Jennifer Nash: Good morning. Welcome to the May 23rd, 2024, meeting of the Oregon Public Defense Commission. I'm Jennifer Nash, chair of the commission. Today we have two matters on the agenda. One is an executive session that will begin in approximately five minutes, and then we will have a briefing and action item regarding the hourly rate and economic survey for panel attorneys and other providers. We have received a number of public comment, and I will try to do it from memory. We received public comment from James Comstock. We received public comment from Sal Peralta, and we received public comment from a third person who I've forgotten, but I will look. I did review all of the public comment and when we rejoin the public session, I'll acknowledge the third public comment that we received. And the executive session will last…

We will reconvene no earlier than 10:05 back into the public session. So, with that, the commission will meet in executive session pursuant to ORS 192.660 2H to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation. Representatives of the news media and designated staff shall be allowed to attend the executive session. All other participants may not attend. Representatives of the news media are specifically directed not to report on or otherwise close the deliberations or anything said about these subjects during the executive session other than to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of executive session, we will return to open session, as I said, no earlier than 10:05 AM. And with that, we can adjourn. We will want to leave this Zoom session and then join the executive session on Teams. Thank you, everyone.

[Executive session]

Jennifer Nash: All right. It is 10:06. Welcome back to the public session of the Oregon Public Defense Commission. As promised, I want to acknowledge that Olcott Thompson provided public comment. The very first one I read, so I apologize for not remembering that off the top of my head. So, we have public comment that we've received in writing from Olcott Thompson, James Comstock, and Sal Peralta. And with that, we will turn the matter over to Director Kampfe for briefing and action item on the hourly rate and economic survey for hourly contractors.

Jessica Kampfe: Thank you, Chair Nash, members of the commission. I'm going to do this briefing in conjunction with general counsel, Eric Deitrick. I believe that Eric is going to start us off and then hand it to me about halfway through our slide deck here. So, Eric, do you want to get us started?

Eric Deitrick: Certainly. Thanks, Director Kampfe, Chair Nash, members of the commission. My name is Eric Deitrick. Included in your materials is a short summary of this agenda item, along with the final report from Moss Adams titled "OPDC Hourly Rate and Economy Survey." Senate Bill 337, the 2023 bill, did a lot of things including creating this agenda item. One second please. As a result of the bill going forward, trial level public defender services will be performed by OPDC staff, nonprofit public defender officers, and then a panel of attorneys, similar to what we have with our federal CJA panel. There's a transition in the summer of 2025, and a transition into summer of 2027.

Sections 93 through 96 of that bill address several aspects of the service delivery transition generally and the establishment of the attorney panel specifically. Senate Bill 337 included a mandate that the agency conduct a survey and economic analysis to establish a formula for the commission to use to calculate an hourly pay rate, taking into account overhead expenses, market rates, and regional differences in the cost of living for those panel attorney members. It also included funding for the survey and economic analysis. We contracted with Moss Adams to conduct that analysis. The funding and the bill required that it be done for the attorney panel members, but we elected to also utilize it for information on core support staff, investigators, legal assistants, paralegals, and those types of professionals.

Although the survey and economic analysis was not required to be completed until next summer, the summer of 2025, we wanted to get the work done immediately so that we could align the agency's policy option packages with this information to build out our budget for the next biennium. Our staff's intent is that this survey and economic analysis will inform the commission in its consideration of the agency's policy option packages, and that will happen at the June meeting. Cody, next slide. Historically the agency has not utilized data informed or market driven approaches to establishing compensation rates. The mandate to do so in Senate Bill 337 affords us all an opportunity to realign our workforce with market conditions and to use those adjusted rates as a foundation for future rate calculations.

Specifically section 94 of the bill states that the payment of those panel attorney members, those that are going to be compensated at an hourly rate, once the panel is established in the summer of '25, that compensation may not be lower than the hourly rate established by the commission. The bill also said that that hourly rate should be adjusted over time to reflect the same percentage amount of any positive COLA or Cost of Living Adjustment granted to employees in the executive branch of state government and that it may not provide a financial conflict of interest or economic disincentives that impair an attorney's ability to provide affective representation. Next slide, Cody.

In July of 2027, the rate authorized by this commission will be expanded to the entire panel of private bar attorney members. It needs to be established pursuant to a formula. That was a piece of the work that you see in the report prepared by Moss Adams is a formula for this commission and for this agency to use going forward. That's the background on how we got here. Essentially this work was mandated by

Senate Bill 337. We got started early. And I'll turn it over to Director Kampfe to talk about timelines and next steps.

Jessica Kampfe: Great. Thank you, Eric. Cody, if you can go to the next slide for me. So, as Eric stated, the work that we're doing was mandated by Senate Bill 337, and essentially part of… Senate Bill 337 modified our public defense statute, but that statute has long said that Oregonians who qualify for a public defender deserve representation that's consistent with Oregon's constitution, the United States constitution, and Oregon and national standards of justice. And to that end, the statute tasked the commission with ensuring that the workload of appointed counsel is controlled to permit affective representation and to get rid of economic incentives that impair the ability of the appointed counsel to provide affective assistance of counsel. And it really gave us a timeline to start implementing some of these reforms. So, what we're looking at here is in June of 2024, we're looking to establish an hourly rate.

The reason that we're asking to do this in June of 2024 is, as Eric mentioned, so that we can create policy option packages that we could present to the legislature in the next legislative session so that we could be implementing these by July of 2025. So, in June at your next meeting, after the commission moves forward on setting the formula for the hourly rate, we're also hoping that you will direct us to develop POPs to be able to implement this hourly rate, and then we'll come back to you in June and ask you all for direction with regard to moving those POPs forward. We would continue to refine them between June and August, because August is when the agency's requested budget is due to the legislature. So, we'll take the direction that you give us today and use it to inform the POPs that we build for June.

We'll come back in June and get the direction from you all again, and that will inform our building of the agency's requested budget, which is due to the legislature in the end of August. Next session, between January and June of 2025, the legislature will consider all of the requests for additional funding, and they will decide whether or not to fund the agency to implement these changes. Then in July of 2025, the agency is tasked with establishing a panel for hourly rates. Our expectation is that in July of 2025, this would be an opt in panel. So, the agency is no longer allowed to do flat fee contracting, but it is allowed to continue contracting with all provider types – consortias, nonprofits – and to establish an hourly panel.

