

OREGON  
BUSINESS  
& INDUSTRY



## **POLICY PRINCIPLES**

**2023**

These policy principles will guide Oregon Business & Industry as we represent our members and the broader Oregon business community throughout the 2023 legislative session and beyond.

These principles are focused on the policies that will enhance Oregon's business climate, allowing employers to innovate, grow and provide the jobs and revenue upon which the state relies. These principles, along with OBI's 2023 legislative agenda, recognize the need for policymakers to act urgently to improve conditions for the state's employers amid fierce interstate competition. The well-being of the state depends upon the vitality of its private sector.

The OBI Board of Directors has adopted these principles to guide our staff as they advocate for business and industry during the 2023 legislative session.

Adopted by the OBI Board of Directors

Nov. 15, 2022

## INTRODUCTION

OBI's 2023 policy principles cover more than half a dozen broad policy areas, from education and workforce development to regulatory reform and taxation. However, they are united by a single purpose: to strengthen the state's economy for the benefit of present and future Oregonians.

Significant progress toward this end may be possible in 2023.

Oregon will have a new governor. New and recently elevated leaders will guide the Legislature through a biennial long session. Many policymakers, meanwhile, will enter the year with a renewed appreciation for the importance of manufacturing in Oregon and, with it, a commitment to making the state more attractive to manufacturers and other employers. This shift reflects the value of OBI's work, including our 2021 manufacturing study and the recent Manufacturing and Innovation Roadshow, as well as that of the Oregon Semiconductor Competitiveness Task Force.

To capitalize on these opportunities, OBI has developed a legislative agenda for the coming year that identifies policy and process changes that will make Oregon a more attractive state for employers in all sectors. OBI's 2023 policy principles include several elements of the legislative agenda. These include, among other things, a new section devoted to Oregon's problematic regulatory environment.

With the exception of such changes, however, OBI's 2023 policy principles largely echo our 2022 principles. The conditions employers need to thrive and grow change little from one year to the next. They include a consistent and transparent regulatory environment that weighs the needs of employers; a tax structure that encourages investment and innovation; and responsible public spending on education, infrastructure, workforce development and other areas that recognizes the central role Oregon's employers play in creating prosperity.

Oregon's private sector creates the economic activity that supports critical public services, from education to law enforcement. It creates jobs that allow hundreds of thousands of families to live, work and pay taxes in Oregon. The wealth created by the private sector also supports the philanthropic efforts of thousands of Oregonians and businesses in support of causes and communities throughout the state.

For these reasons, OBI urges the Legislature and state agencies work in cooperation with Oregon's employers to improve the state's competitiveness by supporting our legislative agenda as well as the underlying principles contained here.

## MANUFACTURING POLICY

Following the recent establishment of the Manufacturing Council of Oregon (MCO) and leveraging the momentum created by the inaugural statewide Manufacturing and Innovation Roadshow, OBI will maintain its focus on pro-manufacturing advocacy. OBI/MCO recognizes the vital importance of manufacturing in Oregon. Manufacturers create high-paying jobs and equitable opportunities for Oregon workers and their families. This sector also contributes to a thriving economic and business climate that produces significant revenue for critical public services.

OBI/MCO's broad mission is to protect, promote and grow a positive, globally competitive business climate for manufacturing and related industries throughout Oregon. Through the MCO, OBI will continue to work with a broad base of stakeholders, makers and innovators to provide opportunities, remove barriers and create the jobs that fuel Oregon's economy and support its quality of life.

### **OBI's manufacturing policy principles include:**

**Competitive Environment:** OBI seeks to ensure that Oregon provides a sustainable, globally competitive environment that supports a diverse manufacturing sector by fostering capital investment, innovation, research and development, education, employment opportunity, workforce training and supply-chain resiliency.

**Taxes and Regulations:** OBI will promote a tax and regulatory environment that encourages manufacturing investment, innovation and growth.

**Infrastructure Improvements:** OBI will promote local, state and regional infrastructure improvements to facilitate shipping, surface transportation and port access and throughput to enhance access to regional, national and global markets.

**Education and Workforce:** OBI seeks to improve career manufacturing employment opportunities by supporting enhanced investment in career and technical education and by promoting collaboration among employers, educational institutions and workforce programs.

**Sustainable Practices:** OBI will promote sustainable practices, including land-use and energy policies, that ensure Oregon manufacturers will have cost-effective access to the resources necessary to compete in regional and global markets.

**Intellectual Property:** OBI supports policies that protect manufacturers' intellectual property and proprietary information.

## TAX AND FISCAL POLICY

Given the uncertain effects of inflation and tightening monetary policy on Oregon's economic outlook and given the continued effects of significant state and local tax increases, OBI's tax policy priorities will remain largely unchanged in 2023. To protect Oregon's employers and their employees, OBI will oppose all attempts to raise existing taxes, create new taxes or reduce or eliminate important tax incentive programs. Importantly, OBI also will seek to improve Oregon's competitiveness and mitigate the effects of recent tax increases by pursuing a collection of tax, incentive and regulatory reforms.

