

Analysis

Item 1: Department of Education

Wildfire Damage Assistance

Analyst: Doug Wilson

Request: Allocate up to \$20.0 million from the Emergency Fund to provide for grants or loans to support school districts, education service districts, and public charter schools in mitigating the costs of damage caused by wildfire. The first \$7.5 million would be for a new Short-term Loan Assistance Program with the remaining \$12.5 million dedicated to the Emergency Hardship Grant Program. The Department of Education would report to the Legislative Fiscal Office by January 15, 2021 on the amount of each grant or loan committed to cover eligible costs.

Analysis: The multiple wildfires in 2020 have burnt over 1 million acres statewide damaging or destroying homes, personal property, businesses, and public facilities like schools. The Oregon Department of Education (ODE) has preliminarily identified 33 school districts, three education service districts (ESDs), and one public charter school that might have damage and are in the process of surveying these districts to gain information of the extent of the damage. While most of the districts are smaller in size, there are larger districts that are near the edge of the wildfires such as Medford and Salem/Keizer that might have sustained some damage or impact from the wildfires. Damage ranges from clogged ventilation systems that will require cleaning to significant smoke damage that will require extensive remediation or replacement. One ESD building in Southern Oregon was destroyed. Three districts (Santiam Canyon, Phoenix/Talent, and McKenzie) were especially hard hit and many of their residents lost their homes and personal property. ODE and others believe that the damage to these communities are so extensive that the only way to effectively continue student education is to reopen onsite schools. Waivers from the COVID-related health and education restrictions are being considered. This means that the damage to these districts' facilities must be addressed as soon as possible.

While insurance and/or federal assistance (e.g., Federal Emergency Management Agency or FEMA) may reimburse the costs of addressing the damage, it may be months before the claims are processed and the financial assistance is available. Insurance will likely not pay for all the damage. Almost all school districts in Oregon are covered by a single entity (PACE) which is coordinated by the Oregon School Boards Association and the Special Districts Association of Oregon. A major need of the districts is the remediation related to smoke damage. Generally, PACE will pay for the damage caused by a fire on district property, but not for smoke damage where its source is on non-district property. This limitation is due to the requirements by the re-insurance provider, Lloyds of London. PACE is already working with individual districts and has already paid out some claims. Their goal is to process claims within 60 to 90 days of the wildfire. FEMA, on the other hand, can take up to multiple years to process claims. It also appears that districts must apply for an insurance claim and be denied by the insurer prior to applying for FEMA assistance.

Districts may need two types of assistance: 1) short term cash flow assistance so districts can immediately address the damage and in some cases open on-site education; and 2) assistance to fill the gaps between the cost of addressing the damage and the amount that insurance and/or federal assistance will reimburse. Federal assistance may require a match as a condition such as the 25%

match that often is the requirement for FEMA assistance. The ODE request addresses both needs, but they admit that they do not have sufficient information to determine the actual need and what the split in funding between the Short-term Loan Assistance Program and the Emergency Hardship Grant Program should be.

Four alternatives or options are explored to address this overall issue: Districts must use their own resources to address their costs to remediate the damage; use existing state programs or mechanisms to address the issue; allocate funding from the Emergency Fund to ODE to provide financial assistance to districts; and reserve an amount in the Emergency Fund for this purpose until more information is available.

1) Districts rely on their own resources to remediate wildfire damage

Districts have varying levels of resources to pay for the wildfire damage. In addition, the likely cost to address the wildfire damage will vary significantly from one district to another; from no cost since a district was not directly affected by the wildfires to the significant costs of a smaller district like McKenzie or Santiam Canyon. Even if a district has the majority of its costs covered by insurance or FEMA, it may take weeks or months to receive that assistance. If a district only has a minimum level of reserves to use for cashflow purposes, it may have to delay the remediation.

2) Use existing state programs or mechanisms to address need

Two existing programs or funds have been mentioned as alternatives to address districts' wildfire damage issues. At ODE there is the Emergency Hardship grant program under the Office of School Facilities and at the Military Department's Office of Emergency Management there is the Oregon Disaster Grant and Loan program. Neither have current funding to address the need in this case so funds would have to be allocated for this purpose. Also, there may be restrictions that make it harder to use the program for this specific purpose. For example, ORS 326.125(1) limits the size of an Emergency Hardship Grant to \$500,000 which may be insufficient to meet the wildfire related remediation and replacement costs facing a district. Any change of this limit would require action by the full Legislature. The ODE request uses the Emergency Hardship Grant program for distribution of \$12.5 million of its request, with the remaining \$7.5 million using a yet to be developed program to address the cashflow need.

