



2021 Legislative Session Report

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24

weeks in session

821

bills tracked

90+

times testifying



Morgan Beltz
Education & Healthcare



Scott Bruun
Tax & Fiscal



Sharla Moffett
Energy, Environment,
Natural Resources & Infrastructure



Paloma Sparks
Employment, Retail
& Campaign Finance

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AN UNPRECEDENTED LEGISLATIVE SESSION

Two years ago, in our end-of-session report, your OBI team predicted the 2019 legislative session would “go down as one of the strangest in Oregon history.”

We had no idea what 2020 and 2021 would bring us. The 2021 legislative session, adjourned on Saturday, June 26, was without precedent on virtually every measurement.

Lawmakers faced challenges of monumental proportions: A global pandemic. Shuttered schools. Broken businesses. Widespread unemployment. Towns razed by wildfires. And a racial justice movement that is fundamentally changing our public policy frameworks.

Virtual meetings became the reality. In the face of the COVID-19 pandemic, the public was banned from the Capitol. Hearings were held virtually and conversations with legislators were left to text messages, phone calls and the occasional online connection. Providing input on legislative proposals was enormously difficult and staying updated on the latest version of legislation near impossible.

In an ironic twist, the session’s chief fiscal problem became what to do with too much money. The session started with a projected \$2 billion deficit because of the COVID-induced recession. But, as federal stimulus payments kicked in and the global economy outperformed expectations, that deficit turned into a projected \$2.8 billion surplus, on top of \$1.4 billion in reserves and \$2.6 billion in federal stimulus payments. State government is, quite simply, awash with money.

Finally, the personal conduct of individual legislators was under scrutiny like never before. For the first time in history, an elected lawmaker, Rep. Mike Nearman (R-Independence) was expelled from the Legislature based on accusations that he conspired to let armed rioters into the closed Capitol during a December 2020 special session. Another legislator, Rep. Diego Hernandez (D-Portland), quit mid-session on the eve of what would have been a vote to expel him following accusations of harassment. And a third member, Rep. Brad Witt (D-Clatskanie) was ordered to take harassment training after he was accused of sending inappropriate texts to a female House colleague.

The Democrats continued to hold a supermajority in both chambers of the Legislature but, unlike 2019, they didn’t take advantage of that to move major new tax proposals. In fact, the 2021 session, overall, lacked the major policy agendas that were the hallmark 2019. There were partisan disputes, but not the rancor over big policy bills that halted work in the 2019 long session and the 2020 short session.

Your OBI team went into this session with a very straightforward policy agenda approved by our board of directors: we wanted lawmakers to refrain from enacting major new taxes and regulations so that Oregon businesses would have an opportunity to recover from the devastating impacts of the COVID pandemic. We were largely successful. We tracked hundreds of bills that would impact Oregon’s employer community, stopping many of them, and influencing those that moved forward.

This report outlines many bills we tracked. We highlight the major bills that passed, the ones that died – and we are giving you a sense of the failed proposals that we expect to see again in future legislative sessions.

We could not do our jobs without the OBI members who volunteer their time to help us review the hundreds of legislative proposals we see every session. If you served on a committee, thank you. If you responded to a phone call or email from us, thank you. And if you took time to testify in the crazy virtual legislative reality, thank you. Your engagement gives us real life examples of how legislative actions translate to the real world – and that makes OBI more effective in our collective advocacy on your behalf.

Finally, appreciation to our partners at the Capitol, the “business lobby.” In the face of COVID, we pulled together to be a united voice on what it would take to support employers and save jobs during the difficult last 15 months. OBI was more successful because of our work with our association partners and the rest of the business lobby. Thank you.

As you read this report, you may have questions. Please feel free to contact any of us for more information. Thank you for the opportunity to represent you in Salem.

Sincerely,

Paloma, Scott, Sharla and Morgan

Your OBI Policy Team

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EMPLOYMENT

After a year of ever-evolving COVID restrictions and requirements, on top of substantial new employment laws enacted during the past few legislative sessions, OBI took the position that the Oregon employer community needed a break. Our overriding position was that the Legislature should pass no significant new regulations and give employers a chance to process the changes already legislated and get back on their feet following the COVID crisis. As it turned out, a wide variety of employment-related bills were introduced this session, but we held the line on most of them. OBI tracked 113 employment bills, the majority of which did not pass. About 12 high priority bills did pass and are described below. OBI led or was actively involved in discussions around nearly all of these bills. If you have questions or comments about employment legislation, email palomasparks@oregonbusinessindustry.com.

EMPLOYMENT BILLS THAT PASSED

HB 2420 extends the timeline for filing complaints with the Bureau of Labor and Industries (BOLI) for allegations of retaliation related to workplace safety complaints. The bill amended the existing statute to align the timelines with other claims so that employees have one year to file a complaint with BOLI. We carefully tracked the bill but ultimately took a neutral position. Effective Jan. 1, 2022.

HB 2474 makes several changes to the Oregon Family Leave Act (OFLA) which provides unpaid protected leave for employees employed by employers with 25 or more employees. Two changes are only applicable in a public health emergency – temporarily reducing the amount of time an employee must be employed to 30 days from the standard 180 days, and allowing leave to be used when an employee’s child’s childcare or school is closed due to a public health emergency. The bill also makes two other permanent changes – allowing pregnant employees, regardless of gender identity, to use pregnancy leave and providing that employees who leave employment and return within 180 days will have their eligibility restored to what it was when they left employment. As introduced, this was a disastrous bill that reduced the employer threshold down to one employee and made other changes. OBI was involved in negotiating this bill to a narrow approach from the introduced bill and testified several times. Effective Jan. 1, 2022.

HB 2818 makes several changes to employment laws:

- Allows BOLI to pay wage claims out of the Wage Security Fund after a final order if the employer has not paid the owed wages. Effective when signed by the governor.
- Exempts vaccine incentives during a public health emergency from the definition of compensation under the Pay Equity law. Applies to claims filed on or after April 29, 2021.
- Temporarily exempts hiring and retention bonuses from the definition of compensation under the Pay Equity law. Effective May 25, 2021-March 1, 2022.

HB 2935 makes changes related to discrimination based on race and clarifies that discrimination based on certain hair types, styles or textures violates the prohibition of discrimination on the basis of race. OBI was neutral on the bill. Effective Jan. 1, 2022.