And so our expectation is that people would be opting in to participate in that hourly panel starting in July of 2025. The reality is that we already have a lot of lawyers that do hourly work for the agency. That used to be about one percent of our workforce, primarily in the area of death penalty and homicide cases. But as the unrepresented persons crises has grown across the state, we've seen more and more lawyers that are choosing to take some hourly work and maybe lawyers that are doing federal work or private bar work, and they're also doing hourly work for us.

And some of our contractors are selling some of their private market time to us hourly, and so we are now doing currently about ten percent of public defense hourly, so we have the makings of this panel already. The work that we're doing here today around the economic survey and analysis is to establish a rate for those panel attorneys that the agency would seek to implement in July of 2025. Then in July of 2027, the statute directs that all private bar public defense are paid hourly, and so we would see a significant expansion of that panel. And that the panel rate shall be no less than what is established by the commission. And so we would see a major roll out in July of 2027. So, that's the timeframe that we're working on, and I see a question from Commissioner Harris.

Robert Harris: Thanks, Jessica. So, just to clarify terms here, in July 1, 2025, establish panel, the way you suggested this is that people could opt into this panel. Would the agency still be offering the contracts based on a MAC number, or would that not be happening? Or would they do that plus require timekeeping? What is your idea there?

Jessica Kampfe: Thank you, Commissioner Harris. So, this is a big conversation around what we're going to be budgeted to do. The commission has just directed the agency to establish a workload model, and it's the agency's… What we are working to do is to roll that workload model out to all contracted providers. And so that would be the annual caseload numbers, as well as the hours that the commission established in the last meeting. It's a big change from our MAC model, and we wouldn't expect to be able to get there right away. And so we'll be coming back in June to talk with you all about policy option packages to build an implementation plan for that workload model that's largely based on the six-year plan that Moss Adams has put together. And so we'll be back to talk to you about that in June.

Those contracts for the workload model would be available to all the contracted providers that we currently work with, so there would be no change in who has access to the ability to do contracted public defense work with the agency in July of 2025. What we would add to the process is the ability for lawyers… We already have lawyers that are doing hourly work with the agency, and so we're working to build up the infrastructure to support that panel of hourly lawyers, and setting hourly rates is part of building that out. Now, if the hourly rates that the commission seeks to implement are different than our current hourly rates then they would not fit within our current service level budget. So, we would need to request a policy option package to make a change to the hourly rate from our current hourly rate to whatever the commission establishes.

Robert Harris: Okay, it sounds like it's to be determined then. So, the second question… In the July 1, 2027, all private bar defenders paid hourly. Private bar, does that…? I mean the nonprofits are private bar, but does that include the nonprofits? Or is this only…? When you're talking about this, are you talking about the bar that's not nonprofits?

Jessica Kampfe: That's correct, Commissioner Harris. So, the statute says that in July of 2027, public defense will be provided by state employees, nonprofit public defenders, and a panel of hourly attorneys. So, any public defense provider who is not either working at a nonprofit or working in the state offices would be part of that panel, and they'd be compensated hourly.

Robert Harris: Okay, so that's not including the nonprofits in that particular box? All right, thank you.

Jessica Kampfe: Thank you. Any further questions, or are we ready to move on to the next slide? Okay. Cody, if you could move us along. Thank you. So, in order to work on setting the hourly rate, OPDC contracted with Moss Adams. So, OPDC was tasked with conducting a survey and economic analysis to establish a formula for the commission to use to calculate an hourly rate of pay. And we contracted with Moss Adams, which is a national accounting and consultant firm that has strong ties to the Pacific Northwest. Within Moss Adams, we've worked with a CPA who ha 25 years of public accounting experience, a senior research analyst, and a senior project manager with a specialization in compensation benchmarking.

And we reached out to them to work with them on this project, and their team initiated the project by consulting with our management team at first to review what kind of documents we would be using, what kind of data we needed compiled for the benchmarking, what peers we would use, and how the results would be shared. During the next phase of the analysis, Moss Adams began to capture the benchmarking data and the economic survey activities. They did so by getting information from a number of sources, including the Economic Research Institute. The Economic Research Institute collects salary and wage data from 1.9 million organizations across 9,000 positions, 8,000 locations, and 1,000 industries. They also collect cost of living data from housing sales, rental markets, and gasoline prices, consumables, medical care, income taxes.

They also collected data from Payscale, and Payscale was used for market compensation data, looking at more than 5,500 unique jobs across 50,000 locations and 250 plus industries. So, that's sort of the scope of the data we had access to, and then they refined the data requests to make them targeted to the type of positions that we were looking to benchmark for. Moss Adams gathered and reviewed available hourly rate and salary data also from peers that were identified by the agency and to which we were able to get information from. And so in the peer review, we looked at federal and state industry groups including Oregon district attorney offices, Oregon Department of Justice, Washington district attorney offices, Washington Department of Justice, various public defender offices in Oregon and Washington, federal public defender system, and best practice information from the American Bar Association and the National Association of Public Defenders.

After compiling that data, Moss Adams also looked at and provided you all with information about marketed calculated rate, and so they are looking at whether or not the agency wants to be a market lagger, a market match, or a market leader in setting its rates. A market lagger is appropriate when an organization doesn't have the financial resources in order to pay higher rates or when there are significant nonmonetary incentives for people to take the work. Challenges with being a market lagger include that it's a pretty volatile workforce, and you frequently deal with a lot of turnover. People choose to be a market match. It's a common compensation strategy to set pay levels that match the pay rates of competitors. And also organizations can choose to be market leaders.

When an organization chooses to be a market leader, that increases the supply of candidates and decreases turnover. It's most appropriate to choose to be a market leader when an organization is in a highly competitive labor market, but it does involve some risk and needs to be monitored closely to determine whether or not you're actually realizing the benefits that you are trying to gain by being a market leader. In considering the hourly rate formula, Moss Adams factored in overhead costs. The overhead costs would include office space, utilities, legal research tools, and professional insurance, the need for offices to have profit margin including…because attorneys need to make a profit to run a business and looking at the complexity of the work. Moss Adams compiled the results of this work in a report. That report was provided to the commission for our May 8th meeting.

