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80th LEGISLATIVE ASSEMBLY
JOINT SPECIAL COMMITTEE ON CORONAVIRUS RESPONSE
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March 25, 2020

From:
Representative Paul Holvey
Senator Arnie Roblan
Co-Chairs, The Interim Special Joint Committee on Coronavirus Response

To:
Senator Peter Courtney, President of the Senate
Representative Tina Kotek, Speaker of the House

Dear President Courtney and Speaker Kotek,

We are honored that you have confidence in us and the fourteen committee members you tasked with responding to the impact of the novel coronavirus. You specifically asked the committee to focus on the following:

1. Identify actions to support economic relief and household stability for low-income workers, individuals, and small businesses who are at risk of being significantly impacted by the COVID-19 pandemic.
2. Produce budget and policy recommendations for legislative action in a timely manner; and
3. Monitor Oregon's ongoing public health response and make recommendations for further legislative action if needed.

The novel coronavirus pandemic is unlike any challenge we have ever faced as legislators and unlike anything we have experienced in our lifetimes. The potential number of deaths and those needing intensive medical treatment is sobering. The necessary actions Governor Kate Brown has taken to slow the spread of the coronavirus have resulted in immediate, unfortunate, and unavoidable impacts on every Oregonian, but especially workers, business owners, first responders, the health care system, students, children and vulnerable populations. As these first impacts are felt across Oregon, a second wave of indirect impacts will be felt in our communities, our

economic activities, and our state and local government services, and exacerbated by disappearing incomes and revenues.

It was always our first priority to identify what action that the legislature could take in the very near future to provide resources and direction that would assist the response efforts and dramatically slow the spread of the COVID-19 virus, recognizing the extreme negative impacts on human health and our economy. The committee has identified that providing economic relief and economic stability to low-income workers and small businesses as a first response to enable these groups the resources to stay home and prevent further spread of the virus. Individuals need to have the assurance that their finances will sustain this necessary shut down of activities and enable individuals and families to stay safe and hopefully healthy.

The committee met four times in the course of seven days. We were briefed by some of the Governor's closest advisors, the director of the Oregon Health Authority, members of the Governor's Economic Advisory Council, leaders from Oregon Health and Science University, the director of the Office of Emergency Management, and Chief Justice Walters. But maybe most importantly, the committee received more than 1,500 pieces of testimony representing all sectors of the economy and citizens from all corners of Oregon who told how the coronavirus pandemic is affecting them and offering suggestions for legislative action.

The committee members discussed 47 possible [policy proposals](#), looking for what would provide immediate relief to workers and businesses as well as bolster our health care system as it prepares for an onslaught of Oregonians infected with the novel coronavirus.¹ We set aside some proposals that are being addressed through the Governor's executive authority conferred upon her when she declared an emergency under 401.165 *et seq.* on March 8, 2020. We also set aside some proposals that require or are being addressed by federal action. Additionally, some proposals that would provide relief in the future but not address the immediate needs we also set aside for future action. However, we do not want to diminish the importance of many of these proposals for future action.

We recognize the extreme need for supplies, equipment and infrastructure to respond to the immediate health care needs across the state. We especially understand the need of our hospitals, health systems, and provider practices during this time. The co-Chairs are pleased to see the federal government acknowledge this need in their newly proposed Marshall Plan for our health care system. We will look forward to seeing how much of the \$150 billion-dollar health care package Oregon will receive. And we know unemployment resources will need revenue infusion for employees in our traditional system; and will also have to address those that are not currently eligible in that system. Businesses will also need to cover their operating expenses and ideally have resources available to keep their workforce employed in operations that are able to continue

¹Committee meeting materials, March 24, 2020. Oregon Legislative Information System.

functioning safely, as well as essential operations that are necessary for our response and keeping households and individuals safe for a period of time.

Our committee and staff divided our response proposals into several categories: Stability for Working Families, Health Care System Needs, Short Term Employer Supports, and items that need more conversations or information to proceed or to be considered in our next recommendation effort.

We endeavored to reflect the priorities of the committee in these separate categories.

The committee also wants to ensure that most all of the proposals need to have time limited-authority or sunsets that coincide with the end of the emergency declaration. There may be exceptions to that, as in item #26 (1).

We fully expect Governor Brown to call the Legislative Assembly into special session within the next week. As co-Chairs of the committee, we recommend the following proposals be considered in this upcoming special session.

Housing & Shelter

Proposal #1

The Governor announced Executive Order 20-11, establishing a ban on residential evictions by directing the courts to cease processing of notices.

This recommendation would enhance the Governor's order by requiring payment plans for those who can pay, prohibiting late fees for payment plans or back-rent, and requiring an objective loss of income due to COVID-19 be shown.

