WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Average Weekly Wage Subcommittee Committee Meeting
September 4, 2025
1:00 p.m.– 3:00 p.m.

Committee members present via zoom:
Scott Strickland, Sheet Metal Workers Local 16
Stacy Lewallen, Fortis Construction Inc.

Staff:
Teri Watson, MLAC Committee Administrator
Baaba Ampah, MLAC Assistant

Agenda Item	Discussion
Opening	**Welcome:**
(00:00:00)	Co-chair Stacy Lewallen called the meeting to order.
	Policy Discussion - proposals
(00:01:05)	Kirsten Adams, Associated General Contractors (AGC), stated after talking with the business community, specifically Paloma Sparks with Oregon Business & Industry (OBI), and reviewing the information shared at the previous subcommittee meetings, management proposes time loss benefits of 70 percent of the average weekly wage (AWW) for lower wage workers and then retaining the 66 2/3 percent for higher income workers. Kirsten indicates in looking at other states that seems to be in line with other time loss amounts. She wants to see the analysis from NCCI to see the impact to the system.
(00:03:15)	WCD Administrator Matt West stated he is meeting with Todd Johnson from NCCI after this meeting to ask for analysis on the different proposals. Matt asked when Kirsten states 70 percent for low wage workers, what is the threshold or definition for low wage workers? Kirsten clarified that she didn't have a set definition, and asked if there is a definition currently. Matt stated that NCCI will need to know a specific threshold amount to complete their analysis. Matt confirmed this is different than a tiered proposal where everyone's wages up to a certain amount are 70 percent, and then any amount over are 66 2/3 percent. Kirsten added that this proposal will create a benefit "cliff" but they were trying to think of a way to make the proposal simplistic. Kirsten will get Matt an answer on the low wage worker income threshold.
	SB 705 -2 (2025)
(00:06:09)	Odalis Aguilar-Aguilar, AFSCME, the labor proposal is a tiered approach with workers having their wages replaced at 80 percent, up to 75 percent of the state's AWW. Then any wages above 75 percent of the state's AWW would be replaced at 66 2/3 percent while maintaining the cap. It would create two

different formulas that would be added together to get the total benefit for the worker.

(00:07:22) Matt West clarified AFSCME's proposal is that all workers will have a TTD benefit calculated at 80 percent for their wages up to 75 percent of the state's AWW, and then if a worker makes more than the state's AWW, the wages above the state's AWW would be calculated at 66 2/3 percent. Odalis confirmed Matt's statement. Matt wanted to make sure the proposal information is correct for the NCCI analysis.

(00:08:30) Mike Selvaggio, United Food and Commercial Workers (UFCW) Local 555, responded that he strongly supports the AFSCME proposal in terms of the numbers. That the previous proposal did not come close to closing the gap, and that the obvious point of the workers' comp program is to compensate workers for the time they're not able to be at work. That the trade-offs that workers have abided to, like a lack of a cause of action, and to not be willing to close that gap further and get closer to the AFSCME proposal is imperiling the principles behind the Mahonia Hall agreement generally.

(00:09:40) Jovanna Patrick, OTLA, shared her appreciation for everyone's comments today and all the work the committee has done so far. Jovanna said they've been following all the iterations and really appreciate the changes that are made into this, that both aim to have some consistency for purposes of practitioners and workers being able to calculate it [the TTD benefit] and insurers and all stakeholders. This tiered approach makes a lot of sense and avoids that step off issue where someone could get a raise, then suddenly they make less than they would have made before the raise. Speaking on behalf of claimants' attorney and for OTLA, we certainly support the tiered approach that has been brought forward. We do have concerns about increasing it to 80 percent from 70 percent across the board. The drop off where it shifts could create some unintended consequences and it's really not a huge increase to the workers. She doesn't think that the sort of change would actually provide a meaningful change, especially to the low-income workers. It's just not a big enough increase to address the need.

(00:11:11) Willis Homann, Oregon School Employees Association (OSEA), gave support behind the tiered approach that AFSCME brought forward. In looking at the average weekly wage of their workers at OSEA and said they're looking at about $40,000 a year as their average wage and this approach would really be a beneficial jump for their workers as opposed to the current way that things are operating at the 70 percent approach.