It was also provided to management. We received feedback, and the feedback has been incorporated into the report, which you all have in front of you today. What we are asking from you at the end of today's discussion… Cody, if you could move to the next slide. Is that the commission take the following actions. We're asking for the commission to adopt an hourly rate formula. We are asking that the commission adopt that formula for the rate of pay for attorneys. We're asking the commission to adopt an hourly rate formula for non-attorney core staff, and we are asking the commission to direct the agency to build policy option packages that we can bring in front of you in June and to give us direction about whether or not the commission wants us to build those policy option packages as a market lagger, a market match, or a market leader. So, with that, I'm done with my presentation. I think it would be appropriate for the commission to discuss.

Jennifer Nash: Thank you. I have a question. My question is at the last commission meeting, we adopted caseload and workload standards, and we talked about using 1,578 hours as the appropriate number of hours for a workload model. I realize we're talking about hourly panel here. But how does that or where does that 1,578 when we're deciding on the formula or what the appropriate hourly rate should be? That's my first question.

Jessica Kampfe: And not being a technical expert in this field, I would ask that perhaps one of our technical experts… I see Emily Hayes has her screen turned on. Perhaps she could take the question for us.

Emily Hayes: Yes, I'm going to let Jessie start, and then happy to fill in the technical details.

Jessie Lenhardt: Sure. Thanks so much, everyone. The question about how workload standards, the 1,578 compared to the 2,080, a lot of the discussion that came from that May 8th meeting we received in feedback from you all but then also your service providers. So, when we're thinking about the rate formula, since a lot of this analysis was done pre establish of the standards, we did use…and it's consistent with kind of national practices…that 2,080 number to establish one part of the formula. But now that we have that standard, all of the data and all of the calculations that OPDC can use moving forward as it applies to the formula itself can not be integrated into an updated hourly rate. And so it's one of the pieces that I really wanted to focus on because so much of the feedback that we got really was about the specifics – what are the details that would go into defining each part of the formula.

And the goal of the survey was to identify all of the pieces, to make sure that each part of the calculation was at least represented in a formula. And so since your provider base is really broad from people who are part of a nonprofit, people who are individual operators, people who are in other situations, we wanted to make sure that at least the formula was there. All the chess pieces that we need are on the board, and then can get additional feedback to refine and define what that actually looks like for an hourly rate moving forward. So, you're absolutely correct. So, that 2,080 number was initially used in the preliminary analysis as a starting point and thinking about how it could best compare when we have these national standards but then also regional standards. There's not an expectation that the hourly rates in the report are the final answer or the ultimate solution. Mostly what we have heard and gotten feedback on is that it's a good framework, and then more discussion is needed to define all of those pieces to get that really dialed in, which would be part of the next step. That's a great question. I appreciate it.

Jennifer Nash: That was actually my next question, so that's helpful. My next question was, "Well, how do we…? Okay, so we have a formula. Where did we get the numbers to plug into the formula?" Yeah. So, if you could… I think that dovetails really nicely into the first part.

Emily Hayes: Absolutely.

Jessie Lenhardt: Take it away, Emily.

Emily Hayes: I'm going to just jump in because this is the thing I could talk many hours about – the data and why, the so what. I want to first just stress the point…the difference between a contractor bill rate and an employee pay rate. So, our scope of work very explicitly made a distinction rate that this study was really focused on that contractor piece. And so the difference between a bill rate and a pay rate for an employee, very significant. Because with the contractor bill rate, we're assuming this person could work ten hours, this person could work full time, as 10 percent of their caseload, public defense work…

This is simply about a contractor who is going to have different overhead costs and is going to be compensated differently than if we were paying an employee. An employee rate, that's what you would see in a market database that represents one element, but then there's always the additional employee costs and overhead that a company takes on. So, I just want to make sure that that line is kind of drawn of the distinction between an employee pay rate and a contractor bill rate. So, our focus here on building this formula was on that contractor bill rate so that we could provide an understanding of how do we bridge that gap, how do we make the distinction. So, the numbers. We start with market pay. That is our kind of underlying first formula. So, what we did, we looked at those databases that were mentioned, and we pull in what is that market pay.

And, again, that's the employee rate. That's going to be our starting point. We then built onto the formula using an overhead percentage of… And, again, we're building on that pay rate and applying the percentages based on each of them. So, overhead, that can range wildly. We went from different sources, cited everything from 35% to 55%. We chose a compromise of 40%, built in a profit margin. Because of course, any organization is not running flat. We need to have a profit margin. That's part of running a business. Many contractors may be their own business. A sole proprietor. And the industry…the law firm industry sector average is 21% profit, we chose 10%, understanding that 21% might not be a palatable number.

Third and finally, we pulled in… Well, I should have… I lumped overhead together, but basically the distinction of the non-negotiable, the deductions, the taxes, the benefits, the requirements, that was the one part of overhead. The second part being kind of the office overhead pieces. So, that is kind of where we ended up, and that's how the range then… That's why we have the percentiles. Because the different starting points of market pay is how we can then present that range of options. Any questions about that?

Jennifer Nash: I guess just a clarification.

Emily Hayes: Of course.

Jennifer Nash: And maybe this is from Jessie Kampfe in particular. So, what you want the commission to do is to adopt the formula, and then we're going to have another discussion about what numbers we plug into the formula based on the commission's values. Is that…?

Like if we say, "No, we want 20% profit," or, "We only want 30% overhead…" Is that going to be a subsequent discussion to this discussion? If you could help us with that.

Jessica Kampfe: So, I think that's right. Right now what we're asking for the commission is to adopt the formula, and then we're going to have to have follow up conversations about whether or not the amounts within are the amounts that you all want to stick with. And so that's more of the implementation piece of it. We're really talking implementation. We start implementation conversations when we start policy option package conversations. So, that's next step.

Jennifer Nash: Thank you, that's helpful. All right, with that framework, I see there are lots of questions, and I'm sorry. I didn't pay attention to who was going first, so I'm just going to go in the order that's on my screen. Commissioner Buckley?

Peter Buckley: I think Tom was first, if you want to go by order, because his hand was up the longest.

Jennifer Nash: Thank you. Tom?

Tom Liniger: Thank you, Commissioner Buckley, and thanks, Chair Nash. So, I really appreciate in particular Ms. Hayes's explanation of the formula. It appears to me it's basically market based in that it's descriptive of what's done now and seeks to include reasonable percentages for profit, overhead, etc. And I predict that I will be supportive of this formula or tweaking it slightly, but I just wanted to flag early in this process, I think the commission needs to prepare a POP, Policy Option Proposal, to the legislature that we be market leaders rather than market laggers or market matchers because I think the market right now has led to this crisis. I think the market is not sufficiently incentivizing. You know, I teach law students. They are very wary of becoming public defenders in any of the possible settings.