OBI will continue to advocate for restrained spending for new or expanded state programs and services. OBI will continue to urge lawmakers to base spending decisions on current revenue sources and realistic expectations of future revenue streams. OBI will not support new or expanded programs that require new or expanded taxes.

### **OBI's tax and fiscal policy principles include:**

**Do No Harm:** Given the economic uncertainty currently affecting employers and employees, and given the significant tax increases that have occurred in Oregon in recent years, OBI will oppose all temporary and permanent business tax increases.

**Spending Restraint:** OBI will encourage lawmakers to carefully manage the state's significant cash reserves. These resources should be carefully dedicated to the maintenance of critical state services in future biennia and used to mitigate any potential revenue shortfalls.

**Innovation and Growth:** OBI will support a focus on innovation and economic growth, promoting policies that support job creation, private investment, innovation, employer retention and a positive business climate. OBI will urge policymakers to recognize that a thriving private sector is the best way to sustainably support Oregon's critical public services.

**Personal Income Taxes:** Recognizing the increasing burden on personal taxpayers, as well as pass-through business entities both statewide and at the local level, OBI will oppose temporary and permanent increases to the Oregon personal income tax.

**Federal Connection:** OBI will seek to maintain connection to the federal tax code unless good business reasons exist not to connect.

**Credits and Incentives:** OBI will support the preservation and creation of tax credits and incentives for economic development and business investment.

**Competitiveness:** OBI will support policies that improve Oregon's competitiveness relative to other states.

**Tax Consistency:** OBI supports the alignment of state and local tax structures and compliance requirements.

**CAT Changes:** OBI will oppose increases to Oregon's corporate activity tax (CAT) and support efforts to reduce its pyramiding effects.

**Property Taxes:** OBI will oppose any proposal to change Oregon's property tax structure that disrupts the balance between business property taxpayers and personal property taxpayers.

**Prioritization:** OBI will support the prioritization of existing critical programs.

**New Initiatives:** OBI will oppose or seek to delay costly new initiatives with little discernable benefit for employers and employees.

**Legacy Programs:** OBI will urge the Legislature to look for ways to reduce the cost of legacy programs, such as PERS and PEBB, that affect the budgets of state and local governments.

**Long-Term Forecasting:** OBI will support the use of long-term budget forecasting and planning (5-10 years), which will allow lawmakers to better weigh program priorities and required funding.

## EMPLOYMENT PRACTICES POLICY

Even before the imposition of mandates responding to the COVID pandemic, Oregon's employers were reeling from a multitude of policy changes affecting their operations. In just the past five years, employers have been asked to adjust to complex laws related to minimum wages, paid leave, pay equity, scheduling, working-hour limits and expanded liability for employee lawsuits. In addition, they have had to adjust to many regulatory directives from state agencies. Even as they continue to struggle with the effects of the pandemic while adjusting to complex legal and regulatory changes, employers face serious labor shortages. For 2023, OBI urges the Legislature to help businesses in their recovery and spare them additional regulatory and cost burdens.

**OBI's employment practices policy principles include:**

### WORKERS' COMPENSATION

**Workers' Compensation:** OBI supports the Management Labor Advisory Council (MLAC) process and opposes legislation not approved by the process. OBI supports exclusive remedy protections for all Oregon employers and opposes legislation that would create presumptions for coverage. OBI supports a strengthened managed care organization structure and opposes legislation that would harm or eliminate self-insurance. OBI supports current definitions of "attending physician" and opposes the expansion of "attending physician" status to physician assistants and nurse practitioners.

**Workers' Benefit Fund:** OBI opposes legislation that would reduce or encumber the Workers' Compensation Benefit Fund.

**SAIF:** OBI opposes legislation that in any way would weaken the financial position of SAIF or reduces its ability to fulfill its statutory mission to make workers' compensation insurance available to as many Oregon employers as possible.

OBI's position includes but is not limited to:

- Any payment by SAIF to the Public Employees Retirement System (PERS) or any other government entity
- Any reduction in the SAIF capital account
- Any encumbrance on or use of future revenue streams.

### UNEMPLOYMENT

**Unemployment Insurance Benefits:** OBI supports strengthening provisions for denial of UI benefits for workplace misconduct and opposes the expanded use of UI benefits beyond their intended use, including legislative "sweeps" of UI funds, the diversion of UI funds for striking workers or employees on family or medical leave, or for job training purposes. OBI opposes legislation and rules that would eliminate the work-search requirement for UI eligibility.

**Unemployment Insurance System:** OBI supports legislation that would protect the integrity and solvency of the Unemployment Insurance Trust Fund while maintaining a stable and predictable tax structure.

## SAFETY AND HEALTH

**Oregon OSHA:** OBI opposes the expansion of Oregon OSHA authority to cite or penalize employers. OBI opposes increases in Oregon OSHA enforcement staff that are not preceded by increases in consultation staff. OBI continues to oppose any effort by OSHA to act outside of its regulatory authority.