These same parameters are used to establish a ban on commercial evictions. While federal relief is coming, small businesses lose precious time and capital when being forced out of their existing leases and properties. Ensuring a path to stay in a retail or physical location will help expedite Oregon's economic recovery. This strategy gives small business a leg-up.

- A. Residential Evictions – Enhance EO 20-11
 - a) Must show an objective loss of income due to the COVID-19 pandemic.
 - b) Prohibit late fees for inability to pay entire rent.
 - c) Establish payment plans for those able to pay a portion of their rent.
 - d) Method of assistance must be used to pay rent.
- B. Commercial Evictions – Establish new provision
 - a) Prohibit commercial evictions.
 - b) Must show an objective loss of income due to the COVID-19 pandemic.
 - c) Prohibit late fees for inability to pay entire rent.
 - d) Establish payment plans for those able to pay a portion of their rent.
- C. Duration - Greater of 90 days or length of the emergency declaration.

Proposal #2

While we await the federal stimulus package, we must do everything possible to help Oregonians stay at home without fear. This strategy leverages existing programs and delivery mechanisms through OHCS to get rental assistance out to those who need it, ensuring that landlords who work in good faith with their tenants on payment plans will have a partner through the state.

We also know that homeowners need support in a time of this crisis. By leveraging OHCS' HHP program the state can and must support those who are unable to pay their mortgage due to the COVID-19 crisis.

- A. Rent Assistance –
 - a) Increase access to residential rental assistance through Emergency Housing Assistance (EHA) through CAPs. Allocate \$__ million.
- B. Mortgage Assistance –
 - a) Increase access to mortgage assistance through the Hardest Hit Program. Allocate \$__million.
- C. Duration – Start with support for the first 90-days (April/May/June).

Proposal #31

We must care for our homeless population. We must do so now, more than ever, as those without shelter are at greater risk of falling ill to COVID-19. Redrafting HB 4001-C will permit counties and cities the flexibility needed to establish rapid housing strategies without the usual red tape.

- A. Homeless Shelters –
 - a) Redraft HB 4001-C Engrossed (2020)
- B. Duration – 90 days or length of the declaration, whichever is greater.

Food & Community Benefits

Proposal #3

Oregonians should not face usual delays in accessing benefits during this unusual time. Recertifications should be paused throughout the duration of the declaration; in-person interviews should be halted. The agencies and programs should be directed to expedite benefit eligibility requirements where possible.

- A. Expedite and Continue Current Benefits -
 - a) Provide additional support and flexibility to OHA and DHS to expedite SNAP benefits, TANF, and WIC.
 - b) Waive in-person interviews, where possible.
 - c) Expand recertification periods so renewals and paperwork during the declaration can be extended so benefits do not lapse, where possible.

- B. Duration - Greater of 90 days or length of the emergency declaration.

Proposal #4

- A. Ensure Access to Food Banks –
 - a) Support the state’s food bank network to purchase food. Allocate \$ ___ million.

Family Support

Proposal #9

Sick Leave

- A. Clarify Statutory Authority for using Sick Child Leave –
 - a) Ensure clear statutory authority to allow parents to use sick child leave, under OFLA, to be home with their child in the event of a statewide public health emergency resulting in school or child-care closures. Align this draft with the temporary rule: OAR 839-009-0230. Same notice and job protection requirements remain.
- B. Duration – Period congruent with recently issued BOLI rule.

Healthcare Access

Proposal #11

Should the pandemic continue, hospitalizations will increase, and patients will not know the difference between out-of-network emergency rooms and in-network emergency rooms. Failure to distinguish the difference could result in excessive health system charges and leave patients footing the bill. During this extraordinary time of health system collaboration, we must ensure a path to reimbursement for providers and protect patients from surprise bills and access to all types of acute care.

- A. Protect Patients from Out-of-Network Charges.
- B. Expand network adequacy requirements to include “any willing provider” provisions for DFR regulated carriers. Establish a definition for services captured.
- C. Require the commissioner to adopt a uniform rate.
- D. Protect existing contracts.
- E. Provisions when enacted must cover the start and end of the service rendered and later billed for (e.g. inpatient admission on the last day of the declaration may result in a 5-day length of stay). The consumer protection shall apply to the full bill (all 5 billing days) based on the date of the admission).
- F. Duration – Length of the declaration.

Proposal #29

The Governor has taken executive action to ensure licensed health professionals are able to practice at the top of the scope. However, certain restrictions on physician assistants cannot be waived and statutory language is needed.

- A. Physician Assistant Scope
 - a) Amend ORS 677.495 to 677.520 to permit a PA to practice without entering into a practice agreement so long as the PA is practicing according to protocols and standards established by one or more physician supervisors.
 - b) Expand access to PAs utilizing telehealth.
 - c) Duration – length of the declaration.

