



RESPONSES TO QUESTIONS FROM THE JOINT SPECIAL COMMITTEE ON CORONAVIRUS RESPONSE MEETING ON MARCH 23, 2020

Prepared for: Joint Special Committee on Coronavirus Response
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LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

SUMMARY

On March 23, 2020 the Joint Special Committee on Coronavirus Response met to discuss [policy recommendations](#) to address the coronavirus (COVID-19) pandemic. Below is a list of responses to questions that were asked by committee members. If you have any further questions, please contact the Legislative Policy and Research Office at 503-986-1813 or LegislativePolicyandResearchOffice@leg.state.or.us. Here is a [link](#) to the previous memo with responses to questions raised on Friday, March 20, 2020. LPRO will issue a final memo that consolidates responses from all of the meetings.

SMALL BUSINESS, ECONOMIC DEVELOPMENT, EMPLOYEE LEAVE, UNEMPLOYMENT INSURANCE

Policy 5 – Increase financial assistance directly to private and consumer-owned utilities to help low-income households and small businesses. Require the Oregon Public Utility Commission (PUC) oversight of private utility. Allocate \$__ million.

Staff was asked to reach out to the PUC about the broadband issue of still needing to submit paperwork and fees/payments.

The PUC does not have any requirements or authority over internet providers. Oregon is preempted from regulating the internet. However, many telecommunications providers also provide internet service. The reference to “paperwork and fees/payments” is likely referring to the annual recertification of the companies’ authority to provide telephone service, which is due March 31, 2020 and, according to the PUC, the majority of these providers find the online process to be relatively simple.

This may also be related to the Oregon Universal Service Fund (OUSF) or the Residential Service Protection Fund (RSPF), which are also available online and are critical to maintain as the disbursements from this fund are obligated, do not have a large ending balance, or contingency funds associated with them. In addition, the OUSF is used to provide subsidies to certain service providers to further the goal that service be available to everyone, while RSPF funds are directed to low-income customers.

Policy 17 – Direct the Oregon Employment Department (OED) to spread Unemployment Insurance (UI) rate increase across the system for the claim increase penalties incurred during the declaration.

Staff was asked to get a status update on the waiting week issue.

JSCVR Follow Up – 3.23.2020

OED has noted that its legacy UI claim system has a built-in waiting week. LPRO has submitted this question to OED and the agency is working on a response.

Staff was asked to research how the feds are proposing to adjust federal law on UI.

[HR 6201 Sec. 2 Div. D](#) enacts the Emergency Unemployment Insurance Stabilization and Access Act of 2020. The law requires the Secretary of Labor to make grants to states for the administration of unemployment compensation in this period of high demand. The law specifies calculation of the grant and delivers half of the balance by May 17, 2020 to states that demonstrate:

- they require employers to provide notification of the availability of unemployment compensation insurance at the time of separation, which may be based on model notification language issued by the Secretary of Labor;
- they ensure that applications can be filed, and assistance is available, in at least two of the following ways: in-person, by phone, or online;
- they notify applicants when an application is received and is being processed, and in any case in which an application is unable to be processed, provides information on the steps the applicant can take to ensure successful processing of the application.

The balance of the grant will be provided to states that demonstrate:

- a 10 percent increase in claims over the same quarter in the previous calendar year;
- an expressed commitment to maintain and strengthen access to the unemployment compensation system, including through initial and continued claims;
- steps taken or to be taken to ease eligibility requirements and access to benefits for claimants, including waiving work search requirements and the waiting week, and non-charging employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.

The law also grants states additional flexibility to modify its unemployment compensation law and policies on an emergency or temporary basis with respect to work search, waiting week, good cause, or employer experience rating without approval from the Secretary of Labor. States that receive a grant under this law must submit a report with specified outcome data to the Secretary of Labor by March 18, 2021.

On March 17, 2020, and in response to EO 20-03, OED adopted [temporary rules](#) for unemployment insurance (UI) provisions for the unique situations arising due to COVID-19. The rules establish that people are not disqualified from receiving UI benefits if they are discharged, quit, fail to seek employment, or fail to accept an offer to work because of COVID-19 related situations, including illness, quarantine, order or advice from medical providers or public health officials, cessation of operations, to care for family members dealing with illness or quarantine, to care for a child due to closures, or when working would cause the worker to violate a Governor's directive regarding limitation of activities.

Staff was asked to get an update on claims and status (total reserves) of the UI fund; and an estimate of how robust the UI fund will need to be to support anticipated future claims.

LPRO has submitted this question to OED and the agency is working on a response.

Staff was asked to think through reinstatement of incentives to look for work; noticing eligibility change when called back to work.

LPRO has submitted this question to OED and the agency is working on a response.

JSCVR Follow Up – 3.23.2020

Policy 19 – Repurpose flexible funds within Business Oregon to provide direct relief to certain impacted sectors – allocate \$__ million.

Have Business Oregon identify what they need that is flexible and simple for businesses to access. Include banks (and credit unions).

