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**Testimony Regarding Senate Bill 722-5
Before the Senate Workforce Committee**

March 5th, 2019

Chair Taylor, Vice-Chair Knopp, and members of the Committee,

On behalf of the Oregon Law Center (OLC), thank you for the opportunity to submit testimony regarding Senate Bill 722-5, which would establish a means for ensuring access to unemployment benefits for workers who are required to go to work without pay during periods of government shut-down. The bill also makes other broader changes to the employment department's processing of back-pay and overpayments in unemployment insurance.

OLC's mission is to achieve justice for low-income communities of Oregon by providing a full range of the highest quality civil legal services. Our clients work hard to provide the basic necessities for themselves and their families. The state's unemployment insurance programs can be a life-saving benefit for hard-working wage-earners who lose their income through no fault of their own.

We have the following remarks regarding Senate Bill 722-5:

- 1) OLC supports the bill's proposal to provide access to assistance for federal or other employees who are required to work during certain time periods for no pay, so that those families can continue to meet their basic needs. It is commendable to see the state responding to the needs of these workers in a creative way to ensure that hard-working Oregonians are not harmed in times of crisis.
- 2) The bill proposes other changes to the unemployment insurance program that caused OLC concern on behalf of our clients, due to the changes proposed to the regulations regarding back-pay and over-payment collection. The Dash 5 amendments go a long way towards addressing these concerns, and we very much appreciate the work of the Governor's office, sponsors, and proponents to bring those amendments forward. There are 2 issues of note that we hope to monitor as the bill is implemented, regarding expansion of the no-fault overpayment recovery requirements.
 - a. While it is logical for the Department to collect against lump-sum back-pay awards in order to reimburse for benefits paid out to the employee during a time of furlough, there are some instances in which back-pay collection could work against public policy. Some low-income workers may hesitate to bring certain unlawful employment claims, knowing that a successful effort to obtain redress and back pay would then trigger a collection action against them by the Employment Department for benefits received in the relevant time period. We appreciate that the Dash 5 amendment includes Section 12, providing that back-pay awards may not be reduced by unemployment benefits to which the employee was entitled during the period of unjust unemployment. However, we must monitor the impact of the broader back-pay recovery provisions to ensure that they do not act as a disincentive to holding bad actors accountable.

- b. While the bill is largely directed at essential employees who may be required to work even during periods of no pay, it also impacts our very low-income clients, who sometimes are determined to have received a no-fault overpayment after the resolution of an unlawful employment practices claim when an award of back-pay is made. In these situations, the department has the right to deduct the overpayment from future benefits, or to file a civil action. We appreciate the Dash 5 language ensuring that waivers of overpayment actions will be made when the director finds that recovery would be against equity and good conscience.

- c. We welcome and appreciate the Department's commitment to engage in rulemaking after this legislation has passed to strengthen the waiver process for no-fault overpayments, for those unable to repay the no-fault overpayment of benefits without sacrificing their basic needs or the needs of their children. We look forward to the development of a transparent, fair, easy-to-use process to apply for and receive a waiver of the overpayment of benefits for those who are unable to pay for basic living expenses or face other significant financial hardship. We would suggest the use of well-established standards similar to those which the IRS uses to determine financial hardship for the purposes of placing people in Currently Not Collectible status.

In closing, we want to thank the proponents and the Governor's office for their hard work on these issues, and for their commitment to meeting the needs of Oregonians who suffer the sudden loss of income through no fault of their own.

For the above reasons, we urge support of the Dash 5 amendments to Senate Bill 722, and thank you for the opportunity to submit testimony.

Sincerely,

Sybil Hebb