Proposal #40

Hospitals may need to expand capacity and the Governor’s CERT team has established temporary beds in Salem. Our rural and small (type A and B) hospitals may also have to expand capacity on a temporary basis should the COVID-19 pandemic continue. Hospitals currently pay provider taxes based on a rate that is specific to their hospital type – hospital types are determined by the number of beds as well as other factors. This provision ensures temporary bed additions on hospital property will not change the rate assessed.

- A. Prohibit New “Bed Taxes” for Hospitals -
 - a) Temporary beds established to support the COVID-19 response added during the time of the emergency declaration do not constitute an expansion for the purpose of hospital designations made by bed count (type A, type B).
- B. Duration – Length of the declaration.

Short Term Employer Support

The committee identified numerous strategies to provide relief and certainty to small businesses. These strategies can be implemented expeditiously, are complimentary to larger federal actions, and are appropriate for the legislature to consider. They are:

See proposal #1: Prohibit Commercial Evictions

Ensuring a path to stability for businesses reliant upon leases and storefronts is an essential way to ensure that small businesses are able to “turn on” when the declaration sunsets. Businesses that must move equipment and physically transition from space to space will fall further behind the economic curve. The state should do what it can today to ensure physical stability for small business.

Proposal #19

Allocate additional funds to Business Oregon's flexible strategic reserve fund and require grants and loans be generated for small businesses affected by the COVID-19 pandemic. As suggested by proposal #46, rental assistance and utility costs must be among the qualifying uses for Business Oregon funds. The committee discussed offsetting cash flow challenges for small businesses subject to federal leave requirements under the Families First Coronavirus Response Act; however, the actual strategy was not decided on by the committee.

Proposal #26

Corporate Activities Tax (1)

While the Department of Revenue has broad authority overseeing our state tax code, the committee seeks to provide clarifications to the Corporate Activities Tax. Specifically, the committee seeks to redraft HB 4009-A Engrossed (2020).

It is important for the legislature to provide certainty where only we can. Unlike other revenue-related actions, the legislature is an appropriate actor to provide certainty to taxpayers and offer relief to some of Oregon's unique businesses.

- A. Corporate Activities Tax –
 - a) Redraft HB 4009-A Engrossed (2020)
- B. Duration – not time limited.

Proposal #33

Prohibit Residential and Commercial Foreclosures

The foreclosure process can be as life-altering for residents as it can be for businesses that own their property. We are recommending prohibiting judicial and 'right of sale' foreclosure during the declared emergency as determined by the Governor.

The committee also sought to prohibit residential and commercial foreclosure during the time of crisis. While the committee advocates for mortgage assistance, we must also advocate for protections from the loss of property due to failure to pay resulting from the economic impact of COVID-19.

- A. Residential and Commercial Foreclosure –
 - a) Prohibit judicial and 'right of sale' residential and commercial foreclosure.
 - b) Reference ORS 86.705 to 86.795.
- B. Duration - Length of the emergency declaration.

Proposal #42

Provide regulatory relief for individuals by suspending required continuing education deadlines such as CLEs and license recertification or renewals due during the emergency declaration period. In addition, provide an additional 30-days post-declaration to allow providers and licensed workforce the time to catch up and meet their licensure requirements.

Courts

Grant statutory authority to the Chief Justice of the Oregon Supreme Court during a statewide emergency and for 60 days thereafter to extend timelines in criminal and civil cases.

Oregon Judicial Dept Proposal – Deadlines and statute of limitation

Draft legislation regarding:

- A. The suspension or extension of certain, critical timelines in criminal cases.
- B. The suspension or extension of timelines in criminal cases.
- C. The suspension or extension of post case initiation timelines in noncriminal (civil) cases.
- D. Noncriminal statutes of limitations.
- E. A proposed Chief Justice Order consistent with the noncriminal (civil) proposals.

Policy Options Considered by the Committee that Require More Information as We Await Passage of the Federal Stimulus Package

Proposal #17, #44, #47

Spreading UI Rate Increases and Freezing UI Rates

The forthcoming federal stimulus package has earmarked \$280 billion for UI expansion and supports. We recognize the need to both balance the solvency of our unemployment insurance fund and identify ways to reduce financial barriers for employers, especially those who might be disproportionately affected by rate increases. We must see this money funnel into the system before we can make changes to our system. However, it is important to note that Oregon's experiential rate formula takes a 12-month look at employer rates. At this time, the Oregon Employment Department asked for additional flexibility for employers from the federal government. However, absent approval, the Department cannot implement #17 and remain in compliance with

federal rules. Similarly, we do not recommend proceeding with item #47. Our preferred approach is to see how the trust is affected by the historic increase in UI access, ensure the solvency of the fund, wait for federal support for UI, and then revisit what relief can be provided. We must work with the Department on this approach to ensure federal compliance and take a second look once we receive federal funds.