**Safety and Health:** OBI supports policies and legislation that are consistent with the Oregon Court of Appeals ruling in *OSHA v. CC&L Roofing*, which determined that employers are not liable for supervisor misconduct. OBI opposes any rulemaking, regulatory action or legislation that undermines the basic principle that employers should not be liable for employee misconduct.

## EMPLOYMENT AND LABOR

**Attorney Fees:** OBI supports proposals that would provide for prevailing party attorney fees and opposes legislation that would limit attorney fees to prevailing plaintiffs. OBI supports proposals that would allow attorney fees for employers in meritless cases.

**Concurrent Leave Laws:** OBI supports legislation that would more closely align all Oregon leave laws with federal leave laws to ease unnecessary administrative burdens on Oregon employers.

**Discrimination:** OBI supports general principles of non-discrimination and existing laws. OBI opposes the expansion of causes of action as well as legislation that would expand the definition of discrimination beyond current law. OBI opposes legislation that would create greater burdens of proof for employers.

**Family Leave:** To create consistency for employers, OBI supports the alignment of the state's paid family and medical leave law with the Oregon Family Leave Act and federal Family Medical Leave Act. OBI will promote legislation that removes duplicate benefits under these three programs. OBI opposes any additional regulatory burdens, including the expansion of employer-paid leave mandates.

**Labor:** OBI supports the right of employees to engage in fair and secret ballot elections in union organizing campaigns. OBI supports the right of employers to communicate their views on unionization with their employees and an election process that gives employers adequate time and a fair opportunity to convey their views. OBI opposes legislation or regulation, including card check systems, that would limit the ability of workers to vote in a secret ballot union election. OBI opposes any expansion of employee rights to use employer resources for the purposes of organizing or other union-related activity. OBI opposes allowing striking workers to use unemployment insurance benefits unless they meet other UI eligibility requirements.

**Non-Compete Agreements:** OBI opposes legislation that would eliminate the ability of businesses to protect trade secrets through enforcement of non-compete agreements.

**Overtime:** OBI supports a flexible weekly overtime standard that mandates overtime payments for all hours worked in excess of 40 per week without requiring redundant extra pay for daily and weekly overtime. OBI supports legislation that would restore employer flexibility without restraining the ability of employees to work overtime if they so chose. OBI supports the right of employers and employees to agree to overtime and maximum working hours.

**Pay Equity:** OBI supports legislation that would prohibit pay discrimination based on the 10 protected classes listed in Oregon's equal pay law while allowing pay differences based on any

non-discriminatory reason. OBI will promote legislation that exempts hiring and retention bonuses from the definition of compensation under the pay equity law.

**Penalty Wages:** OBI supports legislation that would limit liability for penalty wages when there is a dispute over wages due after an employee has left employment.

**Personnel Information:** OBI supports appropriate personnel file policies that would protect the secrecy of confidential workplace investigations.

**Preemption:** OBI supports statewide preemption of employment-related mandates imposed by local governments.

**Private Right of Action:** OBI opposes the expansion of private rights of action in statute. OBI supports requirements that complaints be filed with state agencies prior to right to sue. OBI opposes legislation that would allow for unions and trial lawyers to file suit outside of existing processes.

**Scheduling:** OBI supports legislation that would allow employers and employees flexibility in scheduling work hours as well as meal and rest break periods.

**Wage and Hour:** OBI supports legislation that would create sensible meal and rest-break policies that would give employees flexibility without undue penalties for employers. OBI will promote legislation that would create a de minimis exception when employees voluntarily return to work early on rest breaks.

**Workplace Drugs and Alcohol:** OBI supports policies and legislation that support an employer's right to apply and enforce zero-tolerance workplace drug and alcohol policies. OBI opposes policies and legislation that would weaken or undermine the Oregon Supreme Court's decision in *Emerald Steel Fabricators v. BOLI (2010)*. OBI opposes legislation that would encumber the ability of employers to enforce zero-tolerance workplace drug and alcohol policies and employer drug testing policies.

**Workplace Regulation:** OBI opposes the expansion of employer liability through new and expanded protected classes and activities.

## HEALTH CARE POLICY

Oregon has passed several transformative health care measures in recent years. These include the Sustainable Health Care Cost Growth Target Program with a Value Based Payment Compact. Meanwhile, coordinated care organizations (CCOs) continue to evolve, and discussions have begun to expand access to them by means of a bridge plan. The healthcare system needs time to stabilize and evaluate the effects of these measures on cost and health outcomes. Now is not the time for big new programs.

### **OBI's health care policy principles include:**

**Address Health Disparities:** OBI recognizes that not all Oregonians have been served equally in our state health care system historically. We will continue to support legislative efforts to evaluate and address disparities across the health care system to ensure all Oregonians are receiving the care they need.

**Access and Quality of Health Care:** OBI will promote efforts to contain health care costs and improve access to high-quality health care by supporting an affordable health care system that improves the overall health of Oregon residents.