(00:11:44) Lamar Wise, AFSCME, thanked Odalis for the proposal and coming up with the math behind it as well. From AFSCME's perspective, low-income workers, the ones that utilize workers' comp the most and struggle to live with their wages in Oregon are the main concern. From the data that has been displayed, even with the states average weekly wage as it stands right now, it is not enough to afford living in Oregon. He is not wanting MLAC or this subcommittee to fix the larger issue of folks sustaining themselves and their dependents. He knows there were earlier conversations about dependents, and it's an important conversation. But, the proposal that Odalis presented is a step in the right direction. He would like to have a robust conversation about dependents later as it complicates the issue a ton. He wants to make sure we are taking the feedback from the folks at this table, and AFSCME members as well, but he does like the policy. He mentioned coming from AFSCME, they have behavioral health workers that make up to $50,000, and also have correction officers and folks at the Stabilization and Crisis Unit (SACU) that make more on the higher end of this amount. For AFSCME this is a compromised policy because not all of their members would benefit from this proposal if they were to be injured on the job. But, going back to the core reason of why workers' comp exists and making sure that the low-income folks are able to sustain themselves; for that reason AFSCME is supportive and appreciates Odalis working on this for us.

(00:14:38) Kirsten Adams, AGC, responded to a couple of things. First, for managements proposal, what we intend is getting injured workers as close to the wages that they were making before their injury. Part of the comments I'm hearing seem to be a broader focus of wage issues in Oregon generally speaking and a much broader conversation. At this point, we're trying to look at what is the amount necessary to bring people as close as we can to their pre-injury income levels. From our perspective the focus we should be looking at. Maybe 70 percent isn't the right number, but when you look at 80 percent that is more income than workers are currently making. Most people are going to be paying more than 20 percent in taxes unless their lower wages fall in a significantly lower wage bracket. How do we look at what the taxable rate is and what we need to do to get folks as close to compensating for that. We're looking at what other states are doing as it relates to time loss, and I know that no state is the same when it comes to workers' comp. but, looking at some of those numbers, we should be aware of what the right number is for the tax rates. I understand there are broader income issues and broader wage issues, but I don't think that's something we can solve in this subcommittee.

(00:17:15) Co-chair Scott Strickland, Sheet Metal Workers Local 16, thanked all of the stakeholders for bringing the two proposals forward. The dialogue will be helpful in driving the discussion moving forward so that we can orient some of the data and other information around it. The presentation brought forth from AFSCME with the 80 percent with the tiered bucket model addresses a lot of the concerns that have been raised relating to striking that balance where lower income workers are not taking a huge deduction in what their normal net take home would be. To Kirsten's point, she doesn't think the 80 percent, if you look at the numbers in the tables from WCD, does accomplishes that without having a net increase in take home pay especially if it's targeted towards the low-income, which the AFSCME proposal seems to be. Co-chair Strickland doesn't feel the

70 percent addresses the fact that there was a 10 to 19 percent if memory serves, depending on dependents for the lower income folks loss if they were filing for work comp. compared to their normal take-home [pay] given the tax brackets. I think given the data that we had on concerns about housing costs and the inability of work comp. at the current rates to cover anywhere near the median housing costs and then not including things like health care for the family and dependents, child care, or other kind of exploding costs that folks are facing. But again, would love to see more from WCD data folks and the NCCI analysis. The one thing that I would request with a little more clarity concerning the proposal from Kirsten and Paloma, if we could get those numbers, so we could get the NCCI analysis on that, I think that would be really helpful. So again, thank you to everyone bringing this forward, I think it's really helpful in framing the discussion to advance.

(00:19:50) Ivo Trummer, SAIF, echoed co-chair Strickland in that it would be great to have more data and the NCCI analysis on the impact to the rates to have a more informed opinion on the proposals. He wants to make a plug for the implementation date of whatever is considered. As he can only speak from the perspective of the insurer, self-insured entities might have a whole different kind of way of thinking about an implementation date and how to budget for any eventual increase. We insure most of the school districts, but we don't insure the largest school districts in Oregon – Portland, Salem-Keizer, etc. They are self-insured and they pay for any increase out of their own budgets. So their implementation might look different from an insurer's perspective. Understanding the NCCI calculates and files loss-cost rates, which we base all insurance premiums, in August of any given year period. Then the insurer – that's us - and all the other 300 private insurers in Oregon that offer work comp insurance file in September with the department and then they go into effect Jan. 1 of the following year. Ivo recommends that should a bill be passed in March of 2026, that the implementation date be Jan. 1, 2027, to make it easier for the insurers to adjust premiums and rates for the insured entities and the policyholders.

