of leave, I'm eligible the whole time and they're not eligible but the employer has no information to even say you have used it up.

And they are sitting there saying that they don't have to come back. There is nothing in the statutes that says you can't be providing those letters when you are sending new information updates to employees. That is something that I think needs to be looked at short of legislation but that is not a privacy issue, that is the department's decision not to send something.

MR. BUELOW: We will take a look at it. Appreciate it, Bob. Maggie?

MS. HUMPHREYS: To what Bob just said, I have also, on the other side of that, heard several anecdotal people who thought they had been approved for a year and I know they were very surprised when their paychecks stopped coming three months in and had planned for a longer duration of leave for their own family.

So I agree, that information could be better communicated in terms of what that 12 month approval window looks like in terms of the actual amount of paid leave that is available.

So I'm confused, especially from the employer representatives on the call, as to what specific information you employers are looking for. I have heard like a notification that the employee's leave date has ended. What are the other pieces that you are hearing specifically that employers think would be helpful to be communicated. That would help us kind of assess where we stand on some of these pieces, too.

One thing I have heard is that it would be nice if the employers could actually go online and access the information just so they know what leave has been approved and for when. That is the biggest challenge right now. If they have, you know, more than fifty employees this would be helpful or some other matter such as healthcare benefits.

They need to better understand what the period of time is that has been approved. The other challenge is that a lot of times people will just leave the job and they don't actually know they have left the job because they were in the middle of a leave but they didn't know that it was done.

So there are a few things there that I think would be helpful but mostly it's in reference to just the timing of what was approved or not approved and when they're actually off.

MR. BUELOW: Maggie, just from what I've heard and I know we heard as a program about everything that has already been said but we heard about employers needing to know whether someone is taking an intermittent leave or not, what days they're taking leave for to make sure that the job protection is being applied appropriately, those sorts of things as well.

You know, how much they will be getting paid in a given week, if they're providing supplemental benefits, those are the sorts of things we're hearing.

MR. BATTLES: It's the standard HR thing that they would normally do to manage, something like a work stoppage, they would just manage if someone is gone. A lot of these employers want to keep those employees and they are even having difficulty determining what is going on because they don't even have the details.

They don't even know how the leave has been approved, all they have got is a years-time period or something and they're trying to schedule their time, if they could put all of this in writing, this part of the process, because we don't know that.

MR. BUELOW: Edsonya?

MS. CHARLES: One thing that I haven't heard mentioned that I also hear from employers is that employers don't have information on whether the family leave that is being taken is leave that would qualify under the expanded definition of families in the Washington Paid Family & Medical Leave for FMLA, whether it would qualify for FMLA.

So the employer would be required to continue to bill for benefits. They don't know that from the notification letter.

Also, to Maggie's point about employee confusion and it's on the top of the ombuds report for the past two years, is that there isn't a line running tally for employees to look at to realize how much room they have left.

The one improvement made this year is that employees can see how much leave they have used each week but they would have to do the math themselves. It doesn't show each week that you have x-number hours. I do think there is some plan to progress to that.

MR. BUELOW: Christine?

MS. BREWER: I would like to talk about how we can find some solution here. So clearly the department is saying we need a legislative proposal. In my mind, you know, I'm happy for the business community to sort of take the lead and work with our labor colleagues on a call. I would like to have Edsonya as part of that and obviously the department.

I mean I'm not sure, Matt, if this is a priority for the department, something you guys would want to bring and say here is what we're hearing and here are our suggestions and try to do that so we could maybe get a bill in the upcoming session or, alternatively, that's certainly something that the business community could lead – you know and include Maggie and whoever else to try to pull something together.

MR. BUELOW: That's a great suggestion Christine.

I'll go ahead and respond and then I'll kick it over to Maggie. We're happy to provide any technical assistance. We're happy to sit down and have a conversation and let you know what we're hearing and how we think that might be able to be improved, those sorts of things. We would love to come to the table and assist with a solution on this.