**Universal Health Care:** OBI will oppose proposals that impose taxes, fees and other revenue generation mechanisms on targeted people or businesses to fund changes to Oregon's health care delivery and insurance systems.

**Protect Employers and Employees from Cost-Shifts:** OBI will support policies and initiatives that address health care coverage of the underinsured and uninsured without penalizing or shifting costs to employers. OBI will seek to protect ERISA provisions for self-insured plans. OBI will defend employer health plans against efforts to tax premiums or claims. OBI will oppose any efforts that may raise the cost of insurance, prescription drugs or other necessary health care.

**Ensure Costs to Employers are Analyzed:** Currently, the Legislature reviews the cost of health insurance mandates only on public programs. OBI believes lawmakers should know how legislation will affect insurance rates in the commercial market. For that reason, OBI will support legislation that requires a cost-benefit analysis to determine the effect of proposed legislation that would increase costs across all lines of insurance.

**Limit New and Expanded Programs:** While the Legislature is considering how to address Medicaid issues, weighing a return to a state-based exchange and evaluating the creation of an essential health benefit or public option, lawmakers should advance only those options that leverage current coverage and delivery systems to expand access. In doing so, however, legislators must not impose additional taxes or fees on employers. OBI will consider supporting proposals that minimally disrupt the group and individual insurance market and incorporate long-term, cost-neutral strategies that improve access to care, drive savings throughout the system, and reduce cost-shifting to employers. OBI also will consider supporting policy proposals that review existing programs and measure their effectiveness.

**Support Sustainable Medicaid Spending:** Economic uncertainty remains a concern for many Oregonians, and OBI recognizes the need to support CCOs and efforts to ensure the Oregon

Health Plan (Medicaid) has adequate, sustainable, broad-based funding. Legislators must acknowledge that OHP funding is tied to the overall health of the economy and that raising additional revenue from businesses struggling to make ends meet cannot be a solution if state revenues start to decline.

**Advanced Value-Based Payment Models:** OBI will support policies that continue to move us toward value-based payments and away from fee-for-service payment structures. OBI will prioritize policies that increase transparency around the total cost of care. Additionally, it is critical that any payment model ensure maximum flexibility, recognizing that a one-size-fits-all approach will not work.

**Promote Transparency of Health Care Cost Drivers:** OBI has long supported reducing unnecessary costs and increasing transparency of cost-drivers across the system. We continue to monitor the work of the Cost Growth Target Advisory Committee and will work to ensure that implementation includes mechanisms for better transparency, reporting, and accountability. Enforcement must recognize the challenges our health care system has faced during the pandemic, and enforcement authority must be clear for all stakeholders and approved by the Sustainable Health Care Cost Growth Target Advisory Committee.

**Decrease Tobacco Use:** OBI supports a comprehensive approach to decreasing the state's tobacco use, including smoking and chewing tobacco, and vaping/e-cigarette use.

**Protect Association Health Plans:** OBI provides an association health plan (AHP) through which member businesses may obtain health insurance coverage. AHPs are an important option for small employers that want to provide health insurance, and OBI will work to retain, enhance, and expand employer private market options such as AHPs in order to meet the health insurance needs of employers and their employees.

## ENERGY, ENVIRONMENT AND NATURAL RESOURCES POLICY

Businesses have long demonstrated their commitment to preserving our state's environment and natural resources while also providing critical necessities like energy, food, products and jobs. Many have acted ahead of regulations to voluntarily adopt business practices and controls that reduce their environmental impacts. Companies remain dedicated to operating in a manner that benefits Oregon's people and economy while also preserving Oregon's natural environment.

However, Oregon's regulated community is taking on more than ever before. Businesses are required to make costly investments in response to increasingly complex and difficult-to-navigate regulatory schemes. This regulatory environment is diminishing the competitiveness of Oregon businesses and chilling business investments in the state. Regulatory programs should be focused on achieving objectives to protect public health and the environment without imposing excessively burdensome or costly requirements.

### **OBI's energy, environment & natural resources policy principles include:**

**Climate Policy:** OBI recognizes that climate change is real, and that the business community plays an important role in creating a lower-carbon economy. We support state greenhouse gas emissions reduction policies that:

- Result in actual global greenhouse gas reductions
- Are not used as a general revenue source
- Are focused on positive environmental and economic outcomes
- Are fair and affordable for all Oregonians
- Do not result in a competitive disadvantage to Oregon businesses
- Do not focus on a single sector of the economy
- Address the unique challenges of Oregon's diverse business sectors
- Are commensurate with the state's emissions relative to global emissions and goals
- Nurture Oregon-based innovation
- Include adaptation and mitigation strategies for long-term planning
- Provide regulatory and compliance certainty for businesses.

**Biofuels, Renewable Fuels, Biomass and Energy Recovery:** OBI supports state and federal incentives to promote the use of biofuels, renewable fuels, and biomass. OBI opposes new laws and regulations that burden the use of these fuels or energy recovery from otherwise discarded or disposed material.