[HB 3011](#) was a bill that emerged from the Joint Committee on Ways & Means in the last days of session and makes two changes that impact labor and employment. Effective when signed by the governor.

- The first allows BOLI to use the Wage Security Fund, which is funded by employers, to investigate civil rights complaints as well as wage and hour complaints. This is likely a way to fund BOLI operations without using general funds. Had this proposal been public, we would have opposed it because of our underlying policy of protecting that fund for its intended use.
- The second issue applies to construction projects funded with federal American Rescue Plan Act (ARPA) funds. It requires that contractors working on any project over \$200,000 enter into project labor agreements that require: payment of at least prevailing wages; 15% of hours be performed by apprentices; and that contractors develop outreach efforts to women, minorities and veterans with the goal of 15% of work being performed by those individuals. The bill does not apply to areas with a population of less than 50,000 and there are exceptions for costs or limited contractors available.

[HB 3389](#) makes several changes to unemployment insurance (UI) taxes to alleviate some of the costs that employers could face due to layoffs during the COVID pandemic. It also relieves some employers from partial tax burdens in 2021. The bill will have long-term impacts that will prevent UI taxes from drastic increases in the coming years. After hearing concerns from several members about rising unemployment taxes, this was a top priority bill for OBI and one that we negotiated with legislative leadership, the Employment Department and other stakeholders before and during session. We testified in support of the bill several times. Effective 91 days after adjournment, Sept. 25, 2021.

[HB 3398](#) delays implementation of the paid family leave law. Under the bill, contributions will begin Jan. 1, 2023 and employees will be eligible to use benefits on or after Sept. 3, 2023. The bill is crucial to ensure that proper systems are in place before employers are required to submit contributions from employers and employees. OBI was the only testimony in support other than the Employment Department both times the bill was heard. Effective 91 days after adjournment, Sept. 25, 2021.

[SB 169](#) makes noncompete agreements void and limits enforceability to 12 months. OBI negotiated this bill in 2020 and again in 2021. Several legislators argued for prohibiting noncompete agreements altogether, but we were able to defeat those efforts and the bill passed as we negotiated. We do expect this issue to arise again in future years. OBI was the only business voice on this bill and testified at several hearings. Effective Jan. 1, 2022.

[SB 483](#) creates a presumption of retaliation if an employer disciplines, terminates or otherwise discriminates against an employee within 60 days of the employee filing an OSHA complaint. OBI testified several times against the bill and argued for amendments but ultimately the bill passed without those changes. Effective when signed by the governor.

[SB 493](#) amends the prevailing wage law for publicly funded construction projects and directs that the prevailed wage will be the union-bargained rates rather than a rate based on a survey of contractors. This bill will likely hurt smaller local contractors and benefit larger contractors who are able to pay higher wages. OBI closely tracked this bill but largely deferred to our partners at Associated General Contractors. Effective 91 days after adjournment, Sept. 25, 2021.

[SB 569](#) prohibits employers from requiring employees to have a driver license unless driving is an essential job duty. Employers must also accept valid identification documents other than a driver license for the I-9 verification form. OBI testified both times this bill was up for a hearing and noted we certainly expect employers to accept all valid forms of ID. Effective Jan. 1, 2022.

[SB 588](#) addresses an exemption in the sick time law that previously exempted certain trades that were covered by multi-employer trusts. Primarily, this was the construction trades, stagehands and longshore workers. The bill removed the exemption for all but longshore workers. Effective Jan. 1, 2023.

[SB 716](#) makes a minimal change to the scheduling law that does not change the legal meanings. Oregon's scheduling law applies to employers in retail, hospitality and food service that employ 500 or more employees worldwide. The bill provides that an employee can request accommodation of scheduling needs for several reasons, including childcare needs, but the employer is not required to grant that request. As introduced this provision was a mandate, but we were successful in negotiating the bill down to the current version. From the employer perspective, this was already law, but advocates wanted to highlight the childcare issue. Effective when signed by the governor.

EMPLOYMENT BILLS THAT DID NOT PASS

[HB 2205](#) would have duplicated California's disaster of the Private Attorney General Act which allows employees, unions and attorneys to sue on behalf of employees for alleged violations of a variety of employment laws. OBI identified this bill as a top priority to defeat and we were successful in that goal. While we were successful in defeating this bill, a similar concept passed in Maine. We do expect to see this concept again.

[HB 2248](#) was a priority bill for OBI to address excessive penalties in wage and hour claims. We sought to address the use of a statute that allows daily penalties for what may be very small miscalculations or mere minutes of meal and rest period violations. While the bill did not pass, we remain committed to trying to address this issue in future sessions.

[HB 2358](#) removed the overtime exemption for agricultural employees. We partnered with other business voices to note that this would result in fewer hours for workers and slower delivery of products to markets. This is a top priority for labor advocates, so we do expect to see it again.

[HB 2489](#) would have essentially created a presumption that an individual performing services was an employee rather than an independent contractor. This concept is, in part, based on California's approach to the issue of independent contractors vs. employees. We were successful in defeating the bill but expect that workgroup conversations and legislation will come back again in future sessions.

[HB 2588/](#)[HB 2813](#) proposed new requirements for employees working outdoors to address working during times of wildfire smoke. The bill did not advance, but Oregon OSHA had already begun a rulemaking process related to both heat and smoke as directed by Gov. Brown in Executive Order 20-04.

[HB 2974](#) is a concept we have seen several times, prohibiting employers from disciplining or terminating employees for testing positive for marijuana use. OBI has consistently opposed the legislation in part because testing technology is not yet available that distinguishes between an

intoxicating effect of marijuana use. Cannabis advocates continue to push for the legislation and we expect to see it again in future years.

[**HB 2938**](#) created a task force to study and recommend policy changes to further deter age discrimination. This was the second time the proponents attempted to pass this concept and in 2019 they proposed an expansive age discrimination bill. We expect that they will bring forward legislation again.

[**HB 3025**](#) would have presumed that any employee who was regularly going to a workplace and contracted COVID-19 was exposed at the workplace and made it a compensable workplace injury. OBI and our partners opposed this concept and other workers' compensation presumptions arguing that employees who were clearly exposed at work should be covered, but employees who were exposed outside of work were properly denied as a workers' compensation injury.