MS. HUMPHRIES: I was going to bring up a suggestion actually that Marilyn had that we do a working group conversation to try to work through some of this. We would want to think through some of the potential employee impacts on some of these pieces but I think there could be a lot of agreement on making this more of a smooth process both for employers but also employees who suffer the impact.

MR. BUELOW: Yes and if that's the group's desire we're happy to pull a work group together. See what their schedules are like in December. There is a session coming up, so that is obviously my one concern. Whether we do it through a work group or meeting, the same issue exists.

Are there specific folks that we should include on that work group?

MR. BATTLES: This is Bob. I think what you do is let's include the entire task force. I know we can't have everybody on there but specify a number that you need to keep it limited to and we can designate who will be part of it

in that discussion. Just make sure we set it up in a way that you are not violating anything so the work group is beneficial and then it can be part of the topic of discussion on the next meeting agenda as well.

MR. BUELOW: That sounds great.

MR. BATTLES: Just let us know some ideas and we will work it amongst ourselves to see who could attend it because of the session and the holidays.

MR. BUELOW: Absolutely, you will have an email today.

MS. CHARLES: I'm wondering – because there are a couple of large employers who have raised this issue a couple of times, at times with different groups of people, whether we want to invite them to participate as well so you can hear their ideas.

MR. BATTLES: We're getting that information Edsonya and I think we can present it there, initially at least, to have the initial discussion about it and then if we want to care for those groups I think it makes sense then to bring them in on maybe the second round. But I think at this time let's talk about what we think the solutions could be or if we have to explore it further and find out what the problem is, we can do that. That is my recommendation.

MR. BUELOW: We will get an email out today to see when we can get a work group formed and put together. Obviously I think we're all interested in having that done quickly. We will also put our heads together and have conversations internally and see if there are any proposals or ideas that we can bring to the table to help the conversation as well.

If there is anything in the meantime, if there is anything that we can do, any data we can bring or anything like that, let us know and we will do what we can so people are prepared for those conversations.

Christine?

MS. BREWER: I'm We have raised this before you know with L & I. We can see all of this and so what I would like the department to do is talk to L & I and understand what it is that they have. Their data is just as confidential as what you're experiencing with the Paid Family Leave Program. So to me, reach out to L & I to understand what, specifically, in their statute or their policies that we need on the Paid Family Leave side so we're mirroring what employers are experiencing on the worker's comp side.

MR. BUELOW: It's a great idea, we're happy to do that, we will absolutely do that.

MR. BATTLES: And Matt one of the things that L & I does have when an individual makes a claim, the employee is also signing that ability for the employer to see things on that claim, there is actually a waiver in there. So that is something to think about too and that doesn't require statutory change, you just need information for the employee and it could be as easy as when they sign up for a claim they're waiving that.

So at least communicate some basic things if you feel that they can't do it. For the health of the employee. It's causing problems for the employees too like Maggie said. Those people are confused when they think they've got a year and that undermines what they're trying to do and catches them off guard and then all of a sudden they're shocked.

MR. BUELOW: And we have heard it from the employees side as well, especially with employers who have voluntary plans for one but not the other and that can be really confusing.

Anything else on privacy before we move on, which I think will segway really well into legislative session priorities, which is our next topic.

I'm going to ask Caitlyn Jekel our government relations director to talk to us and I'm also going to ask Caitlyn – we didn't know the timing about the governor's budget, when that might be coming out and what might be in it but that did come out yesterday so I'm going to ask Caitlyn to give a brief update on that as well, if you don't mind.

MS. JEKEL: Alright and thanks so much everybody for that entire conversation and I'm happy to get to work with all of you on that work group and figuring out a solution. I really appreciate it.

Can we advance to the next slide. Okay, so we wanted to update you on a few things today. One is to be able to request bills, which we had been unclear in previous conversations if we were going to pursue this year and we now have decided that we are. So I wanted to make sure that you all had visibility to it.

I wanted to also update you on the outcomes of a couple passports that occurred this interim that are quite likely to produce legislative action this year.

Some of you participated in those and others did not and so I wanted to update on that. And also to open up the floor for any additional priorities that you all would like to share amongst this group.