And to the extent they want to be public defenders, they're favoring sometimes out of state practices. These are precisely the conditions in which where there's an urgent need to fill slots, we need to be a market leader. I would also urge as we design the POP that we inform the legislature that when our pay formula is not sufficient, we end up getting stuck with band aid proposals like the THIP that are actually more expensive, and also the THIP does demonstrate that increasing pay will incentivize enough lawyers. So, for all those reasons, I really think we need to start now working on a POP to be a market leader. Thank you.

Jennifer Nash: Thank you for your comments. All right. I don't know who was second, so I'm just going to… Commissioner Buckley?

Peter Buckley: So, Bob was second, and then Senator Prozanski, and then Brook, and then me.

Jennifer Nash: All right, thanks for that. Bob?

Robert Harris: All right. Excuse me. Sorry about that. So, I had a couple questions for Moss Adams group. Looking at page…I think it's page 13 of your report…14 of your report, which is where the start of the market data calculations are. The final number is all based upon the starting number of average hourly salary Oregon where you have 25th, 50th, and 75th percentile. That number is based on an hourly pay apparently. Is that number based on the hourly pay from the sources you got? Is it based upon an annualized pay? Is it based on W-2 pay to these lawyers? Is it based on what the private people pay themselves' W-2s? How did you come up with these starting numbers? Because everything else flows from these starting numbers.

Emily Hayes: Absolutely. So, those starting numbers represent an average of the data we pulled out of our two compensation databases. That's ERI and Payscale. So, the way that those databases work, they both have different types of data inputs. Both of them have employer reported data. Payscale does have employee reported data as well. What we do is we go into each database, and we build queries based on the factors that we kind of identified early on, the sector type, the annual budget. What that… And the geography. What that comes back with is an array of percentiles, percentile data that is customized using their proprietary algorithms on both sides, from the two different providers, that has customized down using those different factors to really present the labor market that we're looking at. So, we take an average of those two databases, and that's the starting pay. That's why we kind of… Those are the market inputs that we're starting with.

Robert Harris: So, that would be a W-2 number? If we were going to do this match, and I got a W-2 form, and I was an employee, it would show me $84 an hour or whatever number. Is that what it's calculating?

Emily Hayes: Yes, it would employee take home pay. Their total cash compensation.

Robert Harris: Okay. All right. So, the 2,080 is cooked into that number. And then from that number, you're calculating everything else. So, 2,080 is cooked every one of those numbers.

Emily Hayes: Yes, as a full time employee position, because the data comes back annualized. And that's how all the compensation databases convert from an annual number to an hourly. They use the 2,080. Correct.

Robert Harris: Okay. So, why don't we just use the annualized starting…why don't we just use the annualized salary? And then you come up with these numbers, and then you divide it by 1,578. Why wouldn't we do that?

Emily Hayes: Because that's not representative of what… So, if I think I understand the question, it's why wouldn't we use the workload standards. This is because the market pay doesn't distinguish between how many hours, is it full time, is it not. Right? Like are you a full time employee, or are you not? And so if I were… For example, I'm paid based on being a full time employee. So, my pay rate is calculated at my total cash compensation divided by 2,080, and that's how you would come to my personal compensation. That doesn't account for my total cost as an employee. That doesn't include my benefits. That doesn't include the overhead costs that are included. So, that's the difference then between what I get paid on an hourly basis and what Moss Adams bills out as my hourly rate.

Robert Harris: I think you're conflating two different things erroneously. But because if we're just trying to get a market hourly rate for a lawyer… And I've been doing this for 35 years. You take your costs, annualize it, figure out how many hours you're going to work, and that's your hourly rate. So, the overhead is cooked into this. So, if you come up with $182 as an appropriate hourly rate, that's fine. It's 182. We're not talking about half time, part time, or anything. For the panel attorneys… This is for panel attorneys. It's not for full time nonprofits or full time state employees. The panel attorneys… They're not all going to work. Some are going to work 30 hours or 80 hours, whatever.

Emily Hayes: Right.

Robert Harris: This is the number that covers their overhead and a reasonable compensation for that based on 1,578 billable hours. So, I don't think that… I think you're conflating… Honest, to tell you the truth, I think you're conflating full time, 2,080 W-2 form which includes paid vacation, paid holidays, paid everything else with a private attorney who sells 1,578 billable, trackable hours. So, the formula itself that you're coming up with, I don't have any problem with. I think it should, however, be annualized. Because when you conflate hourly to panel attorneys who have their own practice, they're not working… They're working 2,080 but not billing it.

Emily Hayes: Correct.

Robert Harris: Unless the state is willing to accept a 40-hour bill for the vacation I took, I think that you're missing something there. If you see what I mean… And I think that the numbers you have in this list might be very appropriate for someone who's a W-2 employee but not for a panel attorney.

Jennifer Nash: I think that Jessie Lenhardt can talk about that.

Jessie Lenhardt: Yes, I am going to jump in really quickly. But, Emily, of course in case…if there is anything else, by all means feel free to interrupt. So, what we want to do… And I think this is part of the conversation and the distinction between a pay rate and a bill rate. And so ideally when you're using data driven calculations in your formula, you would want to start with your pay rate, that it's able to consistently be benchmarked against other folks but then also the databases. So, when you get to that one piece of the formula, it is an industry best practice to start with the 2,080 rate.

But here's what you can do and what we would recommend, to reconcile the difference between that 2,080 total hours and then also the bill rate or what would go towards a public defense work is then really examining what would go into your overhead. And so that is where we'd recommend shifting and thinking about some of the numbers because that 1,578 ideally is for public defense work. But then we have had lots of conversations about continuing education, training requirements, vacation pay. And so when you start to get into the philosophy of each one of those components, it still makes sense to have your starting pay rate calculated based on full time workload but then adjust the percentage of overhead to account for all of the other pieces like ongoing education, and administrative costs, and training in addition to utility, facility, and all of the other operational costs.

And so that typically is where we would see considerations and workload standards be applied to the formula. But you would want to start with having your pay rate as consistent as possible with what's out there and what is most consistently across the industry benchmarkable and start there, and align that with being a market leader, that 75th percentile, and then build on that. So, we know that that 1,578 is X%. We're going to make up this other percent of a full time workload in some of these overhead costs. It's going to look like this. It's going to be a percentage. And so then it starts to build into your hourly bill rate. That's what we would recommend when you're thinking about how those workload standards would show up and be applied within a formula.

