

January 6, 2020



## Legislature prepares for virtual 2021 Session

### Legislative organization

Oregon's 81<sup>st</sup> Legislative Assembly is set to kick off on January 19 with lawmakers and committees meeting virtually. The state has never done an all-remote legislative session, where people just don't show up to the Capitol. The Oregon Constitution allows that kind of session, but it's never happened. This session will be a hybrid where lawmakers conduct virtual hearings much of the time, they'll only be coming into the House and Senate chambers to pass bills.

The Capitol will remain open only to authorized personnel as long as Marion County is in extreme, high, or moderate risk, according to OHA's Risk and Protection Framework. When at a moderate risk level, leaders will develop a framework to expand in-person access and increase staff presence. When Marion County enters the low-risk category, the Capitol will be open to members of the public with minimal restrictions.

### Changing gavels

In the ramp-up to the State's 2021 Session, Senate President Peter Courtney (D-Salem) and House Speaker Tina Kotek (D-Portland) issued their committee assignments for the 2021 Legislative Session. View the [House assignments here](#), and the [Senate assignments here](#).

Top leadership positions remain unchanged (Senate President, House Speaker, Co-Chairs of the Ways & Means Committee, and caucus leaders), providing some stability amidst the flurry of societal chaos that has taken place since the last legislative session.

A couple of newly elected lawmakers will hold the gavels for key committees, and other veteran legislators will be in new roles, come the start of the session.

Senator-Elect Deb Patterson (D-Salem) will be the new chair of the Senate Health Care Committee, and the only newly elected legislator to hold a chair gavel. She will be joined by Sen. Tim Knopp (R-Bend) as vice-chair, who is new to that role, but not to the committee. As we move forward through the COVID-19 crisis, this committee will be in a position of authority throughout the session.

The House Health Care Committee is also seeing a change in leadership. Former chair Rep. Andrea Salinas (D-Lake Oswego) is shifting roles to vice-chair since she will be chairing the House Redistricting Committee. Rep. Rachel Prusak (D-Tualatin) will take the gavel for her first chair position in her legislative career.

We are keeping an eye on who will fill the vacant Senate District 24 (East Portland and Happy Valley) seat since former Senator Shemia Fagan will be sworn in as Secretary of State this month. And, Senator Alan Olsen (R-Canby) will resign effective January 10. Clackamas County precincts and commissioners will make the final decision as to who is appointed to this seat.

### Changing scope and adding committees

On the Senate side, the former Mental Health Committee has been folded into the Human Services Committee, with a new title: Human Services, Mental Health, and Recovery. There is also a name change for the Judiciary Committee, although the membership is largely the same: Judiciary and Ballot Measure 110 Implementation.

In the House, their Judiciary Committee has two new subcommittees: one on Civil Law and another on Equitable Policing. The House Health Care Committee also has a new subcommittee focused on COVID-19.

On top of these changes to existing committees, there are a couple of new additions as well. Both the House and the Senate will have Redistricting Committees that will lead the effort, chaired by Rep. Andrea Salinas (D-Lake Oswego) and Sen. Kathleen Taylor (D-Portland), respectively. Both Rep. Salinas and Sen. Taylor are moving to these roles from chair positions on other committees, and have been heavily involved in the Census 2020 process. The House is also adding two other committees: 1) Modernizing the People's Legislature Committee, and 2) Wildfire Recovery Committee

## After a bumpy start, the Oregon Legislature concluded its third special session of the year

Lawmakers met in Salem on December 21 for the third special session of 2020. It began with protestors from a few different groups encircling the Capitol building as part of a movement against COVID-19 restrictions implemented by the state government and the Oregon Legislature throughout the pandemic. First protesting outside, armed demonstrators then made their way into one of the Capitol building's foyers. They were held from getting further into the building by the Oregon State Police and dispersed back to the outdoor grounds shortly afterward. Demonstrations continued outside the building for the remainder of the day.

Following this contentious start, members of the Joint Committee on the Third Special Session then met remotely from their capitol offices. After discussion of the [five policy measures](#), all but one passed out of the committee. The bill that failed to move for a floor vote was related to [limited liability protections for health care providers](#). This bill was added to the special session agenda late in the process.