So to begin, the first thing we see on the slide is that we are going to be presenting a bill to remove the terms "master" and "servant" as the way in which our staff describes the employment relationship. We have come before this group with this before and we had previously engaged a number of language issues that our staff used as outdated, problematic and needing update.

We have given these to other agencies and it has been clear that a number of the things we want to deal with are better suited as a multi- agency effort.

This is basically ours and it's people problematic and it's time that we get rid of it and so we are going to independently pursue the removal of "master" and "servant" from the definition of that relationship in our statute this year. There would be no impact to eligibility or claims or anything that is claimant basing, this is simply changing the definition in the statute.

So I believe this committee – and correct me if I'm wrong but I believe this committee formally engaged this subject the last time the bill was proposed, so I suspect it's not new news.

Does anyone have any questions or want to discuss this at all. Yes, Christine?

MS. BREWER: So why didn't it move forward. Did I miss what you said?

MS. JEKEL: So it didn't move forward previously because we had a number of different language updates and it was a broader bill that was using gender terminology and references to alien and different things and it became clear that, certainly, how the gender terminology throughout the code is broader than ESD.

We've got different federal statutes that say how we refine the use of the word alien, different things that really are better suited to the Imelda (phonetic spelling) Agency effort, so it needs to be a longer running discussion on how we clean up language within our statute.

The time period to do that important work is not immediately before us and so in the meantime we have been authorized to manage this one case that is so uniquely ours.

Any other questions on this one? Then I'll move on.

So a number of you engaged with us in a work group that was created for ESD to manager within house bill 2076 last year, the bill that made a number of changes to the way the state engages with transportation network companies and drivers and the bill asked ESD to work with statewide business, statewide labor, the companies, the driver's union and other parties to discuss the way in which Titles 50 and 50A and 50B relate in this regard and I want to give you visibility to the recommendation that came out of that group pertaining to Paid Family Medical Leave.

With ESD support they were to run a three-year pilot on 2076 that set forth that TNC's drivers could opt-in for elective coverage to receive Paid Family & medical Leave Coverage and the recommendations did not change that underlying law but, instead, transportation companies who are covering the cost of TNC related premiums.

So the driver may have a benefit that is billed off of multiple different forms of the work, a portion of which was TNC work, that ESD would support the mechanics for that TNC to pay the cost for that person's opinion for the driver.

So the details are still to be worked out in the drafting of the legislation but we wanted to call your attention to the fact that TNC has published the report and has a full recommendation here for PFML and we are expecting to be provided technical assistance on this recommendation.

We also have a recommendation pertaining to unemployment insurance. So if you are interested in those I would be happy to give it to you offline as well and bring your attention to our report.

Any questions or comments on this? A handful of folks here were involved in this and I thank you so much for your support network.

MR. BATTLES: Caitlyn I just wanted to say thank you for all the work that you folks did. I know you and Dan were working tirelessly for the program and while we were able to split up the

different monetary groups you had to go to all of them. So thank you very much for all the work you did.

MS. GRAD: I just want to echo that. I know it was a lot of work at the very end and you all have timelines and we were not necessarily the greatest at meeting those. So we really appreciate your flexibility and continued work that was done with us to get to the place that we got to.

MS. JEKEL: Thanks, Sam. So we will just listen to your expertise on this more than ours because you were such pivotal partners in coming to a final recommendation for the way in which you are anticipating choosing the rate-setting structure for Paid Family Medical Leave.

So this is a legislative task force for which ESD provided technical assistance throughout the interim and it included this advisory committee as well as members of the legislature and members of LFM and our director Justin DeFour, all serving to come together and address what we all know to have been true this last year where there were peaks and valleys and going through temporary deficits.

So what I have up here on the screen is a summary of that recommendation which you all are familiar with. So we just wanted to take an opportunity to say thank you to you all for your service on that work and open the floor if anyone wanted to engage at all in this venue on the recommendation. The next step, we know the bill draft gets underway and anticipate we will all be looking at legislative language.