**Chemical Use Laws:** OBI supports advancing the safe and responsible use of chemicals. OBI supports chemical laws that are based on sound science and recognize that many public health and consumer protections are currently in place. When sound science identifies the need for chemical regulations, OBI supports state-based laws that are consistent with federal laws and not unnecessarily duplicative. OBI opposes the addition of burdensome, state-specific regulations that do not align with other state and federal regulations.

**Consistent Regulatory Authority:** OBI supports the consistent and uniform state-level application of delegated air, water, cleanup, and energy regulatory and permitting authority. OBI opposes new, expanded, or duplicative regulatory overlays at the local level.

**Permitting and Other Fees:** Fee structures should support regulatory certainty and serve the needs of the regulated community. Fees must support workable and reasonable permit programs vetted by industry and processed with clear conditions and timelines to minimize impacts on business operations. OBI opposes fee increases that are not accompanied by proportional increases in non-fee funding; if a program does not meet the needs of the regulated community; or if used for unrelated/non-beneficial state activities or pass-through surcharges for other state agency activities. OBI opposes fees that are not reasonably tied to environmental benefits as well as those that are applied inequitably among regulated entities. OBI opposes the addition of local fees that impose unreasonable cost burdens or duplicate existing program fee structures.

**Energy Infrastructure:** OBI supports cost-effective state and federal policies that encourage, streamline, and facilitate the planning, permitting, and construction of upgraded, expanded, and new electric, natural gas and alternative energy infrastructure that sustains Oregon's energy needs and provides for future economic development.

**Food Innovation:** OBI supports policies that advance Oregon's food and beverage industry in the areas of research and development, technical assistance, workforce development, distribution infrastructure, market development, and government regulation.

**Forest Resilience:** OBI supports active forest management to address and prevent tree-related disease, increase forest productivity, reduce the risk of catastrophic wildfire, and provide both commodity and non-commodity values.

**Franchise Taxes:** OBI seeks to ensure that any expansion or increase of franchise taxes demonstrates consumer benefits that warrant added costs.

**Government Procurement Protocols:** OBI opposes the imposition of unnecessary or unduly burdensome requirements on governmental purchasing protocols.

**Maintenance of Regulatory Application for Departments of Agriculture and Forestry:** OBI supports the current regime wherein environmental activities relating to agriculture and forestry are regulated by their respective departments.

**Mass Timber:** OBI supports policies that encourage the development and use of mass timber products.

**Oregon Agricultural Heritage Program:** OBI supports voluntary, statewide incentives that encourage agricultural landowners to keep land in agricultural protection while supporting fish, wildlife, and other natural resource values on those lands.

**Renewable Portfolio Standards:** OBI supports renewable power and the allowance of increased flexibility within the portfolio with appropriate rate protections in place.

**Tax Incentives for Additional Environmental Investments:** OBI supports tax incentives for additional environmental investments that exceed federal requirements, improve environmental outcomes and/or enhance Oregon's economy.

## AIR & WATER POLICY

**Consistent Regulatory Authority:** OBI supports the consistent and uniform state-level application of delegated air, water, cleanup, and energy regulatory and permitting authority. OBI opposes new, expanded, or duplicative regulatory overlays at the local level. Programs must be consistent with their underlying statutes and not seek to expand DEQ authority beyond that delegated by the Legislature.

**Objective and Consistent Regulation:** OBI supports unbiased and prompt processing of state and federal permits and other actions.

**New State Environmental Impact Statements:** Generally, OBI opposes the imposition of new layers of regulatory oversight and permitting, including a state environmental impact statement program.

**Ambient Monitoring:** OBI supports funding further monitoring of state air quality as long as increased monitoring is not financed primarily by unreasonable fee increases paid by the regulated community.

**State Delegation of Federal Programs:** OBI supports federal delegation of programs to the state level for implementation.

**Exceptional Events:** OBI seeks to ensure that industry is not penalized for events outside of industry's or DEQ's control. For that reason, OBI supports policies and proactive requests to the Environmental Protection Agency (EPA) to exclude ambient monitoring data influenced by natural events, such as wildfires, in providing a representative dataset to use in air permit applications.

**Permitting and Other Fees:** Fee structures should support regulatory certainty and serve the needs of the regulated community. Fees must support workable and reasonable permit programs vetted by industry and processed with clear conditions and timelines to minimize impacts on business operations. OBI opposes fee increases that are not accompanied by proportional increases in non-fee funding; if a program does not meet the needs of the regulated community; or if used for unrelated/non-beneficial state activities or pass-through surcharges for other state agency activities. OBI opposes the addition of local fees that impose unreasonable cost burdens or duplicate existing program fee structures.

**Core Regulatory Programs:** Given limited funding, it is important to prioritize core regulatory programs over emerging programs that increase regulatory requirements and stretch DEQ staffing. OBI opposes new regulatory programs that are not scientifically supported or do not seek to resolve environmental challenges first through existing regulatory channels.

