



How We Landed on the Dash-5 Amendments

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Chair Bowman, Vice-Chairs Elmer and Pham, and Members of the Committee:

I am writing to update you on where we got to on HB 4075, and how we got there during the short session. I apologize for the length of this email. It will also be posted on OLIS prior to the hearing.

From the beginning, the hospital has been aggressively agnostic about where assistance comes from, during this short session. It has not been committed to a particular fund, agency, or structure. It has, however, been unwavering in its knowledge and belief that stabilization is both necessary and time sensitive.

House Bill 4075 as introduced was a loan bill. It authorized the State Treasurer to issue a rural hospital stabilization loan from the Unclaimed Property and Estates Fund. That was the starting point, prior to and at the start of this short-session.

Early Engagement with Treasury

The concept of using the Unclaimed Property and Estates Fund was floated at a high level as early as September. In January, I attempted to discuss specific draft language with Treasury. I was told they would not review the proposal unless it was "in bill" format on OLIS.

Recognizing that timing mattered, I asked Representative Wright's legislative assistant to reach out to Legislative Counsel to see whether we could obtain a formatted bill version earlier, in the hope that having language in bill form might accelerate Treasury's review before session began. Legislative Counsel advised that they could not provide a formatted bill outside the standard introduction process. As a result, we were required to wait until the bill was formally introduced and posted on OLIS before Treasury would engage with the concept.

After the February 5 Hearing, the Timeline Compressed

We did not begin actively refining structural options until after the February 5 hearing. The following week, we were told leadership would need a clear and defensible path in order for the

bill to advance. The final hearing before the chamber-of-origin deadline was February 12. That left only days to move from concept to a structure leadership could support.

We began looking under every rock available.

Over the weekend before the February 9 meeting, I came to the meeting with written drafts I had prepared outlining several mechanisms for moving forward. These included:

- Two alternative Business Oregon loan drafts exploring distinct structural approaches to state-originated stabilization financing.
- A Treasury-backed guarantee model evaluating credit enhancement as an alternative to direct lending.
- A structured assessment of the Dash-2 Medicaid reimbursement mechanisms as a potential non-capital stabilization pathway.

Each draft attempted to address lender concerns, reduce fiscal exposure, and fit within constitutional constraints. The goal was not to defend one idea but to present multiple lawful pathways for comparison.

We examined administrative workarounds. Treasury indicated that administering a new stabilization tool might require additional staffing. I spoke with the Associate Director of the Oregon Facilities Authority to explore whether OFA's existing administrative capacity could be utilized, since OFA operates within Treasury's umbrella. That path did not clearly produce a viable solution, but it was explored seriously.

We requested formal legal analysis. On February 9, Representative Javadi asked Legislative Counsel to examine specific state financial tools. The written response was received on February 16.

Legislative Counsel analyzed:

- Article XI, section 7, governing general obligation debt limits
- Article XI, section 8, prohibiting the State from assuming local government debt
- Article VIII considerations relating to funds connected to the Common School Fund
- Whether the Oregon Short Term Fund under ORS 293.728 could be pledged
- Whether Treasury Miscellaneous Receipts Accounts under ORS 279A.290 could be repurposed
- Whether Lottery bond proceeds could be used under Article XV, section 4

Legislative Counsel advised that:

- The State cannot issue an unconditional general obligation guarantee.
- A limited-source guarantee could be structured if tied to a segregated fund.
- The Oregon Short Term Fund is not workable because funds are commingled and already obligated.

- Miscellaneous Receipts Accounts would require statutory amendment and are unlikely to provide stable collateral.
- Lottery bonds are legally possible but depend on available capacity and policy designation.

This materially narrowed the field of legally viable tools.

We evaluated federal wildfire and disaster recovery funding. Following the 2020 wildfires, billions of dollars were allocated statewide through FEMA programs and Community Development Block Grant–Disaster Recovery funds. Importantly, those funds extended to public infrastructure, which made it reasonable to examine whether a publicly governed hospital might qualify.

However, the CDBG-DR funds were restricted to eight declared counties: Clackamas, Douglas, Jackson, Klamath, Lane, Lincoln, Linn, and Marion. Coos County was not among them. The funds are federally restricted to wildfire recovery activities in those counties, including housing reconstruction and infrastructure repair. Geographic eligibility alone foreclosed that option.

We sought input from the former State Treasurer. On February 5, I reached out to Secretary of State Tobias Read, who previously served as State Treasurer. His office scheduled a meeting for February 9, which became an in-person discussion at the Capitol. I asked whether there were finance tools or accounts that had not yet been considered. No additional viable mechanism was identified.

The Guarantee Concept Emerged from Comparative Discussion

At the February 9 meeting with Treasury and Business Oregon, the original loan structure was discussed in detail. Fiduciary concerns and fund-flow mechanics were raised. General Fund and Lottery options were examined. A \$25 million direct paydown was discussed.

It was during that comparative discussion that the guarantee concept emerged as a potential alternative. It was not the initial proposal. It developed as part of the effort to identify a structure Treasury could support.

On February 13, Treasury provided modeling for the guarantee. On February 14, we were informed Treasury believed similar impacts would apply to a loan. Because Monday was a holiday, we met Tuesday morning to review their modeling directly.

Rather than dispute assumptions, we revised the loan structure to reduce long-term impacts. That redesign incorporated higher interest, principal acceleration, and preserved Treasurer flexibility.

After reviewing our revised option, the State Treasurer expressed a preference for a guarantee over a loan.

Leadership ultimately coalesced around the structure of the Dash-5 amendments after the Treasurer stated her preference for the guarantee structure.

Why Dash-2 Is Not Workable on This Timeline

The Dash-2 amendments would have required using at least one of three potential funding mechanisms.

Two of those mechanisms rely on Medicaid reimbursement changes. Both require:

- Federal approval from the Centers for Medicare & Medicaid Services
- Actuarial certification of coordinated care organization capitation rates
- Compliance with federal Upper Payment Limit requirements
- Integration into managed care rate cycles

Even under favorable circumstances, those processes take months and are outside unilateral state control. They cannot deliver assistance on the timeline required by a lender in active covenant default.

The third mechanism in Dash-2 is state-only stabilization assistance. That pathway avoids federal approval, but it requires a state appropriation or identified funding source. Without additional dollars, it does not generate funds.

Dash-2 presents policy concepts, but it does not identify a funding source that can be deployed now. Two options depend on federal approval on an unworkable timeline. The third depends on an appropriation that has not been identified.

Conclusion

We began with a UPEF loan. We examined General Fund and Lottery options. We prepared and presented alternative draft mechanisms. We explored administrative workarounds. We requested Legislative Counsel analysis of specific constitutional and statutory tools. We evaluated the Oregon Short Term Fund, Miscellaneous Receipts Accounts, and Lottery bonds. We reviewed federal disaster funding that extended to public infrastructure. We met repeatedly with Treasury. We consulted the former Treasurer. We redesigned structures in response to modeling.

The objective throughout was to find a legal and politically viable pathway to prevent the hospital's closure or transition to Type B following this short session. We believe the Dash-5 amendments meet that moment.



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