MR. BATTLES: This is Bob. I want to thank immensely the work on both sides and also to Justin DeFour who has also served on it and the legislators who all spent a lot of time to do this and go through that review. In addition, thank you for some of the smaller groups who got together at the end to try to find that final solution to make it successful.

I do note and I think you were probably going to give an update on this, the one portion of this when it comes to the remaining 350 million and how they kind of put it in their budget. I think the reason why we were able to have a unanimous vote at the end is because of that process and the work that we all had done. I think a lot of us were there from the very beginning when we negotiated this as everybody knows, so thank you.

MS. JEKEL: Thank you, Bob. Maggie?

MS. HUMPHREY: Thank you. I want to echo all of that gratitude and I also want to extend a lot of gratitude to the ESD staff and the non-partisan and caucus staff as well who I know did a tremendous amount of work to be able to get us to that goal. I appreciate all of you for being part of this endeavor. We are all pleased with the way it ended up.

MS. JEKEL: We recognize that in addition to the service that you all provide here at this advisory table you often are tapped on work that is many hours and forever improving programs. So we owe you all a debt of gratitude and really appreciate you.

Bob mentioned that the governor's budget was released yesterday and we, of course, didn't have an opportunity to change our agenda, so we're not going to go into great depth today but I'm happy to open the floor if you would like our budget office to come and give a presentation on everything contained in the governor's budget on our next agenda or if there is a different way in which we should engage on the budget.

Bob did just mention this first bullet point pertaining to the legislative task force recommendation, that the decision to take whatever remains from the 350 million and what this proposal seeks to create is not reflected in the governor's budget. As you all are likely aware of, the timeline for that recommendation to come to a vote and the process of building the governor's budget are simply out of sync, so urging that not to be reflective of a policy position opposed to this recommendation position but thank you for noting that, Bob.

In addition our teams just like I'm sure yours are, are reviewing everything that is in the budget and one thing you will note revolves around our taking the medical leave staffing recommendation. We are going to remain in sync with them on everything and to be seeing more of that adjustment occurring in supplemental, if needed and then we received partial funding on some of our requests.

So with that, Matt I don't know if you want to open the floor if there is a request or recommendation that we come back with our budget team next time or later in the agenda.

MR. BUELOW: We will talk about that later when we talk about the next meeting but I do want to open it up. I know that the committee has been interested in the past on making sure that we create a basis for the conversation but if you all have some legislative priorities that you want to talk about in the meeting today. I don't know if anyone does but I just want to make that available. Okay, thank you Caitlyn. As always, a great job. I'm going to hand it over to Alison Eldridge who will give workgroup updates.

MS. ELDRIDGE: So just a quick update. We will have that Popup Wi-Fi by the end of the year. There is a form that small employers can use, sort of a manual approach and there is a policy review on that form and I'll be able to share it after the policy review and then I'll send emails to you.

I'll get an update next week or so after the form gets finalized and then as part of the initial agreement on how we would tackle that.

So once stage one is launched by the end of this month we will continue working towards a more comprehensive solution.

So after the first of the year I'll make sure that we have something substantive to share before we take time today to talk about it. So I will get going on a comprehensive solution.

I will take questions if there are any.

MS. HETRICK: You talked about this a little bit, how are you planning on getting this out to the smaller employers? Are you doing a targeting messaging or how will you do that?

MS. ELDRIDGE: So we will look for the best approach. We haven't talked about it yet so I don't have any details on the plan but certainly the form itself will be on the website and the customer care team, when they talk to employers they will have the information and will work on a more comprehensive plan.

MS. HETRICK: And just so you know, me, myself and probably others are more than willing to provide input and support on this.

MS. BREWER: Well, we were just hoping that there would be a little bit more meat around the actual steps. If you put something on your website that's great but small employers are doing their day-to-day businesses and not just looking at state agency websites. So to me the more critical piece is how were you outreaching to businesses that this is going to be here. So, I mean, is this something that we can address at next month's advisory. Can we get a little bit more of the timeline on that piece?

MS. ELDRIDGE: We can bring it back to the January meeting and I can provide additional information to workers via email between now and then.