Proposal #26

See description above. While we are proceeding with recommending that HB 4009-A Engrossed (2020) be redrafted, it is important to note the committee also considered delaying the first quarter payments of the 2019 CAT tax. While the committee could not reach a final decision to delay the tax, some consensus was found on considerations and information needed to better understand the impact of a delay. Some of those questions included: can you differentiate businesses by their margins, or by participation in the federal PFML program, and is there a balance to be struck between new and current local taxes, and more.

Proposal #27

The Executive Branch has taken necessary steps to expand access to UI for many Oregonians. However, many Oregonians remain in the benefits gap. The state should identify ways to support the self-employed, independent contractors, and those unable to qualify for benefits due to immigration status.

The committee considered creating a fund for those excluded from UI, including the self-employed and independent contractors. This fund may be difficult to create on short notice, but the co-Chairs wanted to bring it forward as a recommendation to the presiding officers to consider strategies for those not eligible for UI. There may be implementation challenges to incorporate this substantive change into our existing system. We may have to consider a new program if it cannot be incorporated into the current system; such a new program may not be feasible to draft or implement immediately.

However, we recently learned the forthcoming stimulus package extends UI for the self-employed, which is a necessary step forward.

- A. Support for those Unable to Qualify for UI -
 - a) Establish a fund within the Oregon Employment Department.
 - b) Task OED with expedited rulemaking (temporary rule is immediate) to determine a benefit level and application period based on the amount of monies allocated.
 - c) Applicants may not be eligible for UI.
- B. Duration – length of the declaration.

Proposal #43

There was much discussion in committee about the need to support our manufacturing sector, especially during times of need to support the physical construction of supplies and equipment. However, the Labor Commissioner submitted information to the committee confirming her ability to review appeals regarding overtime limits on a case-by-case basis. The issue of predictive scheduling also was discussed in committee. The committee debate also affirmed the need to have tools for employers to fill shifts for businesses deemed essential; however, several members of the committee found the existing law provides the necessary flexibility. More discussion is needed to understand the balance of worker protections and temporary flexibility.

Proposal #45, #46

Small Business Loans and Rent Relief for Commercial Businesses

We understand the federal stimulus bill will provide billions in relief to small businesses in addition to early action to provide low-interest small business loans. Namely, to date the small business rescue plan outlines nearly \$350 billion in loan forgiveness, SBA emergency grants, and SBA loans to cover 6 months of payments for small businesses with existing SBA loans. For this reason, we seek to ensure the federal package be fully implemented and the legislature take a more specific approach to support gaps between state resources and forthcoming federal investments in small business. The committee should consider these gaps in the long term. The co-Chairs will embed the allowance for commercial rent relief within the existing recommendation of #19. We simply want to call out the strategy is being adopted but will not be a standalone policy. Lastly, while no statutory action is recommended, the co-Chairs strongly encourage the Governor and executive branch agencies to consider payment plans for all permits and fees imposed by state agencies, waiver of renewal requirements for the period of the emergency declaration, and to identify other ways to offer regulatory relief.

Policy Options Considered by the Committee that are Not Recommended at this time as More Information is Needed.

The committee identified 27 policy proposals that are not a part of the co-Chairs' recommendations. These policy proposals either needed more time to understand or implement, were not proposals to provide immediate relief, could be supplemented or resolved by forthcoming federal action, or have been resolved by executive action. These items fostered bipartisan interest but absent additional information, a decision could not be made.

The Oregon Dept of Justice / Public Safety - Proposal

Identify all statutes which the Department of Justice is concerned might need to be suspended, either totally or upon good cause shown, to allow the effective administration of justice across the partial suspension of judicial operations prudently required by COVID-19. Although there are critical issues that need to be addressed, the committee believes this proposal needs further consideration and conversation.

In closing, this document represents the body of work and the perspectives of the committee. Without the complete information and knowledge as to the fiscal and revenue impacts of these proposals, and the resources and proposals from the federal government, further review and prioritization will be necessary ahead of a special session. There are other proposals on the co-Chairs' document, as posted on OLIS, that we are not considering at this time and will require further discussion should the committee reconvene. There will also likely be new issues that will need to be discussed in order to continue addressing the coronavirus pandemic response.

Additional needs may be identified between now and when we are called into a special session. For example, one of these needs may include additional funding for domestic violence services and supports. We strongly recommend that any new proposals that are not a part of the co-Chairs' recommendations need to earn the approval of a bipartisan leadership team.

Respectfully,

Representative Paul Holvey, co-Chair

Senator Arnie Roblan, co-Chair