[**HB 3110**](#) required publicly traded corporations headquartered in Oregon to meet certain board diversity requirements. OBI was the only public opposition to the concept, testifying several times. Largely, our objection was that the bill targeted fewer than 20 companies, all of which have already prioritized diversity within their companies and boards. Ultimately, we were successful in defeating the bill but expect we may see this or a similar concept in the future.

[**HB 3409**](#) proposed to use American Rescue Plan Act funds to create an essential worker bonus of up to \$2,000 per employee who worked through the pandemic and was exposed to people outside of their households. It also included an OBI-proposed incentive to address worker shortage issues which would give employees \$1,200 if they had been on unemployment and accepted a position and kept it for at least four weeks. The bill simply came too late in the process to get done in time. We expect this to come back again in the 2022 session.

[**SB 13**](#) would have prohibited noncompete agreements except to the extent that they were limited to protecting trade secrets; a covenant not to contact former customers or clients to provide similar products; or the protection of proprietary information. OBI worked hard to defeat this concept, but we do expect to continue to fight back proposals to narrow or eliminate noncompete agreements.

[**SB 477**](#) would have removed nearly every burden of proof for employees who bring claims of discrimination. This bill was another top priority for OBI to defeat. We expect that trial lawyers and unions will bring this concept again in future years.

[**SB 489**](#) changed how time-loss benefits under workers' compensation claims are addressed. A workgroup of plaintiff and defense attorneys is continuing to discuss the issue and hope to bring a compromise agreement to the Management-Labor Advisory Committee in the fall.

[**SB 650**](#) would have imposed a tax on all employers to pay for expansion of Medicaid to employees who are not currently covered by health insurance through their employers. This concept has come up in previous sessions and in ballot measures and we expect to see it again.

[**SB 801**](#) required self-insured businesses to use the State Accident Insurance Fund (SAIF) for all workers' compensation claim processing. This concept came from the United Food and Commercial Workers (UFCW). OBI and our partners worked hard to defeat this concept and

were successful in this effort, but we expect conversations to continue to discuss the belief from UFCW that self-insured businesses are more likely to deny valid claims.

[SB 802](#) created a 30-year retroactive COVID-19 presumption. This would have allowed employees to file claims under the presumption 30 years after the expiration of the Governor's emergency orders. This concept was also pushed by UFCW. OBI and our partners were successful in defeating this effort.

BUDGET

While most legislative sessions focus on how to spread limited dollars over ever-growing state programs, the 2021 session was marked by a heretofore unheard of problem: more money than lawmakers could figure out how to spend. If you have questions or comments about the budget, email scottbruun@oregonbusinessindustry.com.

Lawmakers started the 2021 session with an assumption that they faced a potential \$2 billion revenue shortfall, based on the May 2020 economic projections that included assumptions about the COVID-induced economic recession. As the months rolled by, however, the assumptions changed. Federal money poured into the state, dulling the impact of the recession, and Oregon benefited from a better-than-expected global economy.

By May 2021, the state's economists were projecting the state would end the current two-year budget cycle with a \$2.82 billion surplus, with an additional \$1.38 billion in reserves. That is expected to trigger Oregon's "kicker," sending \$1.41 billion back to personal income taxpayers in 2022. A \$664 million corporate kicker will go to the state's Education Stability Fund reserves.

But, even with the kicker, lawmakers entered the final weeks of the 2021 legislative session with a record amount of money to spend. On top of the projected state surplus, they anticipated receiving \$2.6 billion from the federal government as part of the American Rescue Plan Act (ARPA).

All this set the stage as lawmakers debated the budget for the 2021-23 biennium during the final days of the session. They adopted a total state general fund budget for the biennium of approximately \$30 billion, which is an astonishing 27% increase over the 2019-21 general fund budget of \$23.7 billion. The Oregon Legislature passed about 80 agency budgets during the last days of 2021 session. Here are a few of the most significant budgetary items:

- The Department of Education/State School Fund 2021-23 general fund budget is \$9.3 billion, a 3.3% increase over the last biennium. When combined with federal money being sent to school districts, close to \$12 billion will be available for education in Oregon in the next biennium.
- The Department of Corrections 2021-23 general budget is \$1.9 billion, a 3.6% increase over the last biennium.
- The general fund budget for higher education in 2021-23 is \$2.2 billion, a 12.6% increase over the last biennium.
- The general fund budget for the Department of Human Services is \$4.5 billion, up more than 22%. DHS also relies heavily on "other" (non-general fund) funds, especially federal funds.

- The Oregon Health Authority 2021-23 general fund budget of \$3.6 billion is up more than 38%, reflecting impacts from the COVID crisis. OHA also relies heavily on other funds.
- The State Police will see a 35% increase, to \$387 million, for the 2021-23 general fund budget, while the Oregon Department of Fish & Wildlife (ODFW) will see a 39% increase, to \$40 million. ODFW relies heavily on other funds including tag and license fees.
- The 2021-23 general fund budget for the Employment Department is \$47 million, a 381% increase over the last biennium. Most of the funds for the department, approximately 78%, come from unemployment insurance taxes. The department's overall funds for the 2021-23 budget are \$6.8 billion, which is actually a 33% decrease from the prior biennium. The decrease is due to COVID-related "emergency and extended benefit" funds received through the federal government during the last biennium, which are expected to decrease by 80% during the next biennium. The budget also includes approximately \$88 million for modernization initiatives to upgrade the department's antiquated business and technology systems, which became a major public issue in 2020 as they were unable to process the tremendous amount of claims that came in during the early days of the COVID crisis.
- The 2021-23 general fund budget for the Department of Environmental Quality (DEQ) is \$62 million, a 23% increase over the last biennium. DEQ is another agency primarily funded through an assortment of other funds, including fees and federal dollars. DEQ's total budget for 2021-23 is \$595 million, a 26% increase over the 2019-21 biennium. In addition to general fund increases, the total funds for the 2021-23 budget are driven by fee increases, including increases to vehicle inspection and hazardous waste program fees. During the DEQ budget hearings, OBI testified to the fact that DEQ will carry out 64% more rulemakings during 2021 than in the previous three years. We voiced concern about the complexity and interconnectedness of these rulemakings, and the burden they place on the regulated community.