(00:22:04) Matt West will ask the DCBS research data folks to update the data on wages and provide the chart for the two scenarios. To Ivo's point, NCCI would eventually want an assumed implementation date as part of their calculation.

(00:23:21) Caitlin Breitbach, Small Business Ombuds, thanked Ivo for pointing out the correlation between the time frames, this will help NCCI with setting fair rates for policy holders. Caitlin commented that the spirit of the Mahonia Hall reforms required fairness on both the employer and the worker sides. Employers are not overcharged on their premiums, and workers still get benefits that are appropriate for them. She reiterated when we're increasing time loss benefits, that is going to create a higher claims cost, which is going to increase premiums for small businesses in Oregon. Smaller businesses in Oregon, which is a large part of our economy, could be affected a bit more than we think with these raising costs. Caitlin wanted to ensure that we understand there are checks and balances.

(00:24:28) Mike Selvaggio responded that it wasn't his intention to get into any kind of mission creep, but that he thought the lead buried when the question of general affordability and salary entered the conversation. He wasn't trying to insert other policy issue into the discussion, but thinks a vital part of the discussion to recognize that we do have a significant amount of people in the workforce who are living very marginally and do not have a lot of savings. Forty to fifty dollars may be the difference between making rent or having cat food to eat for dinner. The idea that we would be casual about not closing the gap between what they had expected to earn in a particular week versus what they're actually going to be taking home is going to be in many cases the difference between if they lug themselves back to work before they should be at work. It's this concern that leads Mike to worry about the underlying principles here. He’s not trying to spin this conversation into something about minimum wage or economic justice, but those elements do have a bearing on what we're talking about.

(00:26:57) Paloma Sparks stated she feels we’ve been throwing around a lot of numbers that aren't necessarily related to the average weekly wage. She stated the average weekly wage annually is $74,000, and 80 percent is $59,000 give or take a couple dollars. So we're not talking about $40,000. She wanted this on the record.

(00:28:05) Elaine Schooler, SAIF Corporation, reviewed the prior meeting that she wasn't present for to catch herself up. She commented supplemental disability was raised as a consideration and how any changes would impact the proposals. She was curious if the impact analyses that will be done by WCD and NCCI will take supplemental disability into consideration for the different proposals, as well as other benefits that are tied to the 66 2/3 percent of wages such as permanent total disability benefits. We will want to consider situations of where a worker who is on temporary disability has one rate, and if they were to transition to permanent total disability then they would be subject to a different rate. We need to keep that in mind as numbers are calculated and impacts are evaluated.

(00:28:57) Co-chair Lewallen, commented Elaine raised great point about supplemental disability and other income components that workers may or may not have access to. She asked Teri if we could incorporate those points into any of the calculations as applicable. She stated some of that is policy by policy basis. While we may not have exact numbers, we may be able to provide scenarios to show what it would look like.

Matt West responded that we could certainly have NCCI add that to their analysis. Our understanding is SB 705 didn't touch any of that. SB 705 as written was strictly related to temporary total disability calculations. We can do a broader analysis of changing that 66 2/3 percent in the other benefit areas and sharing that. Co-chair Lewallen stated she wasn't thinking it should be part of the calculation, but it would be helpful in understanding an employee's situation and the various avenues they may receive income. When we're trying to determine what the number should be, it would be helpful to understand an employee's total work comp case. Elaine agreed with Matt, to have a broader view because there are other areas that utilize that same 66 2/3 percent. So when we think of the whole system, those are considerations that the committee may want to keep in mind going forward as decisions are being made and impacts are being analyzed.

(00:31:27) Co-chair Lewallen addressed the two-tiered proposals that we've heard. She wanted to confirm with insurers and others that would be implementing this calculation into their daily work and processes that this is doable from an administrative aspect of it. Are systems built to easily pivot to using two different calculation methods to calculate someone's leave?