Business Oregon is working to identify flexible funding sources and ways to respond.

What is the percentage of lost revenue – why 25 percent and how to put that into a formula that considers difference in industry or business costs (personnel vs. other expenses)?

Identifying a formula for lost revenue by sector, industry, or business cash flow situation would be very challenging. Even identifying revenue periods for comparison to show reductions in revenue is challenging. For example, one proposal from Brookings suggests averaging January and February 2020 revenue and comparing that to March 2020 revenue to identify a reduction of income. That type of comparison doesn't work for seasonal businesses with their slowest periods in January and February and who would typically see a pick-up in revenue in March or April.

Policy 27 – Fund for those who are ineligible for UI – allocate: \$__ million.

What is existing and proposed federal assistance to small business (provision for wages for freelancers/gig economy)?

Small Business Administration loans – HR 6074 authorizes expenses and allocation to the Disaster Loans Program (Section 7(b) of the Small Business Act). Classifies coronavirus as disaster under the Disaster Loans Programs Account.

The Small Business Administration's (SBA) Economic Injury Disaster Loans are available to small businesses, small agricultural cooperatives, and most private nonprofit organizations that have suffered substantial economic injury in a declared disaster area. Substantial economic injury means being unable to meet obligations and pay ordinary and necessary operating expenses. Loans provide working capital for the business to survive until normal operations resume after a disaster. Applications for these loans must typically be received within nine months of the disaster declaration. SBA's Economic Injury Disaster Loans offer up to \$2 million in assistance and the interest rate is 3.75 percent for small businesses and 2.75 percent for nonprofits. Loan terms may be up to 30 years, based on a borrower's ability to repay.

Staff was asked to gather data from OED/Department of Revenue (DOR) on the types and number of self-employed, freelancers, independent contractors, etc.

LPRO has submitted this question to OED and the agency is working on a response.

Describe the universe of positions ineligible for UI that will likely need support.

In order to be eligible for UI benefits, a worker must have been paid at least \$1,000 in "subject wages" in the base year and have total base year wages that are at least one and one-half times the wages paid in the highest calendar quarter of the base year, or have worked at least

JSCVR Follow Up – 3.23.2020

500 hours and were paid subject wages during the base year. “Subject wages” are earnings on which the employer paid UI taxes.

Oregon law exempts a number of work activities from subject employment. Workers in these fields are not earning subject wages, and may not be eligible for UI benefits:

- Certain students working for their school or an organized camp;
- Certain patients working for a hospital;
- Nursing students working for a hospital;
- Independent contractors;
- Golf caddy service;
- Certain agricultural workers;
- Taxicab and similar drivers;
- Certain logging truckers;
- Certain language translators and interpreters;
- Certain domestic service and child care services;
- Certain fishermen and other maritime services;
- Parenting and foster parenting;
- Community work and training programs;
- Work for a nonprofit by an individual who cannot be readily absorbed in the competitive labor market;
- Freelance journalists;
- Newspaper delivery;
- Salesperson compensated by commission;
- Sports officiating;
- Staff for nonprofits compensated solely by gratuity, prize, scholarship, reimbursement of expenses, or ski passes; and,
- Boating guides.

What is the relationship between this assistance to UI and WARN Act resources?

[The Worker Adjustment and Retraining Notification \(WARN\) Act](#) is a federal requirement for employers with >100 FTE to give a 60-day notice to the affected employees and both state and local government prior to a plant closing or mass layoff. Subject employers must file [WARN notices](#) with the Higher Education Coordinating Commission (HECC).

HECC also administers the federally funded [Dislocated Worker Program](#) which offers help to employers and workers before and during a layoff. Dislocated workers can register online with [WorkSource Oregon](#), a network of public and private partners who designed to connect local resources and get workers back to work as quickly as possible following a layoff, closure, or disaster.

The Dislocated Worker Program also provides [Training Unemployment Insurance](#), which lets eligible workers attend school while receiving UI benefits. The program removes the work search requirements from weekly claims while workers attend full-time school.

Staff was asked to research existing programs that could be implemented quickly to address a population that doesn't pay into any safety net.

[Disaster Unemployment Assistance](#) – One way to cover workers who are not usually covered by the Unemployment Insurance system under a Presidential disaster declaration is through

JSCVR Follow Up – 3.23.2020

Disaster Unemployment Assistance (DUA). The disaster declaration must specifically grant Individual Assistance and DUA is funded by Federal Emergency Management Agency and administered by the Oregon Employment Department. Benefits are payable in the first week after the week in which the President declares a major disaster. Unlike regular unemployment, self-employed individuals may be eligible for benefits. Applicants have 30 days from the date the disaster was announced to submit an application (with provisions for good cause if the application is late). Proof of earnings (tax forms) for the prior calendar year is required and must be submitted with the application.