Jennifer Nash: Thank you. I think that's helpful. For time, I'm going to move on to the other questions, and then we can circle back around. Floyd?

Floyd Prozanski: I'm passing for right now based on the conversation. I'm trying to gather some other thoughts.

Jennifer Nash: Okay, that sounds good. Brook?

Brook Reinhard: Thank you. Briefly… So, piggybacking on what Rob was saying, I really want to make sure whatever we do, we're setting an apples to apples comparison. Because one of the most misleading things about what we do right now is if I'm a murder qualified attorney, my annual contract is for $242 an hour, and DAs will throw that in my face all day long. I don't make $242 an hour. That's the contract rate. I have to pay overhead, have a support staff, or have all these different things out of it. So, I'm really concerned that this formula doesn't include support staff. I know the support staff is a different bucket that you're going to talk about separately.

But given that our current contracts do have to account for support staff, I'm very worried about a contract hourly expectation that doesn't include that unless we make it crystal clear that that's what we're doing. And as part of that, I still don't understand why 1,578 or 1,580 shouldn't be an annualized percentage against the total. It makes sense to me that in our messaging it should be, "Yes, your pay rate is this much, and you bill this many hours to get there."

I'm worried that if we jack the overhead to make up the difference, which is I think what you were saying, probably in better terms than I'm saying…if we do that, it's going to look like we have much higher overhead than is actually there and doesn't account for the fact that 1,600 hours a year…I'm rounding…is a very reasonable amount to bill. I'm a nonprofit. I have separate concerns. I want a pay equity as a POP. But as far as this stuff goes, for it to work, I think we've got to be really clear on messaging. That's all.

Jennifer Nash: Thank you. Peter?

Peter Buckley: I just share the concerns that Rob and Brook brought up. I still have confusion over what an attorney who bills on an hourly basis…how this applies compared to a contract for a public defense office. I'm just not catching that, and I just want to make sure that we are making sure it's apples to apples across the board. I also want to ask about incentives because recruitment is a huge issue. Does the formula take into account the idea of student loans being forgiven at a certain point? Does we compare that? Is that happening in different…other markets where perhaps there is a state that has a more aggressive student loan forgiveness program? How does that fit in?

Jessie Lenhardt: Yeah, that's a great question. That's probably my second favorite topic after compensation and strategic planning is talking about incentives. Because what you…the benefit and incentive world is constantly changing based on what's going to be most relevant to people and what opportunities are out there. And so incentives typically would be something that is…wouldn't be accounted for in a formula setting for an hourly rate but could be something that is applied and could change on a more frequent basis, a little bit easier to do so when we're thinking about recruitment strategies specifically. Typically… Well, it's going to be different for OPDC because there is a longer trajectory that we really want to focus on emphasizing and building in additional recruitment incentives. When you think about some of those incentives, usually they're on a short to midterm, and then your formula is something that would be longer term. So, it's part of a comprehensive strategy for sure but typically wouldn't be included in an hourly rate formula.

Jennifer Nash: So… Thank you for that. Sorry. So, what I hear, kind of an overarching concern or question is…follow up questions… If we don't want to bake in the workload issues into overhead because they're too squishy… My word, not obviously a technical term. How else could we in a very data driven way build in the idea of a workload model into the hourly formula? Where else could that fit?

Jessie Lenhardt: Yeah, that's a great question, and I'm going to pass that over to Emily. Take it away.

Emily Hayes: And forgive me if I fully track the origin, but what I think I'm hearing is how do these two things relate. Really I would reverse it because your hourly rate really is a starting point. And to the point about incentives, that is something you build upon. And the same with the workload conversations. Another reason why to think about it as a 2,080 full time… Because the difference between the 1,600 and the 2,080, that represents that non-billable work, the things we can't bill for. The administrative tasks, doing the CPE, the continuing education.

And so the idea being whether you work 100 hours or whether you work the full workload amount, we're not going to pay differently based on how much you work. Our unit of measure for work is an hour and is equal regardless of what your total is. And so that's what we are trying to accomplish with this kind of baseline formula that then allows you to say, "Okay, as we build in our compensation philosophy, our workload standards, what we want to be achieving," that the hourly rate then can be an input into where do we start, where do we want to be going, what are our budget implications. It is an input more than it is an output, but I feel like I might not have answered your question exactly.

Jennifer Nash: No, I think you did except that the political reality of where we are is that we have to have an out number. We have to start there because that's what our budget is built on. So, we have to have a number that's the output number, and we don't want that number to be based on 2,080 hours because we've decided as a commission that that's not what we want going forward. So, would it be…? Where is the flaw if one exists, the math flaw, in applying this formula and then after you get your answer then annualizing it based on 1,578?

Jessie Lenhardt: Chair Nash, I so appreciate the question and everybody's questions and conversations. At the end of the day, you get to define what you want to have as part of the formula, and the base recommendation is just documented. Documented so it's repeatable, get consensus on all of that is applied, formalize the definitions of what gets included so that moving forward, OPDC can wash, rinse, repeat, evaluate, and the analysis moving forward is consistent. That's the goal really of all of these pieces. And so all of the details and how workload standards apply, the ways in which those might change, the incentives that apply, your position in the market – being a leader, being a market match, how that comes together… This is a starting point.

I think overall, there is consensus on the pieces. So, we have our pieces on the chessboard, but where they get moved, how they get configured is an ongoing conversation. I think overall we've heard some consensus from not only this discussion here but also from providers. So, it's going to be an important part of the conversation as well to get feedback from your providers, to hear where they are coming from really broadly. And that is part of the implementation process – to bring in a lot of these voices, to connect with the community in order to have that really socialized. Moving forward, everybody is on board. All of the definitions are set, and all of the calculations are really clear. So, that's the…

Jennifer Nash: No, that's very helpful. But… Well, I should say and because it's not a but. Is it defensible? Math C wise I mean. Is it defensible to take that number…if we decide to do that, take the formula, figure out the number, and then annualize it? Is there a…? I want to know if we're going to get some math person in the legislature that says, "No, you can't do that. That's not best practices. Here's why you can't do that." So, that's really the question I'm asking. Is that a defensible position to do that from the math perspective?

Jessie Lenhardt: Yeah, I appreciate that. So, the industry standard is going to be 2,080. Now that you have workload standards, it will be defensible for you to apply 1,578.