(00:32:14) Ivo Trummer responded a Jan. 1, 2027, implementation date makes a lot of sense. It's an information technology (IT) issue more than anything else. IT will need to write the program so once you plug in the numbers, it completes the calculation automatically. System updates will be needed before implementation.

(00:33:31) Co-chair Strickland thanked Caitlin for her comment, stating it's important to understand that perspective and context. To contextualize it further, depending on what the NCCI analysis comes back, there needs to be further discussion. While there has been straight reductions in work comp. premium rates for over a decade and Oregon is now one of the lowest cost states, there has been such tremendous inflation, in part attributed to Oregon workplaces being safer. Linking that back to the understanding of the Mahonia Hall bargain is what we need to commit to making workplaces safer and continue that work, but also recognize the pendulum doesn't just swing one way. And that if folks are receiving substantially less, to the point of not being able to afford to either file or continue claims that is not keeping with the bargain, that causes a number of problems that we've seen some data and heard comments today. We need to be mindful of the context of these discussions, what else we are touching on, and the historical path that got us to this point.

(00:35:31) Ivo Trummer clarified that yes, workers' compensation rates are going down, but that is an average. Some class codes have been trending up and quite a bit, resulting in an increase to some employers, and a decrease to other . Oregon is now tenth in the nation for lowest workers' compensation rates which is remarkable given the benefits are better than in many other states. Oregon was lower after Mahonia Hall, so that's an increase over the last 20-30 years.

(00:36:17) Co-chair Lewallen stated on the employer side, a lot of costs have been incurred by employers to help make workplaces safer. Also it should be noted that there has been significant investment from employers and industries to make things safer and that has a significant cost. As we start looking at increasing the cost of claims and the impacts of the work that we're talking about today that absolutely will be significant to employers. And, depending upon some of these smaller companies, that would then impact what's available for safety programs and safety resources. One thing she is advocating for this entire time is we need to collaborate and come up with a good compromise. It needs to be a collaborative approach that we see as an improvement, but no one's going to be 100 percent jumping up and down for joy because there are very compelling arguments on both sides to support both the worker and employer view.

(00:38:18) Paloma Sparks stated for the past seven years she’s been involved in these conversations, as an employer representative who is participated in several subcommittee processes and negotiations at the legislature, a lot that was really important to employers in Mahonia Hall has been chipped away at quite significantly over the years. This feels like another move in that direction. Not to say that we're not happy to have a conversation, but to act as if Mahonia Hall agreements have been just protected from any changes is just factually inaccurate and has not been our experience as we've sat in these meetings and these processes.

(00:39:32) Co-chair Strickland thanked Paloma for the comment and agreed there has been a substantial chipping away of Mahonia Hall and thinks that is also on the labor side when it comes to investments in OSHA which was sort of the cornerstone of the agreement. The whole context behind that and the worker safety committees was to co-chair Lewallen's point the investment in safety because that's really the only way that we can have this not be a zero-sum game. He is sympathetic to the cost concerns and understands the difficulties in particular with starting and growing a small business. If we are talking about increasing the payment that goes to the worker, this is not a new cost that comes out of nowhere; that is not currently being absorbed culturally. That cost is currently being paid by the worker and their family in terms of financing things, taking additional jobs, and foregoing other things. That cost is accrued and is being attributed to the worker. So, if their finding a net loss in terms of their wage, their finding a way to cover that cost, and that cost is being applied to them. There’s a cultural choice that is problematic and we need to keep that in mind. We’re not adding new costs. We’re having a discussion and debate on how those costs that are occurring should be attributed. The proposals in front of us are saying we should attribute the costs in different ways than we are currently, and that’s a cost shift, and not a new cost.

We ran into this a few years ago with the four-hour bill when we found that it would cost $9 million dollars. But it was currently costing that amount, only workers were paying for it.

This has been a really good impassioned discussion and stakeholder input is appreciated. Discussion highlights all of the different perspectives that we have, and that we can be mindful when we find a way to move forward. And that's one of the reasons why I'm so excited to have both of these proposals out, because we can orient and apply all of the data and the discussions of policy to the proposals in front of us. This has been a robust and productive discussion so far.