DUA payments are relatively small and cannot exceed 50 percent of the average benefit amount in the state. This amount wouldn't replace lost wages, but could be invoked quickly and is less complicated than passing legislation to expand UI eligibility to self-employed individuals

Small Business Assistance – There are two fundamental ways to support small firms: loans or direct grants. A loan program could provide zero- or low-interest loans to firms under a certain size that are impacted by coronavirus. The state could also make direct grants to firms to cover some share of payroll or fixed expenses or revenue losses. Examples from other states include the following:

- New Jersey – [Assembly Bill 3845](#) authorizes the New Jersey Economic Development Authority (NJEDA) to provide grants during periods of emergency declared by the Governor, such as the declaration regarding the Coronavirus disease 2019, and for the duration of economic disruptions due to the emergency. The bill gives the NJEDA the power to offer grants for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing of a project, including, but not limited to, grants for working capital and meeting payroll requirements, upon such terms and conditions as the authority deems reasonable, during such period of time. The bill also extends the uses of the economic growth account in the Economic Recovery Fund to the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing by small and medium-size businesses and not-for-profit corporations of certain projects, including, but not limited to, grants for working capital and meeting payroll requirements, upon such terms and conditions as the authority deems reasonable, during such periods of time.
- Florida - Gov. Ron DeSantis has activated the [Emergency Bridge Loan Program](#) for small businesses impacted by COVID-19. The Florida Small Business Emergency Loan Program was created in response to Hurricane Andrew in 1992 to bridge the gap between a disaster occurring and when businesses can secure longer-term financial resources. Small business owners with two to 100 employees located in Florida affected by COVID-19 can apply for short-term loans up to \$50,000. These loans are interest-free for up to one year and are designed to bridge the gap to either federal SBA loans or commercially available loans. To be eligible, a business must have been established prior to March 9, 2020, and demonstrate economic impacts as a result of COVID-19.
- Massachusetts – The \$10 million [Small Business Recovery Loan Fund](#) will provide emergency capital up to \$75,000 to Massachusetts-based businesses impacted by COVID-19 with under 50 full- and part-time employees, including nonprofits. Loans are immediately available to eligible businesses with no payments due for the first six months. The Massachusetts Growth Capital Corporation (MGCC) has capitalized the fund and will administer it. This funding is being offered with no payments due for the first six months, then 30 months of principal and interest payments and no prepayment penalties.

JSCVR Follow Up – 3.23.2020

- State of Maine COVID-19 Relief Consumer Loan Program – The COVID-19 Relief Consumer Loan Program provides no- to low-interest consumer loans up to \$5,000 (minus any unemployment benefits received by the borrower) through a loan guarantee program involving Maine's banks, credit unions, and Finance Authority of Maine (FAME). \$500,000 has been appropriated to support a total of approximately \$5 million in total lending statewide by participating lenders. The program is voluntary on the part of Maine lenders.

Interested borrowers contact their local bank or credit union to see if the lender is offering this program and to apply. Any Maine resident, including those who are self-employed, who has experienced a reduction in income since January 1, 2020 as a result of COVID-19 is eligible. A borrower who has received a loan may apply to the same credit union or financial institution for an additional loan for each 30-day period the employee remains eligible. Affected individuals are limited to three (3) loans.

Program page: <https://www.famemaine.com/business/programs/covid-19-relief-loan-programs/covid-19-relief-consumer-loan-program/>

Legislation (see Part I on page 9):

<http://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0789&item=2&num=129>

CAUSA Proposal – CAUSA has proposed a community-based grant system for wage replacement that sets up an emergency fund for non-profit organizations who currently serve restaurant workers, caregivers, immigrants, refugees, day laborers, farmworkers, and people of color. The Oregon Worker Relief Fund (OWRF), based at the Innovation Law Lab, would work with culturally specific nonprofit organizations who can provide service to individuals.

The lead organization develops the universal application and intake system used by all community-based organizations (CBOs). A "small" percentage of funds is used by CBOs for administration and operating costs. CBOs selected to participate must provide culturally specific services, assist those without internet access, verify required documents, process applicants to receive funds from lead organization, and conduct surveys to better understand community impacts.

Applicants fill out a short application; priority based on the following criteria:

1. Must live in Oregon
2. Had a job (income?) in Oregon that they lost due to pandemic
3. Are not eligible for UI or other temporary wage-replacement programs

OWRF would seek to cover 60-70 percent of lost wages (dependent on funding) subject to a maximum of \$590 per week and only wages lost in direct relation to COVID-19 enacted emergency management policies. Distributions will be made as funds are available within 3-5 business days.

Federal government paid sick leave application to government (LFO)

LPRO staff is seeking additional information.

Policy 43 – Maximize workforce: relax predictive scheduling and enact a moratorium on penalties during the declaration; and lift maximum hours restrictions on manufacturing.

JSCVR Follow Up – 3.23.2020

Staff was asked to research predictive scheduling legislation and identify provisions related to flexibility.

Oregon’s predictive scheduling law requires employers to provide compensation for each employer-requested schedule change that occurs without advance notice. [ORS 653.455\(3\)\(h\)](#) removes the additional compensation requirement when “operations cannot begin or continue due to a natural disaster or a similar cause not within the employer’s control.”