While department budgets laid out detailed spending plans, the Legislature was less specific about how they plan to spend the \$2.6 billion federal money. Most of that money went into catch-all bills authorizing the Legislature's Emergency Board to iron out details later. We believe a framework may exist, but legislators ran out of time to settle on detailed plans.

[HB 5006](#), which passed unanimously in both houses on the last day of session, was the so-called "Christmas Tree" budget bill. It included \$198 million for state employee raises, and \$150 million for natural disaster preparedness. Addressing the federal ARPA dollars, the bill puts \$240 million in the hands of individual legislators, who will direct spending in all 90 legislative districts. Some \$120 million will go toward broadband investments, while \$1.95 will be handed over to the Emergency Board for allocation over the next two years "for expenditures and activities to respond to the COVID-19 public health emergency and its economic impacts." We expect these allocations to be reviewed again in the September 2021 special session and the February 2022 short session.

Also passing on the last day of session was [SB 5506](#), the capital construction bill. The 2021-23 capital construction budget is \$1.5 billion, up 74% from the 2019-21 budget. The budget includes over \$400 million for investment in housing and services; \$446 million for public university capital construction projects; \$56 million for community college construction projects; \$50 million for state park improvements; and \$110 million for state police facilities expansions including a new forensic lab and medical examiner's facility.

TAX

Among OBI's biggest public policy priorities for the 2021 legislative session was to resist efforts to raise taxes, particularly new business taxes. Our opposition was to both new taxes and any effort to increase existing taxes, including adjustments to deductions and tax application which would have the effect of increasing the tax burden on individual companies.

OBI took the strong "no tax" position for several important reasons. First, businesses across the state were already reeling from the devastating economic impacts of the COVID pandemic, including, for many, curtailment of operations mandated by the government. Second, as shown in research conducted on behalf of the OBI Education and Research Foundation, even before the pandemic, Oregon businesses were facing a 41% increase in the state's effective business tax burden over a three-year period starting in 2019, due to tax increases adopted by the 2019 Legislature. Finally, as the session progressed and tax revenue forecasts came out, it became clear the state had more than enough money to fund existing programs and services. If you have questions or comments on tax and fiscal legislation, email scottbruun@oregonbusinessindustry.com.

TAX BILLS THAT PASSED

SB 164 was the corporate activity tax (CAT) "technical fix" bill, which we testified in support of twice. The bill included important provisions to fix the fiscal year/calendar year filing problem in current statute, as well as clarify language for Oregon-based insurers to avoid retaliatory taxes in other states. We are likely to see CAT fix bills in most upcoming sessions, as taxpayers seek adjustment to this sweeping program passed in 2019. Effective 91 days after adjournment, Sept. 25, 2021.

HB 3373 will create the new Office of Taxpayer Advocate in Oregon. The new office, within the Department of Revenue, will provide independent compliance assistance to taxpayers, including small businesses who may have complex compliance challenges but lack the legal and/or accounting resources enjoyed by larger businesses. The bill also requires the new office to report to the Legislature biannually on challenges within Oregon's tax system, based on experiences with taxpayers, and recommendations for fixes. OBI testified in support of this bill and worked with the department to craft it. Effective 91 days after adjournment, Sept. 25, 2021.

SB 139 will eliminate eligibility for preferential pass-through entity (PTE) tax rates for PTEs with taxable income above \$5 million/year. We opposed and testified against it on three different occasions. The bill will also create additional employment and reinvestment hurdles for PTEs that still qualify. The amended bill is much narrower in scope than the original bill. This preferential tax treatment for pass-through taxpayers has been targeted for adjustment by lawmakers since it was crafted as part of a larger tax compromise some years ago. We will likely see other attempts to reduce PTE benefits in future sessions. Effective 91 days after adjournment, Sept. 25, 2021.

SB 727, which we supported, will create a workaround for PTEs currently limited to \$10,000 for state and local tax deductions. The bill will accomplish this through the elective payment of a new tax, offset by a new dollar-for-dollar tax credit. Even with passage, the concept is likely to

return in the 2022 session for technical fixes and possible expansion of eligibility. Effective 91 days after adjournment, Sept. 25, 2021.

[HB 2457](#) was a mixed bag for us. We supported the underlying concept, which would be to maintain Oregon's connection to the federal tax code. This kind of bill passes pretty much every legislative session, typically without controversy. However, there were attempts to amend the bill to tax forgiven Paycheck Protection Program (PPP) loans. Recognizing that Congress created the PPP program to offset the financial impacts of COVID crisis on small businesses (fewer than 500 employees), we strongly opposed the amendments and coordinated coalition opposition efforts. The amendments were rejected, and the connection bill was passed. Effective 91 days after adjournment, Sept. 25, 2021.

[HB 2343](#), which OBI supported, will allow local jurisdictions to temporarily suspend enterprise zone employment requirements for employers who have suffered adverse economic impacts related to COVID. We testified in support of the bill. Effective 91 days after adjournment, Sept. 25, 2021.

[HB 2433](#), which we supported, will extend multiple tax credits for six years including the rural medical practitioner tax credit and the Oregon film production tax credit. Omnibus bills to extend tax credits are a part of every long legislative session. Effective 91 days after adjournment, Sept. 25, 2021.

TAX BILLS THAT DID NOT PASS

[SB 137](#) would have disconnected Oregon's tax code from the tax loss provisions of the federal CARES Act, impacting thousands of small businesses, and in another set of provisions would have taxed forgiven PPP loans, again costing Oregon small businesses. We opposed and testified against both these elements in two different hearings. Given this is related to CARES Act issues, we will likely not see this concept put forward again.

[SB 15](#), a bill specifically targeted to assist small business and small farm estates, would have created an additional estate tax exemption of \$1.5 million for estates valued up to \$4.5 million, and then progressively reduce the amount for estates valued up to \$8.5 million. We testified in support of this bill. We are very likely to see future efforts to reduce Oregon's estate tax burden.

[SB 312](#) would have required the Department of Revenue to publicly release individual corporate tax information, including specific tax credits used by specific Oregon companies. We opposed and testified against the bill. This is a perennial issue and we are likely to see this concept again.

[HJR 13](#) was that a ballot measure proposal that, if ultimately passed by Oregon voters, would have created a split-role property tax system in Oregon. It would have also tied both residential and commercial property tax rates to market rates. We testified in opposition to this resolution. We expect discussions around property tax reform to continue in the next legislative session.