**Air Quality Statutes and Regulations:** OBI supports air quality laws and regulations with which Oregon businesses can comply; that do not create competitive disadvantages relative to other states; and that do not inhibit economic activity without a clearly identified and scientifically supported basis for increased stringency that regulated entities can reasonably implement.

**Water Storage and Delivery:** OBI supports innovative solutions that address increasing competition for scarce water that balance the needs of irrigated agriculture, cities and industry,

hydropower, and sustainable fisheries. Such innovative solutions include continued investment in infrastructure for new storage, withdrawals from the Columbia and other rivers to improve efficiency.

**Effluent Trading/Market Development:** OBI supports the creation and use of voluntary and equitable trading and market-based options for effluent reductions and habitat improvement.

**Water Quality Statutes and Regulations:** OBI supports water quality laws and regulations with which Oregon businesses can comply; that do not create competitive disadvantages relative to other states; and that do not inhibit economic activity without a clearly identified and scientifically supported basis for increased stringency that regulated entities can reasonably implement.

## RETAIL POLICY

In recent years, retailers have shouldered ever-increasing costs to do business in Oregon even as their traditional businesses have shrunk. Over a very short period, meanwhile, retailers have invested heavily in new technology and service delivery models to continue to serve their customers. Government should seek to help retailers make these difficult transitions rather than imposing additional costs on the delivery of services and supplies. OBI's primary objective for the 2023 session will be to limit new regulations and taxes that increase the burden on retailers.

### **OBI's retail policy principles include:**

**Consumer Protection:** OBI supports consumer protection legislation that addresses narrowly defined, specific, and empirically proven dangers with measures that would make a meaningful difference. Any such legislation should be focused on preventing harm to customers rather than creating complicated regulations that may not enhance consumer protections in any meaningful way.

**Consumer Privacy:** OBI supports policies that support the retail industry's need to protect consumer privacy while providing the flexibility necessary for the innovative use of data. OBI's key principles when evaluating privacy legislation will be:

- Enforcement by the attorney general, not private rights of action
- Right to cure before enforcement action is taken
- All entities responsible for consumer data should have the same obligations
- Preserve customer service, convenience, and benefits, including rewards and loyalty programs
- Regulations should be linked to risk of harm
- Consumers should have reasonable choice, access, correction, and deletion rights with respect to their personal information
- Retailers should be given flexibility and options for compliance measures.

**Credit and Finance:** OBI will oppose efforts to inhibit the flow of information necessary to render appropriate decisions for every customer and meet their preferences.

**Online Sales:** OBI will support legislation and systems to verify that products sold through online marketplaces have been obtained by legitimate means.

**Third-Party Sellers:** OBI will support legislation and systems to verify the identity of third-party sellers and require high-volume sellers to disclose contact information to consumers.

**Counterfeit Goods:** OBI will support legislation that would increase penalties for people who manufacture or sell counterfeit merchandise to consumers. Not only do counterfeit goods affect the bottom line of honest merchants, but certain products also pose a serious health threat to consumers.

### ORGANIZED RETAIL CRIME

Organized retail crime has become a dire problem for retailers in Oregon. The phenomenon involves highly organized groups of people committing theft on a broad scale.

**Task Force:** OBI supports efforts by the Organized Retail Crime Task Force to coordinate retailers, employees, law enforcement, district attorneys and the state attorney general.

**Task Force Recommendations:** OBI will support recommendations for legislative change that emerge from the Organized Retail Crime Task Force.

**Dedicated Prosecutors:** OBI will support legislation that would create dedicated prosecutors to address organized retail crime.

**AG Task Force:** If needed, OBI will support legislation establishing a formal attorney general task force to combat crimes related to stealing, embezzling, and obtaining retail merchandise by fraud, false pretenses or other illegal means.

**Shared Resources:** OBI will support legislation establishing shared resources and information across federal, state and local law enforcement agencies to combat retail crime.

**Funding:** OBI will support additional funding for law enforcement and prosecution of organized retail crimes.

## GENERAL RETAIL POSITIONS

### **OBI and the Oregon Retail Council Support**

- The use of biometric data for drivers' licenses
- Manufacturer responsibility for electronic product stewardship recycling
- A security freeze on credit for victims of identity theft
- Increased penalties for shoplifting
- Business flexibility and expanded timelines for implementing new policies
- Appropriate timelines for implementation of new regulations or statutes.

### **OBI and the Oregon Retail Council Oppose**

- Expansion of the Unlawful Trade Practices Act
- Market controls such as policies about price discrimination
- Point-of-sale purchasing requirements
- Policies that limit retailer conveniences for customers
- Bans of specific classes of retailers
- Packaging bans
- New labeling laws
- Pesticide sales reporting
- Broad manufacturer and retailer product stewardship programs
- Additional tax burdens on businesses, particularly retailers

## ELECTION AND CAMPAIGN FINANCE POLICY

Efforts to limit campaign contributions will continue in 2023, and any resolution will be critical to all Oregonians. Candidates must have fair access to funding regardless of their parties and political philosophies.