The Labor Commissioner [issued guidance](#) which indicates that she believes that the current emergency declaration triggers the statutory relief under ORS 653.455(3), that the Bureau of Labor and Industries’ interpretation of the law’s requirements and penalties “will account for these realities and common sense,” and encourages employers to engage in proactive communication with employees about their operations and schedules as they seek to comply with federal, state, and local emergency declarations.

The language in ORS 653.455(3)(h) is intentionally broad and is being interpreted by the Labor Commissioner to include the current emergency.

Can the maximum hours restriction be lifted by the Governor under emergency powers?

Oregon’s overtime statutes are administered by the Labor Commissioner. The Bureau of Labor and Industries (BOLI) provided further information on the [overtime rules for Oregon’s manufacturing industry](#). BOLI is currently developing rules to “provide a timely, orderly, and consistent framework to keep vital manufacturing moving while maintaining worker protections.”

HOUSEHOLD STABILITY & HUMAN SERVICES

Policy 10 – Increase ability of community partners to do outreach and respond to basic needs of self-quarantined individuals in high-risk households – allocate \$__ million.

Identify current supports for seniors, including distribution of supplies as well as services for those in self-isolation

LPRO is waiting for information from the Department of Human Services (DHS).

Research whether a definition for “high-risk household” exists in statute or rule. Write up a clear definition if one does not exist.

There is no definition of “high-risk household” in statute or rule that is directly germane, as COVID-19 is new. Below is a suggested definition for use as common language for physical health vulnerability.

In relation to COVID-19, a “high-risk household” is a household that includes an individual(s) the CDC has indicated is at higher risk for severe illness from COVID-19.

Those individuals:

- Are aged 65 years and older;
- Live in a nursing home or long-term care facility;
- Have other high-risk conditions which could include:
 - chronic lung disease or moderate to severe asthma,
 - serious heart conditions,
 - immunocompromised system including cancer treatment, or

JSCVR Follow Up – 3.23.2020

- severe obesity (body mass index [BMI] >40) or certain underlying medical conditions, particularly if not well controlled, such as those with diabetes, renal failure, or liver disease might also be at risk;
- Are unsheltered homeless. Unsheltered homeless lack immediate access to hygiene and sanitation facilities, may live in crowded areas and some have a higher risk of moderate to severe disease and often have multiple chronic medical conditions.

HOUSING, HOMELESSNESS, EVICTIONS & FORECLOSURES

Policy 30 – Mortgages: forbear mortgage payments for 90 days from their due dates – or – offer mortgagors an additional 90-day grace period to complete trial loan modifications and ensure that late payments during the pandemic do not affect their ability to obtain permanent loan modifications; and require low-interest, no-penalty repayment period.

What actions are the feds taking related to credit score protections?

The Disaster Protection for Workers' Credit Act (Senate Bill 3508) was introduced in Congress on March 17 and provides for a four-month moratorium on negative credit reporting and longer restrictions for individuals experiencing "lasting financial hardship." The bill is pending.

Does the state have the authority and/or what authority is needed to prevent late payments from affecting credit scores?

State action intending to restrict negative credit reporting would only impact Oregon-licensed financial institutions, as nationally chartered financial institutions, regulated at the federal level, would be exempt.

As of March 24, some, but not all, mortgage companies are voluntarily suspending negative credit reporting for homeowners unable to make monthly payments due to COVID-19. The Consumer Financial Protection Bureau has provided guidance (last updated 3/19/2020) encouraging households to reach out to their lenders if they are having difficulty making payments. The three major credit bureaus, Equifax, Experian, and TransUnion have similar guidance.

Who is/not covered by emergency foreclosure/eviction prevention measures?

Homeowners - Residential mortgages, impacted financially by COVID-19 and owned by Fannie Mae and Freddie Mac are eligible for an automatic 90-day forbearance, during which time homeowners will not incur late fees or negative credit reporting ([link](#)). Foreclosure and other legal proceedings will be suspended for these homeowners. Fannie Mae and Freddie Mac servicers are directed to work with impacted borrowers during this 90-day period to explore longer-term interventions and solutions to their financial hardships, including loan modification and/or extended forbearance periods for up to one year.

The U.S. Department of Housing and Urban Development (HUD) announced a foreclosure and eviction moratorium on March 17 for FHA-Insured loans. No information regarding credit reporting or loss mitigation has been widely issued since.

JSCVR Follow Up – 3.23.2020

While homeowners impacted by COVID-19 are currently likely to experience significant waiting times when reaching out to their mortgage servicer by phone (i.e., waits on hold are significant, surpassing an hour in many cases), depending on who owns their mortgage (e.g., Fannie Mae, Freddie Mac, FHA, State of Oregon, etc.), support may be available in the form of loan forbearance. A loan forbearance is a temporary lending provision that allows for a borrower to “skip” payments and have unpaid balances and accrued interest capitalized, often with a term extension, that results in the loan being extended by the equivalent number of months during which payments were not collected.