MS. BREWER: Okay and I would just ask – I mean from the business side, the four business members, we have access to thousands of businesses that either I represent or Tammie and Julie and Bob. So to me, I would hope that that would be your first stop and then we can build off of that.

MS. ELDRIDGE: Absolutely.

MR. BATTLES: I would echo what Christine says, the details, sooner than later so we can get this out.

MR. BUELOW: Anything else on that. Okay, next we want to talk about meetings next year. I know every year we have conversations around how often, how long, when, all those things and I just want to have this conversation right now so we can make sure we're meeting the needs. I'm also acknowledging that sometimes it's different during legislative session and outside of legislative session. Bob?

MR. BATTLES: I think during session I think it's important to have at least a monthly meeting even though it's difficult because as things happen we need to be able to do what we need to do in session to be able to make it work.

I think they should be shorter meetings, an hour, and coordinate with your other committees such as UIC which is looking at Friday afternoons and that tends to be open for folks until we get closer to (inaudible) but I'm not promising anything but I'll look at the schedules.

Also, to work with your sister agencies like the worker's comp advisory committee. So to the extent you can avoid hearings but I think once a month during a session for an hour as opposed to a two hour meeting it's much easier for us.

I would also recommend that those be virtual or at least a hybrid if you're not going to do virtual. Then after that, depending on how folks feel, I'm open to whatever after that but I think the session should happen once a week, and once a month and we can talk about it. What we don't want to have happen is what happened last year.

MR. BUELOW: Any additional thoughts?

MR. BATTLES: And just for everyone's edification, the session goes through the 24th of April officially. So, a long session.

MR. BUELOW: Absolutely. Okay, I think what we will do then, we will get those meetings on the calendar, that tended to work for us. I will reach out and talk to some other folks and make sure we're coordinating as best we can and make sure we're not double booked again, that sort of thing.

If think, if it works for you all, what we can do, because we do want to publish in the annual registry our meetings for next year that we're anticipating and those can always change. I think if it works for you all do you want us to put that register in as if we're going to meet for one hour every month for the remainder of '23 but we can reassess as needed or do you want us to try to do something different after session. I know it's hard to gauge where we will be at this point. If you need time to think about it we can follow up with an email as well. I'll follow up with an email.

So for next month, we talked about adding small employer opt-in communications and getting an update on how that's going so we will add that to the agenda. I heard a proposal for a deeper dive into the budget. Is that something the committee would like to hear?

MS. BREWER: That sounds good. Matt, I would ask on the small employer opt-in, we need some more concrete actions on what will happen. We will meet again in a month to talk about it more, I just feel like I need to have more action on what will happen in this regard.

I mean I felt like the commitment was, end of 2022, there would be a more in depth plan in place in '23 but I'm not feeling like there is a lot going on in the way of action here.

MR. BUELOW: Okay, we will follow-up with you with what we've done, what we're doing.

MS. GRAD: This sounds like a broken record but I still would like to talk about the advocate form and how we make that more accessible to people. I have since tasked other people to help our members with unemployment insurance and what not – it was like can you go on this website and find this but it is pretty damn near impossible for anyone to find.

I know I have brought this up many times before, but I would like to talk about how we make someone to be able to advocate and helping someone through the application process easier for people.

MR. BUELOW: We will add that to the agenda, thanks, Sam. Tammie?

MS. HETRICK: Hi Matt. I just wanted to offer any support that I could give on this small business issue. This is a really big priority for me from the very beginning when we negotiated this, so I

just want to be sure that I'm a resource and can help work through this and so I'm committed to that.

MR. BUELOW: I appreciate that. I'm sure we will take you up on that, Tammie. Bob?

MR. BATTLES: Echoing the small business and the need to address that sooner than later with concrete information. Also, I think the topic that we just discussed earlier today regarding the notices that are going to employers, we should have a further discussion of what has been talked about in between that time about what we think really needs to be legislated verses what can be done by just changing the letters. So let's have that, especially at the first meeting because if you are going to have to do something legislatively then we need to move fast on that.