Jennifer Nash: Thank you. All right. Commissioner Wright, I think you were before Rob. Yeah.

Jasmine Wright: So, I guess my only question is if we… Since everything is plugged in…was based on the 2,078 number, if everything was now premised on the 1,578 number, what would that do to the final hourly rate calculation? Do you know?

Jessie Lenhardt: Not without a calculator. Sorry, Emily. Go ahead.

Emily Hayes: I was just going to say, I pulled hourly rates from the databases, so I would have to rerun annualized numbers and then apply that calculation because I pulled the hourly rates from the databases, not the annual salaries. But to the point earlier about is it annualized data, yes. But I just didn't do the calculations. I didn't apply the 2,080. So, we would have to redo that work.

Jasmine Wright: Okay. I'm just wondering, just as a thought process, if this was all based on that 1,578 number, not on the 2,078 number, what would that look like? I think at least I'm interested in that. I'm not sure if the other commissioners would be, but I'm interested as to what that would look like from an hourly…a final hourly rate perspective. If that's an easy calculation, I'd be interested in knowing what that number would be.

Jessie Lenhardt: I'm going to really quickly… Commissioner Wright, that's a really good point. So, when you're then… Since we pulled hourly rates based off of the 2,080 number, and then we calculated kind of OPDC's standing also using the 2,080 number, philosophically you could kind of assess the OPDC's position within the market to get that understanding without the exact number. So, overall when you think of kind of the outcomes and then those increases and then you adjust the data across the board then you're still kind of looking at OPDC standard rates falling right around kind of that 25th percentile market match. The increased rates, temporary hourly increased rates, falling more in alignment with that 50th percentile. And so then still needing to look at additional funds and for some additional requests to come in to achieve kind of that 75th percentile. But that is absolutely part of the implementation piece that in those calculations can be provided.

Jasmine Wright: Okay.

Jennifer Nash: Thank you. Rob?

Robert Harris: Thanks. A couple things. It's actually relatively easy to calculate, knowing that on page 14 where you have assessed the 145, 182, and 207. If that's based on the 2,080, you simply multiple those numbers by 2,080. You then divide them by 1,578 instead of 2,080, and you'll come up with the 25th percentile, about $190, the 50th percentile, about $240, and the 75th percentile at about $272. So, that's relatively easy to calculate just by using those two things. The second thing, industry standard… I know that I've read some reports. I think it was Missouri and some others. I don't know whether those were… Did Moss Adams do the Missouri report? I don't recall. But those reports talk about duty hours, and they are pretty clear when they look at public defense on the panel attorneys, they say that, "Well, we start with 2,080, but obviously that's not a real work number."

So, they talk about duty hours. When are lawyers on duty? And it's anywhere from 1,600 to 1,700 hours is largely what they have been calculating. That's pretty well documented in some other studies in other states. They have gone down to that. We have decided to adopt 1,578, which is pretty close to the 1,600 hour, which was the duty hours. I don't know if it was Missouri or some other state. Number two, by using 2,080 to start off, knowing that we're only expected to 1,578, that means that that pay will not cover your overhead. It will only cover about 70% of your overhead because you're not billing 2,080.

You're billing 1,578 as a full time lawyer, if those are the standards. I think that looking at the formula that we're being asked to adopt at the top of page nine of your report, I think a better way to do this would be annualized market wage plus deductions of that, plus officer overhead at 40% if that's what you want to use, plus profit at 10%. You add that all up. It's annualized. And then you divide it 1,578. There's nothing in this formula that says where the 1,578 comes in. I understand you're saying that we start with 2,080, but that's a fake number.

Jennifer Nash: I think that's what you said. We get to decide that. So, we decide on the formula, and then if we want to annualize it to 1,578 then we annualize it to 1,578.

Robert Harris: And I think it should say that in what we adopt. And so I think the first hexagon there should say annualized. All this is annualized. Because when you covert it to a fake number for panel attorneys, for private bar attorneys, I don't understand why we start with 2,080. You have the raw data for annualized salary. It's 67 times 2,080, whatever that number is. So, we could go through that whole process and at the bottom say divided by 1,578 equals this hourly rate. I don't understand why we're not doing that.

Eric Deitrick: Chair Nash, Commissioner Harris, members of the commission, I just wanted to jump in and kind of tie this conversation back to the statutory directive, which was aimed at developing a formula for panel attorneys and conducting an economic and hourly survey to inform that. Moss Adams has been working with us since I believe late last year, early on, before we've had any of the conversations about 2,080 or 1,578. And this document that they produce is really to inform us and you, and our decision making going forward. So, I want to thank them for that, and I appreciate all the answers to the questions. As staff, we can take commission directive on the formula they produced and how we want to use that formula in working with panel rates going forward. Thank you.

Jennifer Nash: I think that's helpful. I was thinking we needed to sort of tie this back to what we're doing. But before we do that, I'd like to hear if Senator Prozanski has some questions or follow up thoughts. You deferred. I'm coming back to you.

Floyd Prozanski: Yeah, thank you. I'm still having those thoughts. To be very frank, I've been looking for the Moss Adams report that Bob is referring to. I have not be able to pull it off of my E-files. I had a question really as to where we stand as a state, when you look at what Tom has suggested as to going to the market leader, as to where we're at now. I'm assuming that we're probably in the market lagger state, and we're looking at advancing up. And so I wasn't sure exactly how the other states actually rank in this discussion, though I'm assuming it's within the report. And that's why I hesitated to even bring it up, because I can't find it to actually ask for comment on it.

Jennifer Nash: It' also just… You can find it on OPDC's website. It's in the agenda materials.

Floyd Prozanski: Oh. On the website.

Jennifer Nash: It's an easy place to find it if you can't find it in your email. That's what I do.

Floyd Prozanski: [Laughs] Thank you for the clarification. As a rookie, I appreciate this.

Jennifer Nash: So, I think the question, if you know, is where does Oregon fall. And at this point with our rates, are we market leader, market lagger?

Jessie Lenhardt: Yeah. Scott, take it away.

Scott Simpson: Sure. So, there is an appendix in the report that shows some of the other agencies that we looked at. So, when you're able to pull that report up, Commissioner Prozanski, look to appendix A, and it will show quite a few different rates for different agencies across the Pacific Northwest or the west coast. So, there is some information in there.

Floyd Prozanski: All right. I knew that you were focusing on the northwest. Again, I apologize, not being able to actually pull up the report and follow with some of the discussion today.