All other bills passed both the House and the Senate and were signed by Governor Brown: [cocktails-to-go](#), [evictions moratorium/landlord assistance fund](#), [limited liability protections for schools](#), [funds for the Emergency Board](#).

## Governor renews COVID-19 state of emergency for fifth time

Governor Brown's first state of emergency for the COVID-19 pandemic was issued in early March. Since then, every 60 days, she has reinstated the order as the coronavirus has lingered across the state, and nationally. Today, Brown continued the trend, issuing [Executive Order 20-67](#). The state of emergency now extends to March 3, 2021.

A state of emergency order is the legal underpinning for executive orders like those Governor Brown has issued for evictions moratoriums, the reopening phases, and of course the "Stay Home, Save Lives" order we saw in mid-March.

## Inauguration Day 2021 and federal Public Health Emergency

The 46th President of the United States will be sworn in on Wednesday, January 20 on the West Lawn of the U.S. Capitol. Both the vice president-elect and president-elect will take Oaths of Office, which usually takes place at noon, followed by an inaugural address.

On that same day, HHS' Public Health Emergency (PHE) declaration for COVID-19 is set to expire. The PHE was last renewed by HHS Secretary Alex Azar on October 23. The Families First Coronavirus Response Act provided a 6.2 percentage point increase in FMAP while the CARES Act authorized FQHCs to furnish distant site telehealth services to Medicare beneficiaries during the COVID-19 PHE.

If the Trump Administration or incoming Biden Administration do not extend the PHE past January 20, both FMAP and telehealth expansion will expire on March 31.

## 340B

### HHS Legal Counsel Advisory Opinion on Contract Pharmacies Under the 340B Program

On December 30, HHS' Office of General Counsel issued an [Advisory Opinion](#) concluding that **drug manufacturers must ship 340B-priced drugs to contract pharmacies.**

With respect to recent manufacturer actions taken to stop shipping 340B-priced drugs to contract pharmacies, OGC states "To champion a policy, ungrounded in the language of the statute, that would foreclose 340B discounts to 95 percent of covered entities and foreclose discounts to the neediest of this cohort is inconsistent with the purpose of the Program and common sense."

It is important to remember that an advisory opinion does not carry the force of law. Thus, manufacturers may choose to continue the current policy and hope the courts agree. Nonetheless, it is now on the record which means it would be difficult for manufacturers to convince the courts to agree with them.

## Capitol Hill

### Congress set to certify President-elect Joe Biden's win

Today, January 6 a joint session of Congress will count and confirm electoral college votes certifying President-elect Joe Biden's victory amid protests. Some Republicans have pledged to support President Trump's efforts to overturn the result by formally objecting at the session, in a bid that is almost certain to fail.

The two houses of Congress - the House of Representatives and the Senate - will hold a joint session today, where they will open sealed certificates from all 50 US states containing a record of their electoral votes. Under this system, voters cast their ballots for "electors", who in turn formally vote for the candidates weeks after the election. Mr. Biden received 306 votes under the electoral college system, to Mr. Trump's 232.

### Consolidated Appropriations Act, 2021

The House and Senate passed a massive spending bill that includes \$1.4 trillion in government funding through the remainder of FY 2021 (aka the Omnibus) and \$900+ billion in emergency COVID-19 relief. The bill passed both chambers by a vote of 359-53 in the House and 91-7 in the Senate and President Trump signed the bill on December 27, 2020.

### Health Center Wins in the Consolidated Appropriations Act, 2021

#### **Mandatory & Discretionary Funding: Community Health Center Funding**

- 3 years of mandatory Funding from FY2021 to FY2023 at \$4 billion dollars per year
- Approx. \$1.7 billion in discretionary funding (appropriations) for FY2021 (an increase of \$57 million from FY2020)

#### **Mandatory Funding:** Teaching Health Centers w/GME programs and National Health Services Corps (NHSC)

- \$310 million per year for NHSC for 3 years from FY2021 to FY2023
- \$126.5 million per year for THCGME for 3 years from FY2021 to FY2023