At this time, homeowners whose loans are not owned by Fannie Mae, Freddie Mac, or insured by FHA, may lack protections against foreclosure, late fees, negative credit reporting, and eviction. This includes whole loan residential mortgages, where risk is maintained by the originating lender. Homeowners are encouraged to contact their servicer, or a HUD-certified counseling agency to explore options available to them.

Renters – Renters are seeing relief through industry action as well as the Federal Housing Finance Agency (FHFA) provided guidance ([link](#)) to Fannie Mae and Freddie Mac today (March 24) requiring that mortgage forbearance be available to multi-family building landlords for up to three months, provided that they suspend all eviction activities for renters unable to make their rent due to the impact of coronavirus. Despite this FHFA guidance, there has been no overarching federal guidance on commercial real estate loans to date for landlords, or renters, on credit reporting or resolution options for those impacted by the crisis.

Emergency rent assistance is being considered in current relief measures by Capitol Hill legislators. Current reports suggest that \$10 billion may be allocated for short-term rental support. If passed as currently envisioned, funds would be disbursed to states through HUD’s Community Development Block Grant (CDBG) program. In Oregon, CDBG is administered through Business Oregon’s Infrastructure Finance Authority, for largely non-housing purposes.

Policy 31 – Homeless shelters: time limited super-siting as listed in HB 4001, including amendment regarding church parking lots and car camping.

Brief summary of HB 4001:

Emergency Shelters – Defines “emergency shelter” as a building that provides shelter on a temporary basis for individuals and families who lack permanent housing. Limits the use of a building designated as an emergency shelter to emergency shelter use, except upon approved application of a permit for other use under current land use as a local land use regulation. Requires local governments to approve an application for the development or use of land for an emergency shelter if certain requirements are met, including being operated by a local government, an organization with at least two years’ experience operating an emergency shelter using best practices, or a nonprofit partnering with another listed entity.

Allows shelters to provide various on-site services at no charge to individuals served by shelters. Specifies that a shelter may include a youth shelter, winter or warming shelter, shelter or family violence shelter home. Establishes that approval of an emergency shelter is not a land use decision and is therefore only subject to review under ORS 34.010 to 34.100, which governs writs of review. Repeals emergency shelter provisions on July 1, 2021.

Transitional Housing Accommodations – Allows local governments to authorize transitional housing accommodations in parking lots or other facilities where persons may reside overnight in a motor vehicle, even if the motor vehicle was not designed for use as temporary living

JSCVR Follow Up – 3.23.2020

quarters. Allows local governments to create conditions on offering camping space, including establishing a maximum number of vehicles allowed.

Defines “low-barrier emergency shelter” as an emergency shelter that follows established best practices to deliver shelter services that minimize barriers and increase access to individuals and families experiencing homelessness. Outlines operations. Directs Oregon Housing and Community Services (OHCS) to award grants and provide technical assistance to fund construction, purchase or lease of facilities, and for operations of low-barrier emergency shelters, ensuring that funds are distributed among different regions of the state.

Defines “navigation center” as a low-barrier emergency shelter, that is open seven days per week and connects individuals and families with health services, permanent housing and public benefits, and outlines operations. Directs the Department of Administrative Services (DAS) to award grants to local governments to plan, develop or operate, construct or lease, or contract for a navigation center. Requires moneys unused by November 30, 2020, to be returned.

Funding and Technical Assistance – Appropriates to DAS from General Fund, for navigation centers, \$1.5 million to Yamhill County for the City of McMinnville; \$2.5 million to the City of Bend; \$2.5 million to the City of Medford; \$5 million to the City of Salem; and \$5 million to the City of Eugene. Appropriates to Oregon Housing and Community Services \$26.5 million from the General Fund to award grants and \$2 million to develop and provide technical assistance.

How could schools (or other facilities) be used as emergency shelters, while ensuring social distancing?

K-12 – Currently, schools are only closed until April 28, so unless the Governor provides additional guidance, schools are still scheduled to reopen next month, and any space would become unavailable.

Dates aside, there could be use of nonresidence-like facilities (maybe gyms) as only a limited number of schools have dorm-like settings, but only if those spaces were available while the schools were performing their other COVID-19 directives (EO 20-08 directs public schools to provide for the provision of child care for first responders, emergency workers, health care professionals, and other individuals. It also directs schools to continue to provide school meals). These require the current use of some facilities and resources and will continue until schools reopen (or the Governor takes further action).

Unless ordered by the Governor or statute, this would be a district-by-district discussion, as local school districts control their own properties.

University – LPRO staff has reached out to the Higher Education Coordinating Commission.

Are statutory changes needed to repurpose schools, university dorms, county fairgrounds, churches, etc. for shelter?

County Fairgrounds – There are no statutory prohibitions or obstacles to using county fairground properties as emergency shelters as the committee proposes. Each county fairgrounds is governed by a fair board – in working partnership with the County Commission or County Court – so each county’s fairground will have different operating agreements and rules. The Oregon Fairs Association is not aware of any local prohibitions on use of fairgrounds for emergency housing to help support COVID-19 response.