### **OBI's election and campaign finance policy principles include:**

**Fairness:** Limits on campaign contributions must be fair and must not discriminate against potential donors. They must ensure a level playing field on which all donors — individuals and entities — are treated in the same manner, enjoying the same opportunities and facing the same limitations.

**Adequacy:** Limits on campaign contributions must be designed to ensure that all candidates can raise adequate money to finance viable campaigns regardless of their parties and political philosophies.

**Adjustment:** New laws affecting campaign donations must provide adequate opportunity to grandfather existing political action committee funds and adjust to new requirements.

## TRANSPORTATION POLICY

With most priorities and projects in the 2017 transportation package moving forward, the transportation focus for the 2023 legislative session will be on funding the replacement of the Interstate 5 bridge. The bridge is in critical need of replacement. More than \$70 million in freight crosses the bridge every day amid congestion that persists for seven to 10 hours. Both bridge spans are aging and extremely vulnerable to seismic events. The bridge must allow people to move more efficiently and safely through additional multimodal transportation options for transit riders, cyclists and pedestrians while also offering expanded vehicle capacity to move people and freight. The cost of the project is expected to exceed \$5 billion, and some sources of funding have yet to be determined. The availability of federal funds – and the viability of the project – hinge on Oregon’s identification of funding sources for its \$1 billion share. The state also needs to address many issues related to tolling.

**OBI’s transportation policy principles include:**

### INFRASTRUCTURE

**Infrastructure Improvements:** OBI supports expanded and enhanced multimodal transportation infrastructure to improve both people and freight mobility to support statewide economic growth.

**Interstate Bridge:** OBI supports the collaboration with the state of Washington to replace the Interstate 5 bridge and will advocate for funding mechanisms that do not unfairly burden Oregon businesses.

**HB 2017 Projects:** OBI supports the completion of HB 2017 transportation package projects.

**Alternative Fuel:** OBI supports alternative vehicle infrastructure investment and incentive programs that support existing and new vehicle technologies.

**Infrastructure Investment and Jobs Act:** OBI supports funding and implementation of infrastructure projects that are a high priority for businesses such as the Interstate 5 bridge replacement project.

### TRANSPORTATION REVENUE

**Tolling:** OBI supports tolling that achieves dual goals of managing congestion and raising revenue in amounts that help fund strategic infrastructure projects while balancing revenue needs among transportation system users.

**Public Transit:** OBI supports revenue sources that fund critical public services that will not place a disproportionate burden on state or regional employers and employees. OBI opposes the creation of new funding mechanisms to subsidize public transit programs throughout the state unless funding is broad-based and tied to the benefits derived by those paying fees or taxes.

**Highway Funds:** OBI supports long-term, sustainable funding streams for the state’s roads, bridges, and resiliency needs. Funding could include equitably increasing the fuels tax and vehicle fees, alternative options, and tolling, among others.

## EDUCATION AND WORKFORCE DEVELOPMENT POLICY

OBI's members rely on the effectiveness of the state's public education system, from pre-kindergarten through postsecondary education. For Oregon's economy to continue its recovery from the COVID pandemic and subsequent challenges, the state must help students regain pandemic-related learning losses and fully fund need-based aid programs for students in post-secondary programs. Legislation that creates new programs or provides additional funding must include accountability measures to ensure that spending improves educational outcomes. Further, Oregon must think creatively about how best to train and deploy the workforce of today and tomorrow. It is not enough to simply put more money into a system. We must ensure that the system is collaborative, effective, streamlined, and rooted in the needs of both workers and employers.

### **OBI's education and workforce development policy principles include:**

**Post-Secondary Success:** Oregon employers depend on our state's public education system to produce a prepared workforce. The state should maintain thoughtful investments in our higher education institutions and need-based aid programs. Before spending on new projects, Oregon must prioritize the use of current resources to increase funding to post-secondary institutions.

OBI supports the development of postsecondary options that provide credentialing and training to prepare Oregonians for employment. These include the removal of barriers to transferring credits earned in high school to four-year colleges and universities, especially through career and technical education programs of study. OBI also supports legislation that would help align credit options in a manner that reduces student debt.

**Workforce Development:** Oregon businesses in all sectors face workforce shortages. OBI supports incentivizing public-private partnerships to develop workforce and job readiness training that meets current and future economic needs.

**Child Care:** OBI supports easing the path to certification for providers. To develop a scalable and sustainable program that expands access to child care, Oregon also should explore best practices in other states, including incentives for cost-sharing and public-private partnerships.

**Transparency and Accountability:** To increase accountability and transparency, OBI supports the enhanced use of mechanisms to track spending across the education system. Every dollar should be accounted for and tied to measurably improved outcomes for Oregon's students.

**Prioritize Education Stability:** Stabilizing the entire education continuum must be a priority in every budget cycle. The state's budget writers should focus on maintaining critical programs and avoid launching new programs that divert resources from existing programs with a demonstrated record of success. When making budget decisions, meanwhile, legislators must evaluate existing programs to determine their effectiveness. Such rigorous evaluation can identify underperforming programs, leading to cost savings and good governance.