Scott Simpson: No problem.

Emily Hayes: I just wanted to clarify that in the appendix, there is not a state by state comparison. Again, this was coming up with a formula. We looked at all the different… If that is of interest, I have the data of the different state level market pay averages. But, again, I don't think that's going… I don't know if that's going to answer your question about how do we compare, but it is available, but it's not explicitly broken out by how do you compare to Washington, versus Idaho, versus the national average.

Jennifer Nash: Thank you. So, I'm going to move to the question. I've heard kind of a consensus from the group about wanting to…the formula seems all right generally, but we want it to be annualized based on 1,578. So, I think what I'm going to ask is if there is a motion to adopt the formula in the report as the formula the agency shall use to calculate the hourly pay rate for panel attorney members and other core staff annualized to 1,578 hours.

Jessica Kampfe: Chair Nash, can I ask that we break this down a little bit? So, my hope would be that we get…should we adopt it with regard to lawyers, should we adopt it with regard to non-lawyer core staff, and then should we use it to build our policy option packages. And I think with the policy option packages, because that's the implementation piece, that's where I would want the inputs that the commission wants. If you want us to use 1,578 in building the policy option packages as opposed to in the formula itself because that's more of an implementation piece.

Jennifer Nash: Well, I understand. And then of course you want the market leader, market lagger, etc. But what I'm hearing is that the commission wants it baked into the formula, not a POP. And then the formula is used to inform the POPs. But we can try that. We could try that motion. So, let's see if someone is going to make… Well, Scott, before I do that, were you…? Nope? Okay. So… Go ahead.

Scott Simpson: I was just going to say… So, the way that we've built this formula… And this is a little bit of a repeat of what Jessie said earlier is so that you have a base formula that you can update and adjust over time, as conditions change. This survey is a market survey, and so it's supposed to represent kind of what is out there in the market. And kind of to Director Kampfe's comment, it would be appropriate to take this formula and update it to the specific needs of the commission. Adjusting the market survey for one specific data point that is I'll say different than…

The 1,578 is not what we look at when we look to market data. It's what the commission is looking to, to implement for its contract attorneys. I won't say you skew the data, but you take some of the data maybe out of context. And so I would just provide a cautionary note there that really it's designed to provide a path, and along that path you can make decisions to adjust things. But this is a market survey of kind of what we observed and gathered data on from the market.

Jennifer Nash: Understood, and that actually puts a finer point on the question I was asking about the math. Is it a math error to do what I suggested. So, thank you. I understand what you're saying now a little better. Much better. Susan?

Susan Mandiberg: Well, I need to apologize, first of all, because I am probably the least knowledgeable about budgets and how they all work of anybody on the commission. So, I find all of this difficult to follow. What is the practical difference between using 1,578 to build the POP versus putting the 1,578 in the formula and using the formula to build the POP? How do those two things come out with different practical bottom line?

Jessica Kampfe: Well, I think one challenge with putting it in the formula is that we would have to redo a significant body of work in order to create the formula. So, as Ms. Hayes said, she queried based on a 2,080 query, and so we would have to go back and re-query all of that information. I think it would create a fair amount of delay. It also would give the agency significantly less flexibility moving forward. So, if you… Right now, the formula is matched with other markets. They pulled nationally for numbers. And so it's a national match. If Oregon later decided we wanted to be a 2,080, that national match, we could use the formula to do that.

If we decided we wanted to be at 1,400, we could use the same formula. We wouldn't have to go back and rerun the numbers and build the new formula every time because the formula would be at 2,080, and then you could apply the formula different later. So, we'd have less flexibility moving forward if we went back and redid the formula now. So, that's why my recommendation was to adopt the formula. And then when you talk about implementation of the formula, tell u what you want us to do with the implementation of the formula. We can be transparent and call out those implementation directives in what we're doing. But if you mess with the formula then we need to create a new formula every time we want to change the implementation standards.

Susan Mandiberg: Okay, so another stupid question… But that was very clear. I appreciate that. Thank you. The first thing that Chair Nash said was the formula but annualized based on 1,578 hours, so that's not redoing the formula. That's doing something like what Rob was suggesting, and that is using the 2,080 formula and then mathematically annualizing it so that it comes out differently on the bottom line. So, doing that avoids having to go back and do all of the new research that you were saying would be time consuming. Do I have that right?

Jessica Kampfe: My request would be if the commission wants to do that, adopt the formula at 2,080 and then direct the agency to build a POP annualizing the formula at 1,578 because then we… If the commission later changes its mind and wants us to annualize the formula at 1,400, we still have that base formula, and we can change the numbers on it.

Susan Mandiberg: Right. I think I do understand it now. Thank you so much.

Jennifer Nash: That was very helpful. Thank you. Rob, unless… Do you have a…?

Robert Harris: I just want to actually ask more specifically, what is the formula that we're being asked? Is it just that thing at the top of page 8 or 9, or is it sort of the formula where you have these numbers inputted on page 14? Tell me what the formula is.

Jennifer Nash: I'll take a stab at this. So, I'm going to just call for a motion. Is there a motion to adopt the formula for attorney rates? And the formula is mandated salary and wages plus deductions, plus overhead, plus profit would equal the calculated hourly rate. That would be the first motion. Is someone willing to make that motion? Commissioner Mandiberg makes the motion, and Commissioner Buckley seconds. And then let's do a roll call vote.

Eric Deitrick: Thank you. Commissioner Nash?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Selander?

Bob Selander: Yes.

Eric Deitrick: Commissioner Harris?

Robert Harris: No.

Eric Deitrick: Commissioner Smith?

Adrian Smith: Yes.

Eric Deitrick: Commissioner Buckley?

Peter Buckley: Yes.

Eric Deitrick: And Commissioner Liniger?

Tom Liniger: Yes.

Eric Deitrick: That's all the voting members.

[Crosstalk 02:14:32]

Jennifer Nash: Thank you. The motion passes. The second motion is will we adopt a formula which is mandated salary plus wages, plus deductions… Sorry, let me start that again. Mandated salary and wages, plus deductions, plus overhead, plus profit equals calculated hourly rate for core staff. And core staff would be investigators, paralegals, interpreters… Who have I forgotten, Director Kampfe?

Jessica Kampfe: It's the same core staff positions that are built out in the Moss Adams six-year plan. So, we're looking at investigators, paralegals, legal secretaries, case managers. So, it's that same group.