JSCVR Follow Up – 3.23.2020

Some county fairgrounds are already on the frontlines of helping with the pandemic. For instance, the Douglas County Fairgrounds is being used as a COVID-19 testing site and thus may no longer be suitable for emergency housing. The Oregon Fairs Association, and its members, has expressed that it would gladly answer the call if they are needed to assist with emergency housing needs.

Request that the legislature work with OFA Chair Bart Noll, OFA Executive Director Patrick Sieng, and OFA government affairs representative JL Wilson if information needs to be disseminated to all 36 county fairgrounds. They stated they will be glad to help organize the members for emergency response.

Churches – It is likely that churches can utilize their indoor facilities as shelters, although churches may have to contend with county guidelines or local zoning laws, varying from city to city. Some cities require conditional use permits (CUPs), which may be a barrier. A church would also have to ensure that the space meets basic life safety requirements (such as adequate ingress, egress) and the ability to staff and supply the site. Portland, for example, is currently using a church, community center, convention center and other locations with only a basic fire life safety permit required. Bend, for example, would likely require a CUP.

Using outdoor space also has some statutory restrictions (see ORS 203.082 below). HB 4002 (2020) would expand the limits on parking lot camping, allowing more than three vehicles at a time as determined by the local government. Directing churches (as opposed to asking) to open their properties to temporarily house the homeless may be an eminent domain issue, but there may be special exceptions if we are in a state of emergency. Please defer to Legislative Counsel for more information.

203.082 Camping by homeless on property of religious institutions; required elements of policies of local governments and religious institutions. (1) Any political subdivision in this state may allow churches, synagogues and similar religious institutions to offer overnight camping space on institution property to homeless persons living in vehicles.

(2) In addition to any conditions or limitations imposed by a political subdivision, a religious institution located within the political subdivision and offering camping space described under subsection (1) of this section must:

(a) Limit camping space at the institution site to three or fewer vehicles at the same time; and

(b) Provide campers with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities.

Transitional housing laws are located at ORS 446.265.

A note regarding staffing for shelters.

Volunteers for shelters are hard to find because of COVID-19. Many of the volunteer population are age 60 plus and not available as they are staying home to protect themselves. In addition, there are the difficulties in obtaining personal protective equipment (PPE) and cleaning supplies.

Policy 33 – Foreclosures: prohibit commercial and residential foreclosures for duration of the declaration.

Provide updates related to foreclosure prohibition, including actions taken by Freddie Mac/Fannie Mae

JSCVR Follow Up – 3.23.2020

Local banks and credit unions report a variety of steps being taken proactively, consistent with their national counterparts and with guidance issued by the Department of Consumer and Business Services (DCBS DFR 2020-07).

Credit Unions – Two weeks of real estate loan modification data (first mortgages, commercial and HELOC loans) from an individual credit union in Portland showed the following COVID-19 activity: 29 loans reamortized (typically, a "restart" for a new 30-year term); 14 made interest-only for six months; seven new HELOCs set up as safety nets (home equity lines of credit); three loans in forbearance (skipping a payment, up to three months); and eight loans on hold if needed.

Another individual credit union reported modifying 51 loans and making 194 payment extensions in just one week.

A variety of other specific actions were also reported by individual institutions – these vary from institution to institution – and most actions were taken before DCBS guidance issued:

- refunding "foreign" ATM fees up to \$10 per month through the end of April
- waiving fees for online and phone payments
- eliminating fees for loan modifications until further notice
- waiving fees for skipping a payment
- allowing members to skip a loan payment regardless of whether they already skipped a payment in the preceding 12 months, with no processing fee
- offering an emergency loan with simple terms and no payment until 60 days after funding
- offering credit card limit increases and easy cash loans up to \$1,100
- allowing members to skip two payments on some loans without penalties for early withdrawals from certificates of deposit
- proactively engaging in outreach to membership to discuss options and having financial counselors and advisors available to consult

One credit union is working in its community to provide funds for its local food bank. Another, the largest credit union in Oregon, contributed \$100,000 to Meals on Wheels People, which provides fresh food delivery to seniors, and is ordering lunch for its employees daily to support local businesses.

Banks – Each institution is working with its borrowers to tailor solutions on an individualized basis, consistent with guidance issued by the Department of Consumer and Business Services. They are "deploying tested pandemic plans, engaging in programs that have proven effective in disaster relief efforts, and using every tool in their toolboxes to help their customers and communities." Actions include everything: special emergency loan programs, payment forbearance, loan modifications, reduced loan rates, fee waivers, and other forms of debt restructuring. Key examples include local banks that have instituted their own temporary moratoriums on residential mortgage foreclosures organization-wide, consistent with their national counterparts; and local banks offering all of their borrowers 90-day payment reprieves. Additional examples are available.