**Equity and the Digital Divide:** OBI supports legislation that strengthens distance learning programming, including public-private partnerships that help connect marginalized students and their teachers. Our education system continues to underserve minority communities, and OBI supports programs to close achievement gaps.

**Student Success Act:** OBI supports legislation that ensures appropriate oversight of Student Success Act (SSA) expenditures and holds the Department of Education and school districts

accountable for meeting stated goals and outcomes. Any amendment to testing and other accountability measures should track student and teacher progress in order to keep programs on schedule and increase graduation rates. When possible, school districts should use SSA funds to increase access to STEM (science, technology, engineering and math) and CTE (career and technical education) programs as well as financial literacy education. OBI strongly supports innovative accountability measures for districts included in the SSA.

**Continuation of CTE/STEM Policies:** OBI supports the continuation of CTE/STEM policies that include but are not limited to, weighted funding, continued funding for revitalization grants, teacher licensure pathways, regional hubs, and course equivalency standards.

## REGULATORY IMPROVEMENT POLICY

Oregon's regulatory environment has long been an active one characterized by the establishment of rigorous agency rules and the creation of compliance challenges for businesses. However, the past few years have revealed serious flaws. The COVID pandemic generated a flurry of rulemaking activity, as did Gov. Kate Brown's Executive Order 20-14, which prompted more than a dozen state agencies to produce complex and voluminous regulatory schemes on myriad issues. The regulations themselves present compliance challenges. More problematic, however, has been the state's attitude toward job creators. In years past, agencies maintained a more constructive, collaborative relationship with regulated entities. More recently, agencies have become resistant - even hostile - to the business perspective. Many state rule writers are reluctant to take any feedback that does not align with their existing world view. Generally, agencies focus on prescriptive rules that make compliance difficult rather than seeking to meet an objective. In doing so, agencies have made no effort to help businesses understand and comply with new regulations.

In 2023 and beyond, OBI will seek major system improvements that address the overall attitude toward business and improve the experience of businesses navigating Oregon's regulatory framework.

### **OBI's regulatory improvement policy principles include:**

**Business Ombuds:** Oregon's regulatory environment is complicated and opaque. OBI will support the creation of an Office of Business Advocate/Ombuds to help businesses and to advocate on their behalf with state agencies.

**Fiscal and Economic Impact Statements:** Agencies do not accurately calculate the compliance costs of regulations. OBI will promote legislation that requires agencies to consider actual impacts on businesses when proposing new regulations. Such impacts will include opportunity costs and job losses.

**Judicial Review:** Oregon needs new standards for review that provide for judicial review for reasons beyond a rule's constitutionality. Oregon courts have been far too deferential to agency rulemaking in large part because the legal threshold limits what is challengeable. Regardless of proven harm, challenges should be allowed when an association or industry representatives argue the rules are arbitrary and capricious.

**Permit Standards:** Oregon's permitting rules have contributed significantly to the erosion of the state's business climate. The permitting process is often lengthy, and agencies make little effort to help businesses navigate complex requirements. Meanwhile, agencies frequently surprise permit applications by revealing new or additional conditions. Contributing to this problem are the failure of agencies to make all requirements clear before permit applications are filed. Additionally, new issues and requirements are sometimes raised well into the permitting process. OBI will support changes that require permits to be evaluated according to rules in place at the time of application. Such changes will prohibit agencies from surprising applicants with new requirements. Finally, OBI will support legislation that requires agencies to respond within certain time periods.

**Rulemaking Coordinators:** OBI seeks to decouple the process of rulemaking from rule implementation. To that end, OBI will support legislation to prohibit rule writers and enforcement staff from serving as rule coordinators. OBI also will seek to end rulemaking coordination as an

agency function. Instead, using the Office of Administrative Hearings as a model, nonagency rulemaking coordinators would be selected randomly.

**Transparency:** Rulemaking notices and materials are posted inconsistently from agency to agency. OBI will promote legislation that requires agency websites to provide Rules Advisory Committee members consistent and easy-to-access notices, background documents and other materials. OBI also will pursue legislation that allows the public to access rulemaking training at cost.

**Agency Assessments:** Agencies lack regular and consistent oversight of their performance. State audit functions have limitations that do not adequately analyze agency work or provide specific actions to address deficiencies. OBI supports the creation of an independent body to assess organizational competence, address conflicting regulations, revamp internal structures and programs that are performing poorly, and ensure that agency behavior is guided by fair, even-handed and appropriate actions.

**Limiting Rule Updates:** Rulemaking has increased significantly in volume, size and complexity in recent years, and it has become more common for rules to undergo multiple updates in a short timeframe. As businesses need time to assimilate and plan for updated rules, they cannot easily accommodate rapid and ongoing rule changes. Such changes may require major capital investments that quickly become obsolete. OBI will advocate for limiting rule updates unless they meet specific criteria or respond to new legislation.