[HB 3328](#) would have created a new .0013% personal income tax for Oregon taxpayers. Revenues from this new tax would have been used to fund the Department of Fish & Wildlife, which has seen significant decreases over recent years in the sale of hunting and fishing licenses and tags. We opposed and testified against this proposal. We believe that the concept will return in a future session.

[HB 3302](#) would have provided moderate tax credit incentives to encourage individuals and business tax filers to financially support qualified workforce training organizations. We supported and testified in favor of the bill. This concept is likely to return in a future session.

[HB 3160](#) would have created a new surcharge on property and casualty insurance policies sold in Oregon in support of wildfire mitigation efforts. We opposed and testified against this bill. The concept is likely to return in a future session.

[HB 2839](#) was a proposal, similar to SB 137, which would have disconnected businesses from certain tax benefits of the federal CARES Act, including net operating loss carry-backs, business loss carry-forwards, and additional business interest deductions. Citing the impact to small businesses, we opposed and testified against the bill. Given that it is related to CARES Act issues, we will likely not see this concept put forward again.

[HB 2604](#) would have increased income tax rates on partnership pass-through entity (PTE) businesses, similar to SB 139. We opposed and testified against the bill. We believe that efforts to further curtail PTE rate benefits will be back in future sessions.

[HB 2379](#) would have created a new 5% harvest tax on merchantable timber cut in Oregon. We opposed the bill and testified against it twice. We believe that some iteration of this concept will return in a future session.

[HB 2840](#) would temporarily have suspended Oregon's enterprise zone and Strategic Investment Plan tax incentive programs. We opposed this bill because these incentives are critical to economic development and job growth in Oregon. The concept is likely to return to a future legislative session.

[HB 3296](#), which we opposed, would have increased state taxes on wine by 1,700% and beer by nearly 3,000%, making beer and wine taxes in Oregon the highest in the nation. We joined a broad coalition that led the fight against this bill. Efforts to increase taxes on beer, wine and spirits will be back in future sessions.

[HB 2674](#) with proposed amendments, would have created new taxes on the sale of off-road equipment and commercial vehicles, tires, and red-dye diesel fuel. We opposed this and were scheduled to testify in opposition, but the bill was pulled from consideration. This concept may return in a future session.

[HB 2253](#) was yet another proposal to impose a tax on forgiven PPP loans. This bill will likely not return.

[SB 362](#) was another corporate tax disclosure proposal, similar to SB 312, which we opposed. We are likely to see corporate disclosure bills in future sessions.

[HB 3358](#), which we opposed, was the most severe of the bills increasing taxes on certain pass-through (PTE) entities. It would have eliminated all PTE tax rate benefits. Even with passage of SB 139, we expect this bill/concept to return in future sessions.

ENERGY AND ENVIRONMENT

While the session lacked environmental policy proposals as broad and controversial as 2019's unsuccessful cap and trade bill, climate policy was still a major energy and environment focus. We saw the introduction of several bills requiring huge reductions in greenhouse gas emissions (GHGs), from electricity generation to major investments in clean, renewable energy sources. Establishing an aggressive program for reducing GHGs from electricity generation was the predominant issue, but several bills fell by the wayside as session progressed. Again, OBI's overriding position was that new regulations should be avoided as businesses were trying to recover from the COVID economic fallout. If you have questions about energy or environment legislation, email sharlamoffett@oregonbusinessindustry.com.

ENERGY AND ENVIRONMENT BILLS THAT PASSED

HB 2021 requires retail electricity providers to transition to clean, non-emitting energy sources to reduce greenhouse gas emissions to 100% below baseline levels by 2040. OBI filed testimony twice during policy discussions, raising concerns about the cost of some aspects of the proposed bill. Some of those provisions ultimately were removed. Effective 91 days after adjournment, Sept. 25, 2021.

HB 2518 allocates \$5 million to a forgivable loan program for the cleanup of brownfield properties. OBI is a member of this broad coalition supporting the cleanup and redevelopment of brownfield lands. The coalition testified in support of the bill. Effective when signed by the governor.

HB 3372 originally enhanced the Department of Environmental Quality's (DEQ) ability to deny or revoke permits for businesses with a chronic history of permit violations. Given that denial or revocation of a permit is a business-killing action, OBI had grave concerns about increasing DEQ's authority. OBI testified three times on the bill and worked with partners to encourage legislators to limit DEQ's authority and require the agency to also consider positive compliance history in their evaluation. Ultimately, the bill was narrowed in scope. Effective 91 days after adjournment, Sept. 25, 2021.

SB 57 restructures and increases fees for disposing of various types of hazardous waste on a per ton basis. Effective 91 days after adjournment, Sept. 25, 2021.

SB 58 allows DEQ to recoup fees associated with receiving credit card payments and also allows DEQ to add a surcharge to invoices generated by the Environmental Data Management System (EDMS) to pay for ongoing operations costs. OBI testified in opposition to the EDMS surcharge, citing concerns about one more cost in addition to the overall cost of compliance and permit fees. Effective when signed by the governor.

SB 762 addresses numerous issues around reducing wildfire risk, including increased firefighting capacity, requirements for utilities to develop wildfire mitigation plans, modifies building codes and invests in forest restoration activities to reduce the risk of catastrophic wildfire. Effective when signed by the governor.

ENERGY AND ENVIRONMENT BILLS THAT DID NOT PASS

HB 2479 required DEQ to estimate the amount and sources of human-caused black carbon in the state and recommend mitigation strategies. Given the bill's nexus with climate policy and diesel particulate, this issue may re-emerge.

HB 2488 modified Department of Land Conservation and Development's statewide planning goals to provide access and ensure opportunities for participation by disadvantaged communities in land use planning. Equity in access to decision making by state agencies is expected to continue to be a significant focus by state government.

HB 2821, **HB 3093** and **HB 3102** were three bills focused on testing, monitoring and responding to harmful algal blooms. OBI watched these since additional regulation of water quality permit holders could have been required. All three bills died.