It might be more effective to provide for a one-time or temporary program to address this issue like what was done in 2016 to address the testing costs for the presence of lead in drinking water at school facilities. The Emergency Board allocated just over \$2.0 million to ODE to reimburse districts for their testing costs. This is similar to the approach described in options 3 and 4 below and end up being similar to the ODE request. This would provide the opportunity for a program to be designed for this specific situation. One would hope this is a one-time need, but if wildfires continue to be a significant issue for schools, this would give the opportunity to design a long-term program for these situations.

3) Allocate funding from the Emergency Fund to ODE to provide financial assistance to districts

The agency is proposing allocating up to \$20.0 million for short term cashflow loans needs until insurance or other assistance is available as well as grant funding to cover all or some of the costs not covered by insurance or other assistance. There remains a significant amount of information yet to be determined at this point including the extent of the need for the assistance, what insurance or other assistance may cover, and the specific financial needs of individual districts. The overall advantage to this approach is it can be tailored for this specific situation with corresponding guidelines and limits

on how the funds might be used. The disadvantage is that once the allocation is made to the agency any amounts not needed are no longer accessible to the Emergency Board.

4) Reserve an amount in the Emergency Fund for this purpose until more information is available

A variation of option 3 outlined above may end up being the preferred approach. This option would reserve funds in the Emergency Fund (e.g., \$20.0 million) for this specific purpose. This sends the message to districts that the Legislature, through the Emergency Board, supports and anticipates addressing the issue, but will wait a short period until sufficient information still outstanding is collected and assessed to determine the proper mix of finance alternatives. In addition, a series of guidelines and requirements for district eligibility can be developed in the interim including:

- A district must have applied for a claim through its insurer relating to the damage from wildfires.
- A district has provided sufficient information to ODE to determine the type and amount of assistance required.
- Whether the district has to cover the costs of the damage on its own by the establishment of criteria based on the amount of damage costs for a district adjusted for district size. For example, a dollar amount of assistance required per student could be set as the minimum amount, meaning those districts that have higher damage costs per student would get the assistance first.
- The types of damage eligible for assistance.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board establish a \$20.0 million reservation in the Emergency Board for the purpose of providing financial assistance to school districts, educational service districts, and public charter schools that have sustained damage due to wildfires. The Emergency Board will allocate a specific amount from this reservation to the Department of Education in the near future when further information is available on the extent of assistance required by individual districts and the specific assistance that is required.



Oregon

Kate Brown, Governor



OREGON
DEPARTMENT OF
EDUCATION

Oregon achieves . . . together!

Colt Gill

Director of the Oregon Department of Education

October 8, 2020

The Honorable Senator Peter Courtney, Co-Chair
The Honorable Representative Tina Kotek, Co-Chair
State Emergency Board
900 Court Street NE
Salem OR 97301-4048

Dear Co-Chairpersons:

Nature of the Emergency

The Oregon Department of Education (ODE) respectfully request an allocation of up to \$20 million from the Emergency Fund to create a \$7.5 million Short Term Loan Assistance Program and dedicate \$12.5 million to the Emergency Hardship Grant Program in which both will collectively support school districts, education service districts (ESDs), and public charter schools in mitigating the cost of damage caused by wildfires. ODE will provide a final report to the Legislative Fiscal Office no later than January 15, 2021 detailing the amount of each grant and/or loan committed to cover eligible cost.

Agency Action

The wildfires that have burned across Oregon over the last several months have caused significant damage and disruption to families and communities. At one point, up to 10% of the state's population was under at least a Level 1 evacuation order. Many families have lost their homes and/or personal property creating both economic and psychological hardship.

In many of these impacted communities, there has been damage to school facilities and properties that support student education. While the assessments to date have shown the loss of only one school building, there has been a significant amount of smoke and structural damage to school facilities, as well as the loss or damage to school district property such as facility boilers, information technology equipment for distance learning, and ventilation systems. With school districts already facing the challenge and additional cost related to COVID-19, the cost of these damages, pending insurance or federal relief, may create significant financial burdens.

Currently, ODE has identified 37 school districts, education services districts and public charter schools that have been impacted by the Oregon wildfires. The types of damages range from clogged ventilations systems that will require a routines cleaning, to extensive smoke damage that requires significant remediation, sanitation, and replacements to ensure the health and safety of students and staff. In some cases, the

families of impacted communities, such as Phoenix and Talent, have lost their entire home and personal property, including many of the technology devices and structures that had been set up for their children's ongoing distance learning. In some of the school districts such as Santiam Canyon, McKenzie, and Phoenix-Talent, the community damage has been so significant that the only way to effectively continue student education will be to reopen onsite schools.

To address the need for immediate reopening, it will not only require additional safety protocols to mitigate the risk of COVID-19 spread, but it will also require the district to quickly restore the facilities to a place that it can accommodate on-site learning. Since it may be months before schools receive any insurance benefits or reimbursements through federal relief, there will be a need for short-term loans to address damages and losses quickly. Further, there is no guarantee that insurance benefits will provide benefits for certain types of damages, nor assurance there will be cost that are eligible for federal relief. This will necessitate the need for grant funds to help address funding gaps.