Jennifer Nash: Case managers. Yes, thank you. Is there a motion to that effect?

Peter Buckley: So moved.

Jennifer Nash: Commissioner Buckley moves. Commissioner Liniger seconds. Let's take a roll call vote.

Eric Deitrick: Commissioner Nash?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Harris?

Robert Harris: Yes.

Eric Deitrick: Commissioner Selander?

Bob Selander: Yes.

Eric Deitrick: Commissioner Smith?

Adrian Smith: Yes.

Eric Deitrick: Commissioner Liniger?

Tom Liniger: Yes.

Eric Deitrick: And Commissioner Buckley?

Peter Buckley: Yes.

Jennifer Nash: Thank you. Motion passes. The next motion is to direct the agency to build policy option packages based on the annualized rate of 1,578 hours using the formulas we've just adopted. Is there a motion to that effect? Well, hold on. Let's table that because I think we have to decide on the market leader, market… Right? Before we decide on the POPs, so let's do that in the right order. We haven't really had much of a discussion about the 25, 50, 75. But from prior discussions and somewhat of a discussion today, I think it's fair to say… And raise your hand if this isn't true. That the commission probably wants to be a market leader. And if you don't want to be a market leader… I see Commissioner Smith has got a… [Laughs] Like a, "Wait, what?"

Adrian Smith: No. I think we should take the position of being a market leader. I think we also want to have information and data prepared for if we take this to the legislature, and we're just prepared with backup options I guess is what my reaction was to that. I certainly think that that's the position we should take. I also want to be thoughtful about all of the aspects of this in terms of the advocacy that will come later. Sorry.

Jennifer Nash: Thank you. No, that's okay. Is there a motion…? Oh, Commissioner Buckley, do you have a question?

Peter Buckley: I'd just say that that's a great comment, Addie. I do think we need to be transparent in our communications with LFO, that the commission desires to be a market leader, but we also have to signify what market matches to. Because discussions I've been part of for a number of years around the budget, the effort has been can we get to that math, can we get to that parity level, where at least we're offering what other agencies, etc., are offering. So, I think we need to be transparent about it.

Jennifer Nash: Very helpful. Commissioner Liniger?

Tom Liniger: Let's see, have I unmuted?

Jennifer Nash: Yes.

Tom Liniger: So, right before Brook left… He is traveling. He sent me the following chat. He supports the idea of being a market leader, but he said, "If we get to the point today, whether it's a discussion on POPs, I think that pairing the market leader POP with a pay equity POP so that PD's officers are paid the same salary as trial division is paid would keep the entire workforce stable." So, I just want to relay that comment.

Jennifer Nash: Thank you. All right. So, is there a motion to develop…? Well… Is there a motion to direct the agency to develop policy option packages based on the formulas that we just adopted as a market leader annualized to 1,578 hours? Is that a clear enough motion for the agency to understand what…? Okay. All right. We have a motion from Commissioner Buckley. A second from Commissioner Liniger. We can take a vote.

Eric Deitrick: Commissioner Nash?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Harris?

Robert Harris: Yes.

Eric Deitrick: Commissioner Selander?

Bob Selander: Yes.

Eric Deitrick: Commissioner Smith?

Adrian Smith: Yes.

Eric Deitrick: Commissioner Liniger?

Tom Liniger: Yes.

Eric Deitrick: And Commissioner Buckley?

Peter Buckley: Yes.

Jennifer Nash: All right, thank you. The motion passes. And with that, that concludes today's events. All right. We have a meeting. Our next meeting is scheduled… That does conclude the business today. Our next meeting is scheduled in Bend, in person. It is a hybrid meeting, so if you can't make it in person, there will be options to appear by video starting at the very early hour of eight AM. So, keep that on your radar, on June 13th. Commissioner Buckley, do you have some comments?

Peter Buckley: Yes. Before we leave the subject, I really appreciate Madam Chair. I just hope the agency really does engage with stakeholders to really classify that whatever we come up with in the POP, we answer these questions about are we really apples to apples. Are we talking about…as far as I understand, attorneys who are working on an hourly basis and an attorney who's working under a contract of some kind…are we able to say that these two attorneys are going to be compensated in the same way or at least in an equitable manner? So, those questions got raised by the public testimony, and I just really would hope that the agency works with the folks who contributed the public testimony in order to make sure that's clear in the POPs that we present.

Jennifer Nash: Thank you. That's very helpful. And on that note, thank you for the reminder of something I forgot to mention. Next… Well, the 28th, whatever day of the week that is… It's been a long week for me. There is going to be at noon a townhall type provider listening session that's facilitated by the legislative subcommittee. Commissioner Smith will be there. It is a public meeting, so any commissioners can and should attend. It's not designed for us to engage in dialogue necessarily, but it's us to listen and gather provider feedback so that we can take these various different considerations into consideration when we build the policy option packages. And you'll get a Zoom link for that. Commissioner Prozanski…Senator Prozanski?

Floyd Prozanski: Yeah, thank you very much. I just want to key onto that. I am a member of the subcommittee for the legislative committee. Unfortunately Tuesdays are the days I have to be in court in Florence, so I will not be able to… This past Tuesday, I was in a jury trial. This next one, I have just obligations and arraignments, etc. So, that day does not really work for me in the future. I hope that maybe we could reassess the days that we have that subcommittee meeting. Thank you.

Jennifer Nash: Thank you for that feedback. Commissioner Smith?

Adrian Smith: Yeah, I appreciate that, Senator. We are working on scheduling future listening sessions and committee meetings much farther out than we've been able to do, and we absolutely keep in mind Tuesdays don't work for you. I think we're trying to meet the deadlines. I will say we're going to record the meeting, and we're also going to create a report of the meeting to present to the larger commission, which I know is not nearly as good as having you there live and in person, but I really appreciate that and will be sure to take that to heart moving forward.

Jennifer Nash: All right. Thank you very much. If there's not anything else, I'll entertain a motion to adjourn. Before that though… I'm sorry. I do want to thank Moss Adams very, very much for your work and for your answering all of our very mercurial questions. And for your tolerance in helping us work through this. We really, really appreciate it, and it's been a pleasure working with you. So, thank you so much.

Jessie Lenhardt: Our pleasure.

[Crosstalk 02:23:24]

Jennifer Nash: …a motion to adjourn? No one is going to move to adjourn? Oh, Commissioner Mandiberg and a second… Oh, never mind. We're just going to adjourn. All right, thank you, everyone. Take care.