HB 2814 established an indirect source review program at DEQ, requiring "indirect sources" – entities that attract mobile sources like cars, trucks and construction equipment to their facilities -- to obtain permits and make mitigation payments. In response to significant opposition, the bill sponsor pivoted to a study bill, however, the study presupposed that regulation was the next step. OBI has been working on this issue since early 2020 when proponents brought a similar petition to the Environmental Quality Commission that was unanimously denied. OBI provided invited testimony in opposition to the bill and met more than a dozen times with legislators to express opposition to the bill. The bill ultimately did not pass. We expect to see the indirect source issue again.

HB 3180 reopened the Renewable Portfolio Standard passed in 2007 imposing stringent limitations on hydro as qualifying electricity, requiring \$2 billion in investments by electric service providers, and over-investment in solar resulting in steep increases for ratepayers. OBI filed testimony in opposition. The bill received a public hearing, but was withdrawn by the bill sponsor as HB 2021 had greater support.

HB 3305 would have created a 100% renewable diesel mandate, phasing out the sale of petroleum diesel statewide by 2028. Although the bill was never scheduled for a public hearing, we expect future discussion of renewable diesel requirements given pressures to reduce GHGs and diesel particulate matter.

SB 56 provided for noncompliance penalties related to DEQ's cap and reduce program to be based on the economic benefit to a permit holder. It also conferred judicial review of the cap and reduce program to the Oregon Supreme Court. The bill never received a hearing. Civil penalties around noncompliance with the regulatory program could return, given environmental activists' preoccupation with noncompliance penalties.

SB 286 would have changed the name of the Environmental Justice Task Force to the Environmental Justice Council and directed DEQ to develop environmental vulnerability assessments for state natural resource agencies to consider in agency actions and decisions. OBI worked with the governor's staff on early versions of the bill to address process-intensive requirements, but the bill failed to move forward. With the significant focus on reducing impacts to historically disadvantaged and underserved communities, we could see this concept again either through a bill or rulemaking.

ELECTIONS

CAMPAIGN FINANCE

While several campaign finance bills were introduced and discussed throughout the session, none made it through the process. Concepts ranged from very low limits but allowing all to contribute, to banning all contributions except those from individuals. Many proposed to give unions advantages in campaigns while virtually eliminating the business voice altogether. Some legislators were also interested in creating a system for publicly financed campaigns. Ultimately, no bill advanced through the process, and we expect to revisit the issue on the ballot in November 2022 or during next year's short session.

REDISTRICTING

The delay in getting 2020 U.S. Census population data created difficulties for the Legislature when evaluating the process for redrawing state and congressional district boundaries, a task they undertake every 10 years. Legislators asked the Oregon Supreme Court if they could have more time to complete the process and that was approved. Legislators now have until Sept. 27, 2021, to complete their work. A special session is planned for the week of Sept. 20, and we expect public hearings this summer. OBI continues to advocate for a nonpartisan appointed citizen commission to managing redistricting, which is what many other states have. Republican legislators were successful this year in securing agreement from legislative leadership for even representation on the redistricting committee, which may increase the opportunity for balance in the process.

RETAIL

While there were many issues that OBI tracked that could impact retailers, the bulk of our efforts this session were focused concepts related to recycling requirements for packaging materials that impacted both retailers and manufacturers. We also engaged on a number of other bills related to product content disclosure or stewardship and consumer privacy. If you have questions or comments about retail legislation, email palomasparks@oregonbusinessindustry.com.

RETAIL BILLS THAT PASSED

HB 2344 requires that packaging for premoistened disposable wipes have labeling that identifies if they are not flushable. Manufacturers, not retailers, are responsible for the labeling requirement. Enforcement is through civil penalties assessed by local governments. Effective 91 days after adjournment, Sept. 25, 2021.

HB 3284 establishes privacy protections related to contact tracing. The bill is largely focused on applications that would be used for this purpose, although none have been approved for use in Oregon at this point. The new provisions are enforceable by the attorney general. Took effect when signed by the governor on June 15, 2021.

[HB 3379](#) prohibits the sale or manufacture of crib bumper pads. Enforcement of this provision are criminal violations. The bill took effect when the governor signed the bill on June 8, 2021.

[SB 582](#) establishes a complex new system for producer responsibility for packaging of materials. It requires producers to join a producer responsibility organization and pay membership fees to pick up costs related to disposal of packaging materials. The bill also establishes various stakeholder groups including a task force to study labeling requirements for recyclability of packaging. OBI played a critical role negotiating this bill and was successful in removing several costly provisions. We have continuing concerns and expect that the rulemaking process for this bill will be quite involved and lengthy. We will stay engaged. There are a variety of effective dates in the bill but the key requirement that producers must join a producer responsibility organization is effective on July 1, 2025.

RETAIL BILLS THAT DID NOT PASS

[HB 2495](#) proposed to significantly expand the Toxic-Free Kids Act, which regulates children's products. Under current law certain chemicals are identified as potentially hazardous and the sale of products is regulated. This bill would have given the Oregon Health Authority broad authority to identify "classes" of chemicals as hazardous, creating significant new regulatory burdens for retailers and manufacturers. OBI worked hard to defeat the concept and we were ultimately successful. Unfortunately, we were not able to pass SB 172, which we supported and would have delayed certain implementation requirements of the existing law.

[HB 2698](#) required manufacturers to make certain tools, parts, and documents broadly available to the public. OBI opposed the concept on the basis that it would make a wide variety of consumer electronics more vulnerable to attack and privacy violations because certain documents could be more widely available without an expectation that information be kept confidential. While we were successful in defeating the bill this year and in previous years, we think it will come back again.

[HB 2955](#) would have created a household hazardous waste stewardship program that would have added significant costs to a wide range of household products. Every brand would have been required to join the product responsibility organization and would have imposed significant administrative burdens on retailers. This is a perennial concept, and we expect local governments and DEQ will bring the bill back.

[SB 14](#) would have created an expansive plastic stewardship program, impacting manufacturers, retailers, wholesalers and restaurants with an expensive and complicated regulatory burden. DEQ would have had broad authority to assess fees and identify recyclable materials. OBI actively opposed the bill.

[SB 570](#) would have created a mattress stewardship program. Retailers would have been prohibited from selling a mattress unless the retailer or manufacturer was part of a product responsibility organization. It would also have required retailers to collect fees at the point of sale. We have seen this concept in the past and expect to see it again in future sessions.

[SB 581](#) would have required Oregon-specific labeling on every product sold in stores regarding the recyclability of products. OBI identified this bill as one of the top priorities to defeat for our retail members because of the significant costs it would have imposed. The bill did not pass, but a task force to study labeling is included in SB 582.