MR. BUELOW: Absolutely and as we have been talking here about the small employer opt-in and that sort of thing, I do want to invite Alison back in to give you an update on what work has been done, what is coming down the pipe, more information is headed your way that is already in the plan.

So I just want to bring her back so that she can talk about that here right now, too.

MS. ELDRIDGE: Thanks Matt. We are working to develop the process, the form itself, ultimately to develop the technology to support this process. The technology is in process right now and it will be available – I don't know the exact date.

We need to make sure that we're only allowing a person at a business who is authorized to talk on behalf of that business to be opting that business into paying the premiums. We want to make sure that we're very careful that we are not opening up an avenue for anyone to not understand what they're doing.

I think we're trying to be very thoughtful about how we work on the language of that. It has taken some time between our employer reporting staff and our compliance team and our policy group.

So I can share sort of a high level process. The form will be available. We are preparing to train staff on how to talk to employers about the availability of opting-in to pay the premiums and developing the internal policies around that. So download the form, complete the form. We're not requiring any documentation; it's just an application and we will go through with you to make sure we're doing it adequately.

Once they fill out the form we want the system to treat that employer as if they are large for the purposes of (inaudible) assessment. Employers will need to opt-in to the process for a year, because we can't change the way we assess from quarter to quarter. All of that will be addressed in the communications, we will all work with everyone and certainly Tammie, Christine and Bob to make sure that we're explaining it the right way for employers.

MR. BUELOW: Any additional questions for Alison on that? Thank you Alison, we appreciate that update.

So what I'm thinking, based on the conversations we have been having here and the fact that we're only going to meet for an hour in January, I want to make sure that we are specific on what we want to talk about because we will have limited time. So I think the budget update is probably a good one. The advocate form, we can absolutely talk about that and my recommendation or my proposal would be that we save the rest of the agenda for whatever emerges during the legislative session. We don't know what that will be, right, but there will be something that we need to talk about.

So that would be my recommendation for January, if that works and then in regard to the employer privacy stuff, we will set up a separate work group with folks in here and we can report out on that next month. However I don't want to wait until next month to have those conversations, so we will do that ad hoc outside of this. Does that work for everyone? Awesome.

Alright, let's advance the slides please. I'm now going to open it up for open comments. So if you are on your computer, please use the hand-raise function and I'll call on you in the order that you raise your hand. If you are on the phone please press star 6 to unmute. You can't use the functionality to raise your hand, so we will do the best that we can to get your comment in at that time.

With that, Alex Mather, I see your hand.

MS. MATHER: Good morning everyone. I just have to say it has been a pleasure listening in on this. There is a great collaborative spirit so I really appreciate that. I know this is really difficult.

So good morning, my name is Alexandra Mather and I'm here to speak on behalf of Pierce Transit and Pierce Transit appreciates the opportunity to come before you today to express our desire to work with you and the state to ensure that the employer is given access to non-confidential information reported by its employees to ensure successful administration of the PFML program.

Currently Pierce Transit and other employers are unable to access the number of hours a Pierce Transit Employee is reporting to the PFML system. This creates accountability and compliance challenges for the agency who is simply trying to administer a benefit for its employees. Pierce Transit does not want to task its employees with an additional step in requiring the employee to come into the agency and hand-deliver proof of hours reported.

We respectfully request that a dashboard or some type of electronic system be established which would alert Pierce Transit and other employers the number of hours our employees are reporting to the PFML system.

This program, while valuable and necessary is already administratively challenging in creating transparency around hours reported and it would be extremely helpful to ensure that Pierce Transit is able to deliver the benefit if employees are not taking advantage of the system.

Thank you so much for your time and consideration.

MR. BUELOW: Thank you, appreciate that. Any other comments from the public? Okay, not seeing any we will go ahead and adjourn today's meeting and I hope everyone has a great

holiday. We will be in touch around that work group and we look forward to working with everyone and getting some things figured out this legislative session.

So we appreciate the time and appreciate the conversation.

And, again, Marilyn, thank you.