Check in with Division of Finance and what they are seeing related to this (LPRO compilation of agency directives)

LPRO staff has reached out to DCBS and their reply is pending.

CHILDCARE & EDUCATION

Policy 36 – High school diplomas: If the public health pandemic extends into May or June, the Oregon Department of Education (ODE) should consider permitting seniors to graduate with current credits if they are under the credit minimum.

Staff was asked to research what alternatives to classroom learning are occurring in Oregon and elsewhere.

To date, [46 states](#) have closed their public school systems, in addition to Puerto Rico and the District of Columbia. In Oregon, the school year is defined by the State Board of Education in [OAR 581-022-2320](#). Any action to grant waivers to instructional time requirements or to allow for distance learning to meet those requirements would need to be taken by the State Board of Education (State Board).

Currently, several districts in Oregon are offering distance learning as a supplemental service to students and families, including [Salem-Keizer Public Schools](#), [Beaverton School District](#), and [Portland Public Schools](#). However, the work will not be graded and will not necessarily count for credit. ODE [announced](#) that this was its preferred policy, primarily due to the equity issues involved in moving from in-person classes to distance learning. They also submitted testimony to this committee on March 23, 2020 and addressed the equity issues with distance learning, including 12 key considerations:

1. All students in the school or district have full access to the learning, the educators, and required materials (including technology).
2. The online learning system effectively supports the district's different learning and teaching needs, including the ability to provide differentiated instruction as well as one-on-one support for students who need it.
3. Online instructional materials are aligned to Oregon State Standards.
4. Specially Designed Instruction (SDI) identified on a student's Individualized Education Plan (IEP) or required supports for a 504 plan must be provided and adjusted to meet the unique needs of online instruction.
5. Support and instruction for emergent bilingual/English Learners must be provided if the district is operating an online school and adjusted to meet the unique needs of online instruction.
6. Supports for talented and gifted students must be provided if the district is operating an online school.
7. Ensuring equal student access to the instruction and assessments associated with dual credit courses.
8. Providing professional learning to staff, students, and parents and guardians on how the online system works and the expectations of the district.
9. Attendance is tracked and reported for both students and staff.
10. Online systems are secure and will not allow for the release of protected student or staff information.
11. Students have access to school meals.
12. Students have access to school counseling and/or mental health services.

Schools must provide educational services under the Individuals with Disabilities Education Act, even if in-person classes are canceled and schools are providing distance learning only. The U.S. Department of Education has provided answers to [frequently asked questions](#) and a [webinar](#) about the provision of special education services during extended school closures due to COVID-19. Additionally, the U.S. Department of Education has issued a [fact sheet](#) about student civil rights.

JSCVR Follow Up – 3.23.2020

At least three states are currently engaged in finding ways to provide distance learning. In [Washington](#), the Superintendent of Public Instruction issued guidance to school districts stating the expectation that educational services for students should resume by March 30, 2020 using a variety of delivery methods and outlining the equity considerations districts must make when designing distance learning. The Governor of [Kansas](#) directed the Department of Education to convene a group of experts to plan for the continuation of educational services during the cancelation of in-person classes. [Virginia's](#) Governor ordered the state's education department to issue guidance on the equitable implementation of distance learning, summer learning, or the incorporation of this spring's material into next fall's classrooms.

Additionally, technology companies are seeking ways to assist states' efforts to provide education to students while limiting the spread of COVID-19. The CEO of [Zoom](#) has offered his company's distance learning platform to K-12 schools free of charge during the national emergency. Also, [Comcast and other companies](#) have announced free internet access for low-income individuals and families.

School districts in various states have approached these issues in different ways. Portland Public Schools is allowing students who do not have computers to [borrow one from the district](#). Some districts in various states have equipped school buses with Wi-Fi hotspots and parked them in low-income neighborhoods in order to provide broadband access to students, some have boosted the Wi-Fi signals at school buildings to extend to nearby neighborhoods, and some have provided paper-based distance learning to students who lack broadband access. News reports highlighting the use of distance education have included districts in [Connecticut](#), [Indiana](#), [South Carolina](#) ([also here](#), [and here](#)), [Missouri](#), [Florida](#), [North Carolina](#), [New York](#), and [California](#).

HEALTH & HEALTH CARE

Policy 29 – Permit Physician Assistants to practice within their scope without supervision requirements throughout duration of the declaration.

Identify the 2020 physician assistants bill Rep. Salinas references for draft language.

Rep. Salinas was referring to [HB 4081](#).

Identify emergency rule change Sen. Boquist references.

Sen. Boquist was referring to emergency rule [OMB 4-2020, Chapter 847](#), from the Oregon Medical Board.

STATE GOVERNMENT & MISCELLANEOUS

Policy 24 – Encourage the executive branch to pause all non-essential rulemaking and workgroups not related to the COVID-19 response.

Look up existing sunsets on programs, projects, and funding.

LPRO will continue to look into this issue.

FOLLOW UP FROM 3/20/2020 MEETING

Is the Employment Department suspending the paid family leave rulemaking process?