(00:43:01) Kirsten Adams responded to clarify that she hopes it is understood by everyone around the table that the management community is coming to the table to have a conversation about this and we're not saying to stay at the 66 2/3. We're coming to the table to have a conversation to find the right solution. To say management wants to stay at the status quo is not accurate. And, backing up to what co-chair Lewallen was saying about safety costs, safety is incredibly important in the construction industry. The construction industry cares deeply about safety and puts a lot of financial backing into safety. It the right thing to do, and it’s what they want to do to keep their employees safe. To the point of costs that are not captured in a system, that's very much one of those costs that are not captured here. There’s been a lot of discussion about inflation and the impact that it has on Oregonians and their day-to-day pocketbooks, activities, and living costs, we all feel that. But that same inflation that's impacting how Oregonians feel in their personal lives is very much impacting businesses as well. To Caitlin’s point the same inflation that is driving up the cost of day-to-day living are the same costs that small businesses are accruing. Businesses aren’t looking to spend as little as possible, their looking to stay in business and continue to employ everyone. We're also trying to be mindful of the business climate in Oregon and the different pressures to businesses when we’re trying to come forward with the right solution.

(00:45:51) Co-chair Lewallen stated that Matt and Teri are getting ready to meet with the NCCI to figure out the analysis piece.
Data points proposed for the NCCI analysis:
AGC and AFSCME proposal along with analysis for 70, 75, and 80 percent TTD.

(00:48:54) Keith Simple, OTLA, asked if someone could figure out where the kind of tipping point is, where it's as close to 100 percent of the average take-home, pre-injury, that you can get within a range of a margin of error. Co-chair Lewallen stated the difficult part that we're running into is everyone has a different tax situation. They could have a spouse that is either a high wage earner or a low wage earner. Trying to figure out what that looks like is very difficult because you could have someone that may have a 10 percent total tax bill or someone that may have a 45 percent tax bill once you take into account FICA and some of the other local taxes.

(00:49:36) Co-chair, Lewallen agreed with Keith and stated that she has ran some scenarios and the way the system currently is set is if someone is at the higher end of the tax table, the system right now is pretty close. If a worker is in the lower tax bracket that's where the disparity begins to creep in. Because no one is in the same situation, we're going to have to come to a place that we feel is reasonable. Again, if we one group feels 100 percent good about it, we probably didn't come to the right resolution.

(00:51:38) Odalis Aguilar shared she really appreciates co-chair Lewallen voicing that and thinks that's why we moved a lot from the original proposal already. That's why we settled on 75 percent of the state's average weekly wage not the state average weekly wage. We believe that with 80 percent at the 75 percent of the state average weekly wage does really get close to closing that gap. They're as close as to their actual tax bracket, which is about $50,000 a year. Those folks do end up getting taxed close to 20 percent and that was the reasoning behind our proposal.

(00:52:36) Co-chair Lewallen stated if it was a single party taxed at the same rate, that would be an easy solve but unfortunately there are a lot of individual factors in everyone's situation. I appreciate the effort that went into it, and both Odalis and Kirsten did a great job.

(00:53:21) Co-chair Strickland reiterated co-chair Lewallen's comment and thanked the stakeholders for bringing this forward and helping drive the discussion.

(00:54:18) Teri shared that WCD is going to meet with NCCI this afternoon. MLAC's next meeting is Friday Sept. 26 and that is the last scheduled meeting.

(00:54:32) Co-chair Strickland s encouraged AGC and stakeholders to engage on this and touch base in the interim so the final scheduled meeting ends up being very productive.

Co-chairs Lewallen and Strickland asked Teri to share the NCCI's analysis with the entire group as that information becomes available so the committee can start reviewing, running their own calculations, and coming up with ideas so that we can be prepared and ready to find the solution.

(00:57:00) Co-chair Strickland encouraged stakeholders keep an eye out on updated data, and posts on the WCD's website for the analysis.

(00:57:00) Co-chair Lewallen adjourned the meeting at 1:57 p.m.

*These minutes include time stamps from the meeting video found here: https://www.youtube.com/watch?v=WaGnbpwKcyo&feature=youtu.be
**Referenced documents can be found on the MLAC Meeting Information page here: https://www.oregon.gov/DCBS/mlac/Pages/average-weekly-wage-subcommittee.aspx