The Department is in the process of collecting a cost estimate of damages and/or losses experienced by the 37 school districts, education service districts, and public charter school impacted. It is expected that the results of this assessment will be available by noon on Friday, October 9th. In addition, there is additional information that will need to be collected to determine the level of insurance coverage and federal relief that will be provided. At the same time, there is a need for immediate resources to provide support to districts that require schools to be reopened to continue education for their students.

Based on the variety of different needs not only from the type of damage, but also on the timing of either insurance and/or federal relief reimbursement, ODE is proposing an allocation of \$20 million of General Fund resources that would be dedicated to the Department for two separate purposes – Short-Term Loan Assistance and Emergency Hardship Grants.

Short-Term Loan Assistance Program

ODE is proposing \$7.5 million of the \$20 million allocation to be targeted for short term loans for school districts, education service districts and charters schools to help address the need for immediate remediation to damages or losses caused by the wildfire. These loans will be for entities that anticipate resources from insurance or federal relief, but have an immediate need to address damages and reopen schools for continued student education. ODE will provide short-term zero percent interest loans for all entities that have a professional estimate of remediation and can provide supporting documentation that provides an estimate of anticipated coverage from either insurance coverage or federal relief. The loan will be provided for only those costs anticipated to be reimbursed by third parties. Upon repayment of the funds, ODE will revert back to the state General Fund.

Emergency Hardship Grant Program

ODE is proposing the balance of the allocation, \$12.5 million, to be dedicated to the Emergency Hardship Grant Program (EHGP). The EHGP was established by the 2015 Legislature through Senate Bill 447 (2015). The EHGP is codified in ORS 326.125 (1) and directs ODE to distribute hardship grants to school districts with facility needs. The law provides that the grants will not exceed \$500,000 and must be provided to school districts based on the order in which ODE receives completed applications

for the grants. The law gave the State Board of Education (SBE) the authority to establish the requirements of the program through administrative rule.

Unfortunately, the funding authorized for the program was limited through changes to ORS 327.008 (8), which establishes the source of funds for the State School Fund (SSF) Facility Grants. Under the amended law, “if the total amount to be distributed as facility grants does not exceed this limitation (\$7 million), any remaining amounts shall be expended for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1)” Of course ODE won’t know until the end of the biennium if the SSF Facility Grants was less than \$7 million and the history to date has proven to show zero remaining funds.

ODE would use the \$12.5 million to fund the EHGP to provide grants to school districts and charter schools for qualifying expenses not reimbursed through insurance proceeds and/or federal relief reimbursement. Qualifying expenses include the cost for remediation, repair, and/or improvement of classroom space and property damages caused by the wildfires. Classroom space and/or property will be defined as any property that is used for directly and primarily providing instruction to K-12 students. Examples of qualifying expenses include repairing or replacing damage or destroyed school facilities, replacement of boilers, cleaning and sanitation of school and systems due to smoke damage, property related to transporting students to schools, and provision of equipment to enable distance learning.

If approved, ODE will continue to work with the impacted entities to collect and refine their final estimated cost of needs. The Department will give priority to those entities that require immediate on-site learning for communities in which distance learning has been disrupted. ODE will determine the portion of the needs that will be reimbursable from insurance and/or federal relief. Those expenses that will be reimbursable may be supported through the Short-Term Loan Assistance Program. This will enable entities to more quickly begin remediation, particularly for areas that are in need of reopening on-site education immediately. For those entities that have needs that will not be reimbursed by insurance or federal relief, the Department will require a submission of an application, per statute, to provide grants up to \$500,000 through the EHGP.

Upon finalizing the assessment of needs for short-term loans and the conclusion of the EHGP grant application process, ODE will work with the Legislative Fiscal Office and Chief Financial Office to report the awarded loans and grant.

Action Requested

Approve an allocation of up to \$20 million from the Emergency Fund to create a \$7.5 million Short Term Loan Assistance Program and dedicate \$12.5 million to the Emergency Hardship Grant Program in which both will collectively support school districts, education service districts (ESDs), and public charter schools in mitigating the cost of damage caused by wildfires.

The actual amount needed for each grant and/or loan will be reported to the Legislative Fiscal Office no later than January 15, 2021.

The Honorable Senator Peter Courtney, Co-Chair
The Honorable Representative Tina Kotek, Co-Chair
October 7, 2020
Page 4

Legislation Affected

Section 2(4) Chapter 609, Oregon Laws (2019)

Thank you for considering approval of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Colt Gill", with a stylized flourish at the end.

Colt Gill
Agency Director