LPRO will continue to look into this issue.

How can a provider in another state get reimbursed for COVID-19 services provided to Oregon resident?

Provider reimbursement and the ability to submit claims for reimbursement will vary by the insurer: Medicare, Medicaid, or commercial. On March 24, 2020 OHA and DCBS released [guidance](#) that for the duration of the COVID-19 outbreak, or until otherwise directed by the directors of the DCBS and OHA. The state expects health plans of all types to provide increased access to health care services through telehealth delivery platforms and to encourage patients to use telehealth delivery options to limit the amount of in-person health care services they seek. Ostensibly, this guidance should assist commercial health plans regulated by DCBS and Medicaid health plans regulated by OHA to reimburse for COVID-19 related services provided by a provider in another state.

The Centers for Medicare and Medicaid Services (CMS) is also waiving requirements that out-of-state providers be licensed in the state where they are providing services when they are licensed in another state. The waiver will apply to both Medicare and Medicaid. CMS is implementing actions to streamline the provider enrollment process by expediting any pending or new applications from providers and postponing all revalidation actions. Furthermore, as a result of the national emergency declaration, CMS is granting states additional flexibilities under an 1135 Waiver, including the ability to permit an out-of-state provider to deliver care. On March 20, 2020 Oregon submitted an 1135 Waiver to CMS seeking to ease program participation for providers, including allowing providers in good standing in another state to practice in Oregon, among other things.

The [Oregon Medical Board](#), the [Oregon State Board of Nursing](#), and the Health Licensing Office (for [respiratory therapists](#)) have all issued rules/guidance that allows for expedited Oregon licensure of practitioners who hold active out-of-state licenses. These provisions apply to physicians, physician assistants, nurses, nursing assistants, and respiratory therapists. The Governor's Joint Task Force for Health Care Systems Response to COVID-19 is reviewing similar rule changes to authorize practice of out-of-state licensed emergency medical services (EMS) providers.

How can cultural competency requirements and equity efforts be expanded temporarily among healthcare workforce?

OHA's Cultural Competence Continuing Education Training Approval program identifies potential cultural competence training for health care providers and offers [resources](#), including online training and webinars. OHA maintains [FAQs](#) regarding providing interpreter services to individuals who are deaf, deaf-blind, hard of hearing, or limited English proficient. OHA also oversees traditional healthcare workers (THWs) and is responsible for certifying and qualifying health care interpreters (HCIs). Working to ensure THWs and certified or qualified HCIs are easily accessible for individuals and health care providers during the crisis can help to address the needs of Oregon's diverse communities.

JSCVR Follow Up – 3.23.2020

What policies can be put in place for hospitals to ensure debt burden relief?

When committee members raised the question on March 20, 2020 House Bill 3076 (2019) was referenced, which suggests the focus on debt burden relief is for individuals and families. HB 3076 regulates the charity care policies of nonprofit hospitals and health systems, requiring nonprofit hospitals to maintain financial assistance policies that include specified reductions based on a patient's household income and protect individuals from medical debt based on insurance status and ability to pay. These specific provisions have not yet taken effect.

The legislature could consider new policies or modifying policies outlined in HB 3076 regarding charity care by specifying certain COVID-19 related services that should be free or discounted as medically necessary care for low-income uninsured or underinsured patients. For hospitals and health systems, Congress is considering legislation to provide emergency relief from COVID-19 for hospitals and community health centers (* current as of March 24, 2020).

According to CMS ([FAQs](#) March 18, 2020) states can expand the eligibility groups for which hospitals can make presumptive eligibility (PE) determinations for Medicaid for a number of population groups. Under Hospital Presumptive Eligibility (HPE), states must permit hospitals to make PE determinations for parents and caretaker relatives, children, pregnant women, and former foster care children, adults (in states that have adopted the adult group), individuals eligible for family planning services (if covered by the state), and individuals needing treatment for breast or cervical cancer (if covered by the state). Under hospital PE, states may allow hospitals to enroll all eligible people regardless of their "eligibility category," and enrollment can be done off-site and by third parties as long as it is done under the supervision of the hospital.

States also have the authority to add additional Medicaid eligibility groups or populations (if covered by the state) to their HPE program. This includes eligibility groups based on being age 65 or older, having blindness or a disability, or being medically needy (e.g., eligibility group for individuals in institutions eligible under a special income level). States may also permit hospitals to make PE determinations for demonstration populations covered under section 1115 authority. Participating hospitals must meet the state's qualification requirements and comply with the procedures and standards established by the state. CMS is available to provide technical assistance on the State Plan Amendment (SPA) changes needed to expand HPE to these and other eligibility groups. This could be an option in Oregon to help ensure hospitals are reimbursed for COVID-19 related and non-related services during the crisis for newly Medicaid-eligible people through HPE. Need to confirm with OHA which aspects of the state's [HPE](#) were submitted in the state's 1135 Waiver request submitted on March 20, 2020 to CMS.

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