Privacy: Although never introduced as a bill, Attorney General Ellen Rosenblum developed a broad privacy concept during the interim between the 2020 and 2021 sessions. Due to the burdens on businesses during COVID and challenges with drafting, her office chose not to go forward with the legislation in 2021. We expect they will pick up this issue again after the crisis is over.

HEALTHCARE

The 2021 session saw healthcare bills focused on insurance mandates, prescription drug transparency, expanding access to care, and measures to control costs on the payer and provider side. OBI's Healthcare Committee was particularly engaged on the Healthcare Cost Growth Target work and opposing mandates that would counter that progress. We also diligently followed the conversations around expanding access to care through a public option plan and Medicaid expansion through the Cover All People program. If you have questions or comments about healthcare legislation, contact morganbeltz@oregonbusinessindustry.com.

HEALTHCARE BILLS THAT PASSED

HB 2010 directs the Oregon Health Authority (OHA), in collaboration with the Department of Consumer and Business Services (DCBS), to create an implementation plan for a public health plan to be made available to individuals and families in the individual health insurance market and to small employers. The bill requires OHA and DCBS to report their recommendations for design and implementation of the public health plan to the Legislature by Jan. 1, 2022. OBI remained neutral after the bill was amended to call for researching the possibilities of a public health plan rather than create a public option this year. Effective when signed by the governor.

SJR 12 proposes an amendment to the Oregon Constitution establishing the obligation of the state to ensure every resident has access to cost-effective, clinically appropriate, and affordable healthcare. OBI supports the overall mission of this measure, but we ultimately opposed the bill because of concerns around unknown costs and unintended consequences of establishing healthcare as a right in the constitution. This measure has been filed with the secretary of state for the November 2022 ballot.

SB 428 extends for one year the Task Force on Universal Healthcare and the deadline for the task force to report to the legislative assembly its findings and recommendations for the design of the Healthcare for All Oregon Plan. The task force will now submit a report to the Legislature no later than Sept. 30, 2022, in order to be ready for the 2023 legislative session. Effective when signed by the governor.

HB 2362 requires approval from DCBS or OHA before any mergers, acquisitions or affiliations of healthcare entities and other entities if entities had \$25 million or more in average net patient revenue or in gross amount of premiums in preceding three fiscal years or net patient revenue of \$10 million or more. The intent behind this bill is to have a more robust review process behind merger and acquisitions in the healthcare sector to ensure costs do not increase as a result or limit access to care. This bill only received one public hearing early on in session. We remain

concerned about the impacts of this bill and the duplicative nature of the review process. Effective March 1, 2022.

[HB 2081](#) modifies the Healthcare Cost Growth Target and directs the OHA to develop and implement performance improvement plans for payers and providers who fail to meet the 3.4% cost growth target metric. This bill implements the recommendations brought by the Healthcare Cost Growth Target implementation committee that was created by SB 889 during the 2019 legislative session. OBI supported this bill and the overall goal of lowering healthcare costs to help stabilize the market, but we did raise concerns on OHA's ability to support this program. Effective Jan. 1, 2022.

[SB 763](#) requires pharmaceutical representatives to obtain a license from DCBS to engage in the practice of promoting or marketing pharmaceutical products to health care providers. The bill also outlines education and reporting requirements to obtain and renew the license. OBI stayed neutral on this bill. Effective Jan. 1, 2022.

[SB 844](#) establishes a Prescription Drug Affordability Board in DCBS to review prices for prescription drug products meeting specified cost criteria. The bill also requires the board to establish and assess fees against manufacturers of prescription drugs sold in Oregon to cover the cost of carrying out the board's duties. OBI remained neutral on this bill. Effective Jan. 1, 2022.

[HB 3352](#) renames the Healthcare for All Oregon Children program as Cover All People program and expands eligibility to adults who would qualify for the Medicaid-funded state medical assistance program but for their immigration status. OBI supports the goal to increase access to care, however, we are very concerned on the sustainability of funding this program without the continued support of federal funds. Effective Nov. 1, 2021.

[HB 2648](#) allows pharmacists or pharmacy technicians to give medication containing pseudoephedrine without a prescription to an adult who is at least 18 with a valid government-issued photo ID. It also directs the pharmacist or technician to enter specified information into an electronic system designed to prevent illegal transfer of drugs containing pseudoephedrine. In a bipartisan effort, Oregon will now join the other 49 states in allowing cold medicine containing pseudoephedrine to be purchased over the counter. Effective Jan. 1, 2022.

[HB 2508](#) prescribes requirements for reimbursement by OHA and coordinated care organizations of health services delivered using telemedicine. The bill expands coverage of telemedicine and requires pay parity for those services. DCBS will have to study the impact of reimbursing telemedicine at parity on health insurance premium and report back to the Legislature no later than March 1, 2023. This measure was declared an emergency and went into effect when it was signed by the governor on June 1, 2021.

HEALTHCARE BILLS THAT DID NOT PASS

[HB 3108](#) would have required individual and group health insurance policies to provide reimbursement for at least three primary care visits annually in addition to one annual preventive primary care visit covered without cost-sharing. This bill exempted the Public Employees Benefit Board and Oregon Educators Benefit Board plans because of cost. Our payer and provider partners worked very hard on this bill and supported it because of how it will

help lower costs in the long run by investing in preventative care. The Legislature ran out of time to move this bill, but we expect it to come back during the 2022 short session.

SB 560 would have required insurers and healthcare service contractors to count payments made on behalf of enrollee for costs of care toward enrollee's out-of-pocket maximum or cost-sharing. This bill would have allowed co-pay coupons and other programs for prescription drugs to count towards out-of-pocket costs. It would help lower costs to consumers but take away a tool payers and providers use to keep premium and overall costs down. OBI remained neutral and we expect this issue to come back in future legislative sessions.

SB 764 would have required the court to presume a resolution agreement that ends a dispute over an alleged infringement of a patent, or a violation of other protections for a protected pharmaceutical drug, has anticompetitive effects if alleged infringer receives item of value or agrees to limit or stop researching, developing, manufacturing, marketing, or selling a competing drug. There was a broad discussion surrounding this bill and the issue it was trying to solve. Ultimately the House Health Care Committee felt the bill needed more work and it died. We expect some version to come back in a future session.

EDUCATION

After the 2019 session created historic long-term funding for K-12 education through the Student Success Act, the 2021 session was all about technical fixes while also focusing on equity. This session also brought quite a few bills forward to review education standards and requirements at all levels of our system. OBI's Education Committee was particularly engaged on legislation to support increasing funding for career technical education (CTE) and STEM programs, workforce development investments, student aid grants, and public university funding. If you have questions or comments about education and workforce development legislation, contact morganbeltz@oregonbusinessindustry.com.

EDUCATION BILLS THAT PASSED

HB 5513, the Oregon Department of Education (ODE) budget, included continued funding at current service level for several important programs: the regional Science, Technology, Engineering, and Math (STEM) and Career and Technical Education (CTE) hubs, STEM Innovation Grants, and the Career Pathway Fund to encourage growth of CTE programs around the state. Additionally, this bill includes \$5 million in new investments for STEM programs for diverse learners which will fund a new Mathways program with courses specific for diverse learners, increased investments in the Regional STEM hubs, and an expansion of the STEM innovation grant program. OBI advocated for this increase in funding throughout the session with our partners and will continue to advocate for STEM and CTE investments in the future. Effective July 1, 2021.

HB 5528, the Higher Education Coordinating Commission (HECC) budget bill, included increased investments OBI heavily advocated for to support Oregon universities and to limit tuition increases, expand student aid resources, and create more workforce development opportunities. The Public University Support Fund received the \$900 million asked for by all the universities which is a \$64 million increase from the 2019-2021 biennium and the governor's

recommended budget. OBI advocated to continue funding the Engineering Technology Sustaining Fund (ETSF) that helps support engineering education around the state, and ultimately this program received a \$1.5 million increase over the last biennium. The Oregon Opportunity Grant, which provides need-based grants to low-income students, received a \$28.8 million increase to \$200 million. One important issue for the business community coming out of the COVID pandemic is strategic workforce development investments, and OBI advocated for funding the Oregon Youth Employment Program which would add grants to the local workforce development boards while focusing on partnering with organizations that serve communities of color. This program did get funded at \$8.6 million, less than the requested \$11.8 million, but an important investment. Overall, the HECC budget reflected much of which OBI advocated for this session, but more work is left in these areas. Effective July 1, 2021.

[SB 580](#) amends definition of "employment relations" to include class size and caseload limits as mandatory collective bargaining subjects in schools that qualify for certain federal assistance. OBI opposed this bill out of concern that it does not do anything to actually lower class sizes and will take resources away from districts to invest in programs proven to close the achievement gap. Effective Jan. 1, 2022.

[SB 744](#) directs ODE to review high school graduation and essential learning skills requirements and suspends the essential learning skills requirement for graduation through the 2024 school year. An earlier version of the bill prohibited the State Board of Education from requiring students who successfully complete credit requirements to show proficiency in any other skill. Our partners worked extremely hard to get this provision removed and add in a review of the essential learning skills program. It will be very important for OBI to engage in this review process to help ensure students are prepared for postsecondary education and careers. Effective when signed by the governor.

[SB 233](#) establishes a common course numbering system for introductory and lower-level courses at accelerated college credit programs, public postsecondary institutions of education and participating nonpublic postsecondary institutions of education. The bill also creates a Transfer Council to oversee the system and implements a timeline for community colleges and public universities to comply. This concept was part of our 2021 adopted policy principles to help reduce student loan debt. Effective when signed by the governor.

[HB 2590](#) establishes Task Force on Student Success for Underrepresented Students in Higher Education. The bill directs the task force to develop student success policy and funding proposals to present to the Legislature no later than Dec. 15, 2022. OBI will be looking to engage with the task force as they spend the summer of 2022 visiting our public postsecondary institutions to develop policy proposals. Effective when signed by the governor.

EDUCATION BILLS THAT DID NOT PASS

[HB 2570](#) would have directed ODE, in consultation with the STEM Investment Council, to develop a statewide, long-term strategic plan to provide computer science education. OBI has supported this effort the past two legislative sessions, but the bill has not been successful in moving forward.

[HB 2820](#) would have established a Prosperity 1,000 Pilot Program to provide career coaching, occupational training, and job placement services for at least 1,000 low-income job seekers

residing in areas of concentrated poverty. OBI supported this effort for the need to provide those most affected by the pandemic the resources they need to reenter the workforce.

[SB 854](#) would have changed the composition of governing boards for public universities. It also added transparency measures governing boards must have complied with and more opportunities for employees and students to appeal decisions made by the governing board. OBI expressed concerns about the bill, arguing that the universities should be directed to address concerns without legislation. A compromise was reached between the chief sponsor of the bill and the universities to increase transparency and accountability measures without a change in statute. We anticipate this concept to be brought up in the future if the Legislature does not think sufficient progress has been made.

TRANSPORTATION

The legislative session began with numerous transportation placeholder and study bills, however, the overriding focus was the omnibus transportation bill providing for the tolling program, updating contracting and bonding provisions as well as driving laws, and generally delivering on the commitments made by the Legislature on HB 2017, the transportation packaged passed in 2017. If you have questions about transportation legislation, email sharlamoffett@oregonbusinessindustry.com.

TRANSPORTATION BILLS THAT PASSED

[HB 3055](#) includes important provisions supporting the 2017 transportation package. The bill establishes a tolling program to both manage congestion and raise revenue for transportation infrastructure projects, increases short-term borrowing limits, provides flexible funding for priority transportation projects, and updates myriad traffic laws. A second, competing omnibus transportation bill was introduced and debated, but ultimately died.

FINAL WORDS OF APPRECIATION

Finally, a thank you to our members. Over the course of the session, many of you weighed in about the issues, providing context and comments. Your engagement made our advocacy more meaningful, and that made us more effective.

While we may have disagreed about certain bills, the members of the Oregon Legislature consistently appreciated and even sought out the feedback we brought to them on our members' behalf. It was a challenging session for all of us, as we learned to communicate in the virtual COVID world, but their interest in OBI's point of view was genuine.

The COVID crisis appears over, and so hopefully is the practice of conducting a legislative session without the benefit of having the public in the Capitol. It was an unprecedented session on many levels, but we worked together to find our way through.

THANK YOU